

Mock Trial in the Classroom



Monroe Middle School
&
Classroom Law Project



Present

Bergeron v. Glampers

...A civil case about equality, rights, and wrongful death...

A Complete Mock Trial with materials
based on *Harrison Bergeron*, by Kurt Vonnegut

*Did the Handicapper General go too far?
Was it JUSTICE or JUST THE LAW?*

Thanks and Resources

Many thanks go to Cari Zall at Classroom Law Project and Dennis Gerl, Lane County Regional Mock Trial Coordinator, for their help and resources in crafting this mock trial.

Also to my colleagues Nicholas, Tammy, and Dorothy for editing and questioning to make sure all the details were in place.

For further ideas or help with Mock Trials, I recommend The Classroom Law Project (www.classroomlaw.org) and Mock Trial Strategies (by Dennis Gerl: www.mocktrialstrategies.com) for free and helpful ideas.

Thanks also goes to Kurt Vonnegut for writing an exceptional short story, Harrison Bergeron, a perfect leaping-off point for a mock trial experience.

Finally, we use the blank mock trial script from the 2nd Circuit Court of Leon County, Florida in these materials:

<http://2ndcircuit.leoncountyfl.gov/teenCourt/resources/JudgeScript.pdf>

I hope you enjoy using this mock trial and delving into the many issues and topics of Harrison Bergeron!

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Bergeron v. Glampers

The Harrison Bergeron Mock Trial

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The Harrison Bergeron Mock Trial

Section 1

Teacher's Guide & Instructional Materials

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Introduction

This Unit packet contains all the elements for creating an inquiry-based, experiential unit around a combination of teaching the Bill of Rights as well as the Kurt Vonnegut short story *Harrison Bergeron*. Teachers who are new to a mock trial strategy will find all the materials and guidance needed to create a short or long version of this process. If you have not ever learned various skills or strategies around a mock trial, we highly recommend a training from the Classroom Law Project to get you started. If you have questions or would like more information about bringing a training to your school or district, you can contact them through their website at www.classroomlaw.org.

This packet is intended to create stand-alone activities that allow you to combine them in whatever way might fit your class. While a full mock trial might seem like a large project, it is a very intuitive, step by step process that can engage students around concepts and literature for an extended period of time. We have provided here the wrap around supports, resources and materials that make a deeper examination of the themes of *Harrison Bergeron*, as well as the US Constitution, a living, active process for students.

Most importantly, this packet is created to help you bring fun, relevance, collaboration, and rigor to your classroom in a way that turns the examination of literature and social studies on its head! Have fun with it!

Suggested Humanities Unit Framework

The U.S. Constitution & *Harrison Bergeron*

(US History 1776-1785)

Possible Readings & Resources:

Harrison Bergeron, by Kurt Vonnegut (Narrative Short Story)
Touching Spirit Bear, by Ben Mikaelson (Novel w/real world connections)
“[Argument Wars](#)” - iCivics digital game w/case readings
“[Branches of Power](#)” - iCivics Digital game
Bill of Rights - Study & Skits
[Liberty Kids](#), Parts 1 & 2: Intro to the Constitution (animated YouTube video series)
“[History of the Constitution](#)” - US History Crash Course (John Greene's YouTube Series)
“[The Powers of State and Local Governments](#)” - Newsela article
[Basics of the Court System - Civil Cases](#) (United States Courts)
[Reading Harrison Bergeron](#) - Facing History and Ourselves
[Objection, Your Honor!](#) - a game to practice objections from Texas Law Related Education

(these links are also located at classroomlaw.org/resources/harrison-bergeron)

Possible Activities in addition to Mock Trial

- Philosophical Chairs Debate (Bill of Rights v. Overreaching laws of Equality)
- Persuasive writing
- Comparison of themes in Harrison Bergeron, Touching Spirit Bear, Constitutional ideas
- Townhall simulation w/testimony on equality policy ideas

Essential Questions:

- What is equality?
- What are the repercussions of overcompensating to try to make everyone equal?
- What should be the government's role in enforcing the laws and definitions of “equality”?

AVID Strategies:

- Mark-up the text
- Collaborative Groupwork
- Philosophical Chairs debate
- Costa's Level 3 Inquiry/application
- Evidence based Writing to support Critical Thinking (multiple modes)
- Graphic Organizer
- Focus Notes

Oregon 8th Grade Social Studies Standards:

- 8.1 Compare and contrast the Articles of Confederation to the U.S. Constitution.
- 8.2 Identify and understand how to apply the rights and responsibilities of individuals under the Constitution.
- 8.5 Examine and analyze important United States and Oregon documents, including (but not limited to) the Constitution, Bill of Rights, 13th -15th Amendments and Oregon Constitution.
- 8.7 Analyze the expanding eligibility of citizenship in the continuing struggle for the expansion of rights for ethnic and traditionally marginalized groups.
- 8.8 Analyze important political and ethical values such as freedom, democracy, equality, equity, and justice embodied in documents such as the Declaration of Independence, the United States Constitution, and the Bill of Rights. (Civics)
- 8.9 Analyze the effect of historical and contemporary means of changing societies, and promoting the common good.
- 8.10 Explain specific roles and responsibilities of citizens (such as voters, jurors, taxpayers, members of the armed forces, petitioners, protesters, and office-holders).
- 8.22 Evaluate continuity and change over the course of United States history by analyzing examples of conflict, compromise, cooperation, interdependence, and social justice from multiple perspectives.
- 8.23 Evaluate the continuity and change over the course of United States history by analyzing the key people and events from the 1780s through Reconstruction.
- 8.25 Evaluate the influence of the intersections of identity, including but limited to gender, age, race, ethnicity, religion, and class on the experiences of peoples, groups, and events.
- 8.29 Use and interpret relevant primary and secondary sources pertaining to U.S. History from multiple perspectives.
- 8.30 Synthesize information and data to construct an account of historical events that includes multiple sources and varied perspectives.
- 8.32 Critique and analyze information for point of view, historical context, distortion, bias propaganda and relevance including sources with conflicting information in order to question the dominant narratives in history.

Language Standards:

- 8.6 Cite the textual evidence that most strongly supports an analysis of what the text says explicitly as well as inferences drawn from the text.

- 8.7 Determine a theme or central idea of a text and analyze its development over the course of the text, including its relationship to the characters, setting, and plot; provide an objective summary of the text.
- 8.9 Determine the meaning of words and phrases as they are used in a text, including figurative and connotative meanings; analyze the impact of specific word choices on meaning and tone, including analogies or allusions to other texts.
- 8.11 Compare and contrast the structure of two or more texts and analyze how the differing structure of each text contributes to its meaning and style.
1. Integrate and evaluate content presented in diverse formats and media, including visually and quantitatively, as well as in words.*
 2. Delineate and evaluate the argument and specific claims in a text, including the validity of the reasoning as well as the relevance and sufficiency of the evidence.
 3. Analyze how two or more texts address similar themes or topics in order to build knowledge or to compare the approaches the authors take.

Unit Rationale:

This unit covers the beginnings of the US Constitution and the writing and implementation of the Bill of Rights. Students will discuss, prepare arguments, dissect texts, find supporting evidence, analyze authentic realia, use high level/academic language, and engage in the four modes of communication: speaking, written, listening, and reading. Students will also engage in an authentic civics and courtroom experience.

Suggested Unit Plan (in ADDITION to Mock Trial)

Beginning:

- Introduction to the Bill of Rights
- Analysis of the first ten amendments of the Constitution and how they relate to current day issues.
- Students can do skits for summarizing the amendments
- Connect the ideas in the Bill of Rights to the Preamble
- Explain the three branches of government & how they relate to one another
- Provide plausible scenarios/situations for students to decide (in groups) which branches are responsible and how they can affect one another.
- Students work in groups to present the three branches of government in a metaphorical way.

Middle:

- Can be taught in conjunction with Social Studies in Language Arts, or successively after beginning in Social Studies.
- Begin reading *Harrison Bergeron*.
- Use a vocabulary supporter sheet with either a visual dictionary, or have students look up

words in the dictionary and reword definitions in their own words.

- Read the story in groups of 4 and fill out Cornell notes/AVID note taking strategies by marking up the text
- Respond to EQ's surrounding the ideas of equality and engaging with the text.
- NEWSELA Analysis of the powers of government at state and federal level.

Philosophical Debate Preparation:

- "Branches of Power" Game on iCivics
- Basics of the Court System - Civil Cases - review with students the basics of what a civil court case is in the judicial process
- Assign students into Groups:
 - 1: the jury (5-7 students)
 - 2: Council A (in favor of making society more like *Harrison Bergeron* - 5-7 students)
 - 3: Council B (against *Harrison Bergeron* society and for defending Bill of Rights - 5-7 students)
- All students will need to analyze both *Harrison Bergeron* & The Bill of Rights to understand the position they will be arguing.
- Students will take notes and organize their arguments and will be ready refute the other group.

Philosophical Debate:

- Students will engage in a debate to try and convince the jury of their argument.
- Teacher acts as a facilitator between both groups 2 and 3 where each student will present a viewpoint.
- Students will first make initial statements, be given time to form a rebuttal.
- Each group is given 2-3 turns of rebuttal.
- Each member of the Jury prepares a statement to explain their viewpoint (individually) with evidence based on reasoning from the debate.
- Jury will then deliberate as a group in an attempt to come to a 3/4 vote.

Final Essay Component:

Students write an Argumentative PACE in response to the Essential Questions.

Paraphrase the prompt

Answer the question with a claim or thesis

Cite evidence

Explain your reasoning!

The Mock Trial Activity Guide

Bergeron v. Glampers

This is a fun mock trial to do with Middle Schoolers, but specifically 7th or 8th grade. It is a **civil case** that combines the short story *Harrison Bergeron*, by Kurt Vonnegut with the Bill of Rights, with a little *Declaration of Independence* thrown in. Both history and language arts teachers can utilize this activity. As a civil case it includes all areas of courtroom procedures, courtroom participants, vocabulary, reading, writing, historical analysis and critical thinking. And, like we said, it's fun!

Concepts & Skills that can be practiced and expanded on by individual teacher preferences include:

- Civil Law v Criminal Law
- Prosecution vs Plaintiff
- Defense
- Witnesses
- Telling the truth
- Understanding different perspectives
- Responsibility for individual actions
- Open ended questions and critical thinking
- The ability to think on one's feet
- Developing a claim and supporting it with evidence
- The role of the court system and the Bill of Rights
- The role of the Constitution and the creation of Amendments
- The understanding of equality under the law
- Vocabulary

Time Needed:

6 - 8 one-hour periods for set up, research and preparation.

2 one-hour periods for the trial (at least 100 minutes)

2 one-hour periods for a follow up Socratic discussion and reflection.

Learning Objectives:

- Increase proficiency in reading, writing, speaking and critical thinking.
- Increase proficiency in analyzing, reasoning, listening and questioning.

Courtroom Set up:

At the end of this Section 1 is a Courtroom Set Up Diagram. That shows how to set your classroom up for the best trial maneuvering.

Props such as robes (often old graduation robes can serve here), a gavel, a podium, etc., can help to get everyone into the spirit of the trial.

A great option is to reach out to your local courthouse to see if there is a real courtroom your students could use; they usually are happy to accommodate school requests. Or, if you are in Oregon, you can contact Classroom Law Project to help you do that.

Suggested Concept Tip:

Included in Section 2 is an article for students to read about horse racing handicaps. This will help them understand the concept of “handicap” as a method of equalization, rather than as a disability, as its common usage suggests.

Student Materials

All optional handouts, guides, and materials for students to use in preparation and during the trial are included here in Sections 2, 3, and 4.

Roles & Responsibilities

All the roles in the mock trial require preparation, research, decision-making, collaboration, presentation, and reflection. The different roles provide different perspectives of the story.

Option 1: all students to prepare for all roles and then assign roles at the end so that they can each experience the different perspectives before performing one of them

Option 2: students are assigned roles based from the beginning and invest in prepping for that perspective and then at the end during the Socratic discussion and reflection show they understand the other perspectives they witnessed during the trial.

Potential Roles: multiple students can serve in the roles together. A list of up to 41 different roles is included in this section.

- | | |
|------------------------|------------------------|
| 1. Judge | 5. Witnesses |
| 2. Jurors | 6. Attorneys |
| 3. Bailiff(s) | 7. Journalist(s) |
| 4. Clerk/timekeeper(s) | 8. Courtroom artist(s) |

Overall Activity Steps

1. Preparation (expectations & plan)
2. Vocabulary
3. Bill of Rights
4. Courtroom procedure and etiquette
5. How trials are used to solve conflicts, and the difference between criminal law, (breaking a law) and civil law, (conflict resolution between two parties)
6. Student research of different roles (allow them to choose their top three choices and argue why they want to do them)
7. Students learn “Steps of a Trial” and discuss and clarify questions
8. Practice objections and how they work
9. Read *Harrison Bergeron* aloud together. (*this is the “crime scene” of the trial*).
10. Students research and prepare for roles.
11. Run through motions of the trial (not a practice, but more of the movements and order of what to expect)
12. The Trial!
13. The Jury's response
14. The reporters & artists presentations
15. Small group and whole class analysis (Socratic) discussions
16. Individual reflections

Preparation Steps for Roles

Attorneys:

- Read & list the facts from the crime scene of the case
 - Choose an attorney part: opening statement, closing statement, or direct/cross witness questioning
 - Go over exhibits and decide how and where they will use them to reinforce their version of the case
 - Decide their theory of the case
 - Meet with their own witnesses to plan their questioning/story
 - Anticipate what the other side might make their theory
 - Understand objections, how to use them, and plan when they might use them
- **Opening statement:** prepare statement that explains their theory of the case. Include a claim and the 3 key points that will prove THEIR side of the case is correct. Use the form for this. Practice speaking with voice inflection and use of gestures. Incorporate jury eye contact. Memorize this statement as much as possible (not required).
 - **Direct examination of witness:** Use form to interview your witness and get their statement. Have the statement written down verbatim, (use form) and get a signature. This will be used for direct examination and cross. Create questions to either support your case or contradict oppositions case. If they try to go beyond it during questioning you have room for objections.
 - **Cross Examination of Witness:** Use form to interview witness and get their statement. Get a signature. Prepare questions to support your case or contradict oppositions case. Make sure you do not go beyond the scope of the statement or get more information from the interview, or you will leave yourself open for objections and possible damage to your case.
 - **Closing statement:** Prepare to sum up your case. Go back and recap your opening argument and show how you gave evidence to back- up your claim. Add any new information in that supports your case that was learned during the trial. Use gestures and eye contact with the jury to strengthen your statements. Give a final strong statement that ASKS the jury to “do the right thing,” or “Follow the law” or other and vote whether the defendant is responsible or not, whichever applies for your client.

Witnesses:

- Write what you believe your part or role in the trial story is. Write it in your own words and use the facts from the crime scene, affidavit or other research. Know your story well and even memorize it if needed.
- Your story will need to be believable on the stand during its telling and during questioning. The more you read from your card, the less believable you are.
- Strong voice and eye contact with the attorneys are important. Use of gestures to point at plaintiffs or defendants and other gestures strengthen your version of the story.
- Be prepared to give witness or interviews before trial and to be questioned on the stand by both attorney's during the trial.

- Be prepared to sign your affidavit that you swear it to be the truth.
- Work with the lawyers on your side to think of questions and how you want to emphasize your version of the story.

Jurors:

- Listen & take notes about the “crime scene”, such as: names, timeline of events, descriptions of what happened, questions for clarification, statements by witnesses and accuracy and level of weight of evidence and exhibits.
- Read through the Objections guide: Be aware of the correct and incorrect use of objections and their meanings.
- Optional: Watch the movie, *12 Angry men*, and observe the role of jurors and how to discuss the evidence given at trial and weigh its importance.

Bailiff(s):

- Know the oath thoroughly and how to administer it
- Know the Judges entrance statement and give it with impact
- Be prepared to enforce judge's courtroom commands.

Clerk/Timekeeper(s):

- Listen carefully and have all documents available.
- Have copies of all affidavits, opening and closing remarks, and exhibits so as to provide clarification of statements said if needed.
- Keep a stopwatch of the time and cue participants when down to the final 2 minutes and 1 minute before time is up.

Journalist/Artist(s):

- Listen to crime scene story, read witness accounts, listen to courtroom proceedings and be prepared to summarize the trial
- Comment on the case, its outcome and its verdict based on your point of view.
- Draw scenes from the courtroom or take photos and use them in your article.

Mock Trial Public Speaking Skills

Below is a list of public speaking skills that Mock Trial helps students practice*:

Eye Contact

- With specific individuals
- With the group as a whole
- Conscious breaks and pauses to create interest
- Looking away (at individuals and the group) then back before starting

Body Posture

- Upright
- Confident
- Hands in front

Body Movement

- For transitions
- To build or keep suspense

Articulation (speaking clearly)

Vocal emphasis and variety

- Volume (how loud or soft)
- Pace/Speed (slow down or speed up)
- Pitch (change octaves)
- Rhythm (variation of strong and weak elements)

Silence

- Pauses before, during, and after a speech
- Draws attention and emphasis

Hooks and rhetorical devices

- Ethos: appealing to emotion
- Logos: appealing to logic
- Pathos: appealing to authorities (experts or laws)

Gestures

- Show (convey emotion)
- Give (hand up, invites openness)
- Tell (hands down, makes a point, gives direction)
- Point (accusation)
- Sign post (first, second, third points, etc.)
- **Nine Specific Gestures** that reinforce public speaking:
 - **The Bookshelf Sweep**
With both hands open and facing left (palms facing out), make an enveloping movement and “drag” the imaginary contents to the right and below. This the

ideal gesture to separate topics and to indicate priorities or levels of hierarchy in the exhibition (as if you are moving books in the library when you finish talking about them).

- **The Critical Whirl**

Placing the hand at eye level and towards the front, with the palm facing the ground, turn it clockwise to enunciate contents, list topics as examples, and accelerate the flow of your exposure.

- **The Italian Waiter**

The entertaining name (also known as the "chef's kiss") defines the gesture of the dominant hand, in which the fingers are grouped in front (towards your face, your mouth particularly) and in a shake, they go forward. This gesture punctuates special words in your oratory and helps you demonstrate more strength in your presentation.

- **Flexing the Academic Muscle**

Imagine that you play the piano with both hands, only in two positions: to the right and to the left. This movement is useful to individualize contents within the same context and denotes mental clarity regarding the exhibition.

- **The Point**

With the elbow flexed and the dominant hand closed in a fist, inward, extend the index finger and shake it towards your audience to direct attention to a specific person, place or point. This gesture denotes security.

- **The Backhand Slap**

Put your non-dominant hand with the palm facing up and strike it with the back of the other hand to highlight an idea, and important point, or reiterate a concept. This gesture denotes security and authority.

- **The Dialectic**

This gesture is quite used and can help you demonstrate more intelligence when speaking. Using either of your hands, with your thumb and forefinger as if you were taking a small hourglass, turn your hand as you carry the sand of the cock to either end. The gesture indicates a change or two different points of view in the same idea and denotes breadth of knowledge and security on the subject in question.

- **The Tiny Dialectic**

Similar to the previous one, but with the thumb and forefinger much closer together (almost joined), the hand can turn or simply move forward, as if you were "putting the tail on the donkey" on a board. The gesture points out the key idea in your presentation.

- **Taking Ideas**

Imagine that you take a pinch of sand with all your finger and that you release it upwards as if it were a card. This gesture enhances the idea on display and demonstrate specificity an security.

*thanks to www.mocktrialstrategies.com

Mock Trial & Courtroom Vocabulary

affidavit: A written statement of facts confirmed by the oath of the party making it, before a notary or officer having authority to administer oaths.

allegation: something that someone says happened.

appeal: A request made after a trial, asking another court (usually the court of appeals) to decide whether the trial was conducted properly. To make such a request is "to appeal" or "to take an appeal." One who appeals is called the appellant.

bail: Security given for the release of a criminal defendant or witness from legal custody (usually in the form of money) to secure his/her appearance on the day and time appointed.

bench trial: Trial without a jury in which a judge decides the facts.

chambers: A judge's office.

capital offense: A crime punishable by death.

charge: The law that the police believe the defendant has broken.

charge to the jury: The judge's instructions to the jury concerning the law that applies to the facts of the case on trial.

circumstantial evidence: All evidence except eyewitness testimony.

clerk of court: An officer appointed by the court to work with the chief judge in overseeing the court's administration, especially to assist in managing the flow of cases through the court and to maintain court records.

complaint: A written statement by the plaintiff stating the wrongs allegedly committed by the defendant.

continuance: Put off trial until another time.

conviction: A judgement of guilt against a criminal defendant.

counsel: Legal advice; a term used to refer to lawyers in a case.

court: Government entity authorized to resolve legal disputes. Judges sometimes use "court" to refer to themselves in the third person, as in "the court has read the briefs."

court reporter: A person who makes a word-for-word record of what is said in court and produces a transcript of the proceedings upon request.

cross examine: Questioning of a witness by the attorney for the other side.

defendant: In a civil suit, the person complained against; in a criminal case, the person accused of the crime.

defense table: The table where the defense lawyer sits with the defendant in the courtroom.

deposition: An oral statement made before an officer authorized by law to administer oaths. Such statements are often taken to examine potential witnesses, to obtain discovery, or to be used later in trial.

discovery: Lawyers' examination, before trial, of facts and documents in possession of the opponents to help the lawyers prepare for trial.

docket: A log containing brief entries of court proceedings.

evidence: Information presented in testimony or in documents that is used to persuade the fact finder (judge or jury) to decide the case for one side or the other.

felony: A crime carrying a penalty of more than a year in prison.

grand jury: A body of citizens who listen to evidence of criminal allegations, which are presented by the government, and determines whether there is probable cause to believe the offense was committed. As it is used in federal criminal cases, "the government" refers to the lawyers of the U.S. attorney's office who are prosecuting the case.

hearsay: Statements by a witness who did not see or hear the incident in question but heard about it from someone else. Hearsay is usually not admissible as evidence in court.

impeachment: (1) The process of calling something into question, as in "impeaching the testimony of a witness." (2) The constitutional process whereby the House of Representatives may "impeach" (accuse of misconduct) high officers of the federal government for trial in the Senate.

indictment: The formal charge issued by a grand jury stating that there is enough evidence that the defendant committed the crime to justify having a trial; it is used primarily for felonies.

instructions: Judge's explanation to the jury before it begins deliberations of the questions it must answer and the law governing the case.

interrogatories: Written questions asked by one party of an opposing party, who must answer them in writing under oath; a discovery device in a lawsuit.

interview: A meeting with the police or prosecutor.

issue: (1) The disputed point in a disagreement between parties in a lawsuit. (2) To send out officially, as in to issue an order.

judge: Government official with authority to decide lawsuits brought before courts. Other judicial officers in the U.S. courts system are Supreme Court justices.

judgement: The official decision of a court finally determining the respective rights and claims of the parties to a suit.

jurisdiction: (1) The legal authority of a court to hear and decide a case. Concurrent jurisdiction exists when two courts have simultaneous responsibility for the same case. (2) The geographic area over which the court has authority to decide cases.

juror: A person who is on the jury.

jury: Persons selected according to law and sworn to inquire into and declare a verdict on matters of fact.

misdemeanor: Usually a petty offense, a less serious crime than a felony, punishable by less than a year of confinement.

mistrial: An invalid trial, caused by fundamental error. When a mistrial is declared, the trial must start again from the selection of the jury.

oath: A promise to tell the truth.

objection: A reason that an attorney interrupts a witness to talk to the judge.

opinion: A judge's written explanation of a decision of the court or of a majority of judges. A dissenting opinion disagrees with the majority opinion because of the reasoning and/or the principles of law on which the decision is based. A concurring opinion agrees with the decision of the court but offers further comment.

oral argument: An opportunity for lawyers to summarize their position before the court and also to answer the judges' questions.

plaintiff: The person who files the complaint in a civil lawsuit.

plea: In a criminal case, the defendant's statement pleading "guilty" or "not guilty" in answer to the charges, a declaration made in open court.

pleadings: Written statements of the parties in a civil case of their positions. In the federal courts, the principal pleadings are the complaint and the answer.

probation: A sentencing alternative to imprisonment in which the court releases convicted defendants under supervision as long as certain conditions are observed.

probation officers (or pretrial services officers) : Screen applicants for pretrial release and monitor convicted offenders released under court supervision.

prosecute: To charge someone with a crime. A prosecutor tries a criminal case on behalf of the government.

public defenders (or defense attorney): Represent defendants who can't afford an attorney in criminal matters.

sentence: The punishment ordered by a court for a defendant convicted of a crime.

sequester: To separate. Sometimes juries are sequestered from outside influences during their deliberations.

sidebar: A conference between the judge and lawyers held out of earshot of the jury and spectators.

subpoena: A command to a witness to appear and give testimony.

testify: Answer questions in court.

testimony: Evidence presented orally by witnesses during trials or before grand juries.

trial: A hearing that takes place when the defendant pleads "not guilty" and witnesses are required to come to court to give evidence.

verdict: The decision of a petit jury or a judge.

victim advocate: work with prosecutors and assist the victims of a crime.

voir dire: The process by which judges and lawyers select a jury from among those eligible to serve, by questioning them to determine knowledge of the facts of the case and a willingness to decide the case only on the evidence presented in court. "Voir dire" is a phrase meaning "to speak the truth."

warrant: A written order directing the arrest of a party. A search warrant orders that a specific location be searched for items, which if found, can be used in court as evidence.

witness: A person called upon by either side in a lawsuit to give testimony before the court or jury.

**from Whitfield County Schools, Dayton, Georgia*



Building Block Activity: Direct & Cross Examination Asking Good Questions

Materials:

- 2 identical sets of large colored blocks (8-10 blocks per set)
- 2 desks or sets of chair/table that can be put back to back
- chalkboard/whiteboard
- laptop/projector/phone camera
- Taboo buzzer

Activity:

Part 1:

- 1) Have 2 students sit back to back with a set of blocks in front of each
- 2) Ask one student to build a structure with the blocks, any structure.
- 3) Have students share out the question words: Who, What, Where, When, Why, How
- 4) Ask a third student to come forward and only using the 6 question words ask 1st student with blocks questions that will help the second student build an identical structure.
- 5) Can use a Taboo buzzer to buzz questioner when they use the incorrect form. (This simulates objections, keeping cool when you're interrupted.)
- 6) Give students a time limit if they are dragging it out. Take a photo of the 2 structures.

Part 2:

- 1) Use same 2 builders. (You can switch builders, but you lose the debrief of the 2nd builder comparing different types of questioning.)
- 2) Have one student build structure.
- 3) Add Explain and Describe to the list of words that 3rd student can use.
- 4) You can switch out the 3rd student. Repeat questioning process.
- 5) Give time limit if necessary. Take a photo of the 2 final structures. **Don't destroy them and don't let builders look!**

Part 3:

- 1) Use same 2 builders.
- 2) Bring up a 4th student.
- 3) Have 4th student ask leading questions to try and "correct" structure.
- 4) If students need example of leading questions, you can give them ways to start.
 - a) Isn't it true that the blue block is actually under the green block?
 - b) The green block is on the short side, not the long side, right?
- 5) Repeat questioning process.
- 6) Take picture of structures.

Debrief:

- 1) If you can, post pictures during the debrief. This can be done with your phone and google photos. Dump them into a slide while students are questioning.
- 2) Compare 2nd builders experience each time. Which was easiest? Which was most frustrating? What was most helpful?
- 3) Compare experience of questioners.
- 4) Draw the comparison to a trial. Who is the jury? Who is the witness? Who is the attorney?
- 5) How do the questions operate? How would you use what you learned in a trial?
- 6) Why is it so hard to be a juror?



Who is Responsible? A Mad Libs Game of Asking Quality Questions

This Mad Libs game is fun for the whole class and can really challenge them to think about how they get at the facts of a case in order to make good decisions. This one can be especially helpful in preparing students on juries, but can help everyone in their various roles of the mock trial.

Materials:

- Mad Libs Story handout for each student
- One set of character roles
- A white board or poster to write the Mad Lib Categories and then determine the responsibility.

Procedure:

1. List the Mad Lib Categories on your board or overhead and have the students call out a word to put for each number.
2. Pass out the Mad Libs story to the class and ask them to fill in the chosen words for each numbered space.
3. Do a read aloud with volunteers reading parts of the silly story
4. Call five student volunteers to the front to sit in a panel - give each of them one role description to read. Let them know that they may be asked questions and they should only answer EXACTLY what information is on the role description and say "I don't have that information" if the question doesn't cover what's there. They should not offer any information on their role sheet that ISN'T asked by other students.
5. While the student panel are reading their roles, ask the rest of the students which people in the story are responsible for the dancer's injuries - list who they come up with on the board.
6. Seat the panel of students and spend about 10-15 minutes allowing questions from the audience to the various roles. The goal for the audience is to ask question that will give them the information they need to decide who has what amount of responsibility in this case.
7. End question time and ask the student audience to give percentage responsibility to each of the roles (for example, they might think the manufacturer is 50% responsible, the coach is 30% responsible, and the dancer is 20% responsible, etc.)
8. Once they've landed on who they think has what responsibility in the story, have each of the panel members reveal information that WASN'T asked of them. Now students will hear what they did not ask, ie, all the information they DIDN'T have to make an informed decision about responsibility.
9. Once they learn ALL the information from the roles, ask them to redo their percentages and see if their idea of responsibility changes after they learn all the facts.

There are no correct answers here - the idea is to show students how asking the right questions can get them the facts they need. It also will help them decide how to ask witnesses questions, help witness prepare to answer, and help jury members prepare to make decisions about what the facts are.

Dancing and Damages: Who Should Pay?

Mad Lib Categories:

- 1) School in this District
- 2) Another School in this District
- 3) A number
- 4) Teacher
- 5) Any student name
- 6) A larger number
- 7) a food

(1)_____ and (2) _____ have a dance team rivalry. Both schools are competing in the Final for the Oregon Dance Team Trophy. This year, (1) _____ plans to win, because it bought a secret weapon: **The Boogie Booster**. The Boogie Booster is a small device put in each dancer's shoe. When activated, a dancer gets a boost so the dancer can jump (3) _____ feet higher than before. From high in the air, a dancer can continue to dance. The effect of dancers dancing on the floor and in the air is awesome. (1) _____ believes it will win easily.

(1)_____ 's coach, (4) _____ saw an ad for the Boogie Booster in "Dance Magazine." The coach had never heard of the product or manufacturer, "Flying Free," although Flying Free was the largest producer of dance products in the US.

(5)_____ is the star member of (1) _____ 's dance team. Although (5)_____ was the best dancer, (5)_____ always wanted to do better. About ten minutes before the Dance Contest began, (5)_____ thought, "If pumping up the Boogie Booster one time makes me jump (3)_____ feet, if I pump it more than that, I'll almost fly. The talent scouts will love me. So (5)_____ pumped the Boogie Booster (6)_____ times.

Finally the big moment arrived. Hearing only sounds of the band and the crowd, (5) _____ started pumping and said, "Take me higher, Boogie Booster." It did, but higher than ever imagined. (5)_____ went so high, (5)_____ even forgot to "jiggy." Fortunately, there was a hole in the ceiling of the dance hall and the dancer went right through it. Then (5)_____ went down, down, down, finally landing in the garbage container with the leftover school lunch, (7)_____. A straw from a drink container punctured the dancer's left ear and all the discarded homework papers resulted in Severe Paper Cut Trauma. (5)_____ could never hear music clearly again, and the paper cuts resulted in so many scars that (5)_____ never wanted to be seen in public again.

The dancer wants to sue for their damages, but who is responsible? If you were the dancer's lawyer, who would you sue?

Dancing and Damages: Who Should Pay?

Mad Lib Character Roles (to be cut apart and given to panelists):

Coach

- You have been coaching dance for 15 years
- You have won the Trophy 3 times.
- You read the Boogie Booster manual and told the dancers to pump only 1 time. You did not give them the manual to read.
- You had the team practice with the Boogie Boosters for 2 hours per day for 1 week. Nobody pumped more than 1 time in practice. You had no problems.
- You were a little worried that dancers were going so high, but wanted to win the trophy so badly you decided to take the risk of any injuries in order to win.
- You did not get any special or additional insurance.
- You did not inform the parents because you wanted the Boogie Booster kept secret.
- You did not tell the school principal about the Boogie Booster.
- You had no experience using any kind of dance enhancement device before.

Manufacturer Flying Free

- You are the biggest maker of dance equipment in the US.
- Boogie Booster is a new product, and you sold only 100 of them before the accident.
- There are no instructions on the Boogie Booster itself.
- You tested the Boogie Booster in Australia on kangaroos.
 - 10 kangaroos used the Boogie Boosters for 2 hours each with no injuries.
 - The Boogie Booster was pumped up to 3 times in the tests.
 - It was not tested on people prior to sale.
- The box says: "Manufacturer is not liable if product not used according to directions. See instruction manual for details."
- The instruction manual says:
 - The manufacturer disclaims any liability for use of this product not according to directions.
 - User assumes all liability.
 - Pump the Boogie Booster only 1 time. More than 1 pump may cause unpredictable results.
- Flying Free considered using a safety switch limiting the Boogie Booster to 2 pumps, but decided the cost would be too high and cause sales to decrease.

Dancer

- You are 17 years old. You don't live with your parents any longer, but live in an apartment with friends and work 20 hours each week at a fast food restaurant.
- You always wanted to be a dance star, with the dance company Alvin Ailey Dance Group.
- The ear damage cannot be corrected surgically with today's practices.
- The paper cut scars could be repaired by plastic surgery at a cost of \$100,000. You suffered a lot of pain from the injury, lost three weeks of work (where you now work as cook in the back instead of at the front counter, since you don't want to be seen in public), lost 3 weeks of school, and are embarrassed and ashamed because of the accident and the injuries. You want \$300,000 for pain and suffering.
- The coach told you to pump only 1 time, but did not explain why.
- You never saw the Boogie Booster instructions, manual or the box.

Principal

- You hired the coach. The coach has an excellent record. The coach didn't tell you about the Boogie Booster.
- You ask your teachers and coaches to get your approval for policy changes, but you give them the power to incur reasonable expenses within their budgets. The Boogie Booster was within the dance coach's budget.
- You have ultimate responsibility for what goes on your in your school, and in turn, the school system is responsible for what you are responsible for.
- The school board has given the school \$10 million for repairs for the school. It would be terrible if this money were to be used to pay for the lawsuit rather than make the repairs.
- The hole in the roof was there for at least the last five years, maybe longer.
- The school system has liability insurance to cover accidents of this kind.

Publisher of Dance Magazine

- You make a good profit from advertisements in your magazine, around \$20 million per year. You yourself earn \$2 million per year.
- You never test any product you advertise. You accept advertisements from anyone and do not review their claims for accuracy.
- In the small print on the table of contents of each magazine, you write a disclaimer: "The claims of advertisers are not endorsed by Dance Magazine in any way. Dance Magazine is not liable for any damages that may be caused by any products it advertises."
- Flying Free has often advertised products in Dance Magazine, and pays top money for advertising.
- You are unaware of any problems with or injuries from Flying Free products.

Mock Trial Roles for up to 41 Students

1. Judge _____
2. Co-Judge _____
3. Plaintiff Attorney - Opening statement Plaintiff _____
4. Defense Attorney - Opening statement Defense _____
5. Plaintiff Witness #1 _____
6. Plaintiff Witness #2 _____
7. Plaintiff Witness #3 _____
8. Defense Witness #1 _____
9. Defense Witness #2 _____
10. Defense Witness #3 _____
11. Plaintiff Attorney - Direct Examination Plaintiff Witness #1 _____
12. Defense Attorney - Cross Examination Plaintiff Witness #1 _____
13. Plaintiff Attorney - Direct Examination Plaintiff Witness #2 _____
14. Defense Attorney - Cross Examination Plaintiff Witness #2 _____
15. Plaintiff Attorney - Direct Examination Plaintiff Witness #3 _____
16. Defense Attorney - Cross Examination Plaintiff Witness #3 _____
17. Defense Attorney - Direct Examination Defense Witness #1 _____
18. Plaintiff Attorney - Cross Examination Defense Witness #1 _____
19. Defense Attorney - Direct Examination Defense Witness #2 _____
20. Plaintiff Attorney - Cross Examination Defense Witness #2 _____
21. Defense Attorney - Direct Examination Defense Witness #3 _____
22. Plaintiff Attorney - Cross Examination Defense Witness #3 _____
23. Plaintiff Attorney - closing argument _____
24. Defense Attorney - Closing argument _____
25. Juror #1 _____
26. Juror #2 _____
27. Juror #3 _____
28. Juror #4 _____
29. Juror #5 _____
30. Juror #6 _____
31. Juror #7 _____
32. Juror #8 _____
33. Juror #9 _____
34. Juror #10 _____
35. Juror #11 _____
36. Juror #12 _____
37. Clerk/Bailiff _____
38. Journalist #1 _____
39. Journalist #2 _____
40. Courtroom Artist #1 _____
41. Courtroom Artist #1 _____

Mock Trial Procedure

(Sequence of Events of the Trial)

Opening:

1. Bailiff announces "all rise" - all in the courtroom rise
2. Judge enters the room and are seated
3. Judge calls for rest of courtroom to sit down
4. Judge asks teams if they are ready to proceed; Teams respond "yes, your Honor."

(Clerk keeps time for each part going forward)

5. Plaintiff Attorney(s) makes opening statement
6. Defense Attorney(s) makes opening statement

Plaintiff's Case:

7. Plaintiff Attorney calls Plaintiff Witness #1 to the stand
8. Clerk leads Witness #1 in oath to tell the truth
9. Plaintiff Attorney direct examination of Plaintiff Witness #1
10. Defense Attorney cross examination of Plaintiff Witness #1
11. Plaintiff Attorney re-direct of Plaintiff Witness #1 (if desired)

12. Plaintiff Attorney calls Plaintiff Witness #2 to the stand
13. Clerk leads Witness #2 in oath to tell the truth
14. Plaintiff Attorney direct examination of Plaintiff Witness #2
15. Defense Attorney cross examination of Plaintiff Witness #2
16. Plaintiff Attorney re-direct of Plaintiff Witness #2 (if desired)

17. Plaintiff Attorney calls Plaintiff Witness #3 to the stand
18. Clerk leads Witness #3 in oath to tell the truth
19. Plaintiff Attorney direct examination of Plaintiff Witness #3
20. Defense Attorney cross examination of Plaintiff Witness #3
21. Plaintiff Attorney re-direct of Plaintiff Witness #3 (if desired)

Defense Case:

22. Defense Attorney calls Defense Witness #1 to the stand
23. Clerk leads Witness #1 in oath to tell the truth
24. Defense Attorney direct examination of Defense Witness #1
25. Plaintiff Attorney cross examination of Defense Witness #1
26. Defense Attorney re-direct of Defense Witness #1 (if desired)

27. Defense Attorney calls Defense Witness #2 to the stand
28. Clerk leads Witness #2 in oath to tell the truth
29. Defense Attorney direct examination of Defense Witness #2
30. Plaintiff Attorney cross examination of Defense Witness #2
31. Defense Attorney re-direct of Defense Witness #2 (if desired)

32. Defense Attorney calls Defense Witness #3 to the stand
33. Clerk leads Witness #3 in oath to tell the truth
34. Defense Attorney direct examination of Defense Witness #3
35. Plaintiff Attorney cross examination of Defense Witness #3
36. Defense Attorney re-direct of Defense Witness #3 (if desired)

Closing:

37. Plaintiff Attorney(s) makes closing statement
38. Defense Attorney(s) makes closing statement
39. Judge gives Jurors their direction and asks them to adjourn to decide
40. Judge declares court in recess while Jurors adjourn (Jurors have limited time to adjourn)
41. Bailiff asks courtroom to stand while Judge and Jurors exit

Verdict:

42. Bailiff calls the courtroom to order & all stand while Judge and Jury return
43. Judge asks Jury if they have reached a verdict; Lead Juror responds
44. Judge asks jury to read its verdict (judge may poll the jurors)
45. Judge thanks the jury and declares case closed

Developing a Theory of the Case

A case theory is a detailed and accurate story of what occurred in the case at trial. It is how you tell the story of your side of the matter.

In a civil case, Plaintiffs must present a case theory that shows they are entitled to the relief that is sought in their Complaint. Defendants must present a case theory that shows plaintiffs do not have enough "preponderance of the evidence" to entitle them to the relief they claimed. A **preponderance of the evidence** means plaintiffs must prove to the jury their theory of the case is *more true than not true*.

A good case theory is:

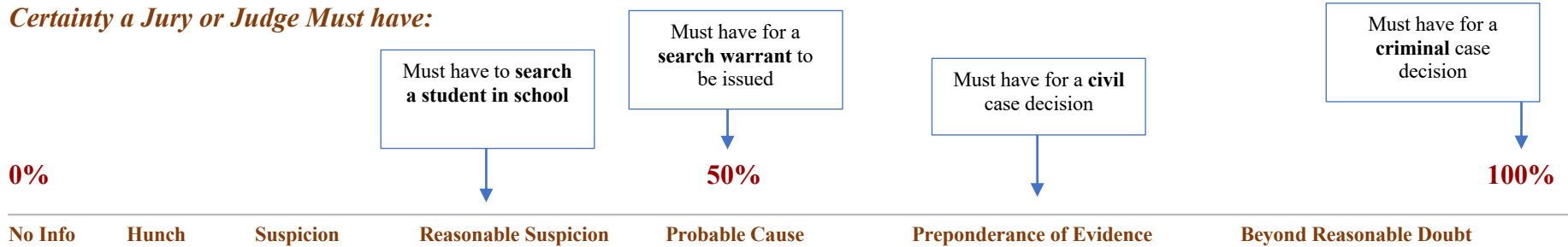
- Based on strong facts and inferences that can be fairly drawn from these facts;
- Built on facts not subject to much, if any, dispute;
- Consistent with any incontestable fact;
- Takes into account and explains away as many unfavorable facts as possible;
- Accepted by the trier of fact without having to stretch the imagination;
- Not based on wishful thinking about any aspect of the case.

To develop a case theory:

1. Construct a factual chronology of the case;
2. Analyze the case from a common sense perspective by asking:
 - a) What's the essential wrong or unfairness to the client?
 - b) Does this unfairness suggest any causes of action or defenses that are not obvious to you?
 - c) Identify any facts that make the case special or more appealing.
 - d) Identify any theme or unifying principle that these facts suggest.
 - e) Identify the legal theories (causes of action/defenses).
 - f) Identify the elements you must prove to prevail on each cause of action or defense.
 - g) Identify the facts that support the elements, opponent's rebuttal to these facts.
 - h) Identify the theory of the case
3. Repeat the process to anticipate your opponent's theory of the case.

The Probable Cause Continuum

Certainty a Jury or Judge Must have:



No Information means that the officer doesn't know anything about the location of evidence linked to a crime

Hunch means that the officer has a **gut feeling** that something is not right, but he officer cannot point to any specific facts; it is something like **intuition**

Suspicion means that the officer **knows a minor fact**, or has some **larger fact** that came from an unknown or unreliable source that suggests that evidence may be located somewhere. For instance, an officer stops a person on the street to ask a question and the person quickly puts a hand in a pocket. Or, the officer may find a piece of paper on the street which says that a particular person is selling drugs.

Reasonable Suspicion means that the officer **knows several minor facts or a larger fact**, or a large fact from a source of unknown reliability that points to a particular person engaging in some criminal activity. *New Jersey v. TLO* is a case that explores this level of certainty.

Probable Cause a reasonable belief, known personally or through reliable sources, that a person has committed a crime. Essentially means that an officer has enough evidence to lead a **reasonable person** to believe that the items searched for are connected with criminal activity and will be found in the place to be searched. For example, an increase of 200 to 300 percent in power consumption within a building is not enough alone to establish probable cause to believe that drug growing operation is underway inside. However, such an increase with other suspicious facts including an anonymous phone call reporting people in the building are growing drugs is enough for probable cause and search warrant.

Preponderance of the Evidence is the amount of evidence needed to be successful when suing in a **civil** case. It means that evidence must be "**more likely than not**" (more than 50%) in order to win.

Beyond a Reasonable Doubt is the highest amount of proof and is required to convict a person of a **criminal** charge.

Using Objections in a Mock Trial

Attorneys, Judges, and Juries should prepare and understand these commonly used objections in a trial: attorneys how to respond to them, judges how to decide them, and juries how to include them in your understanding of the testimony.

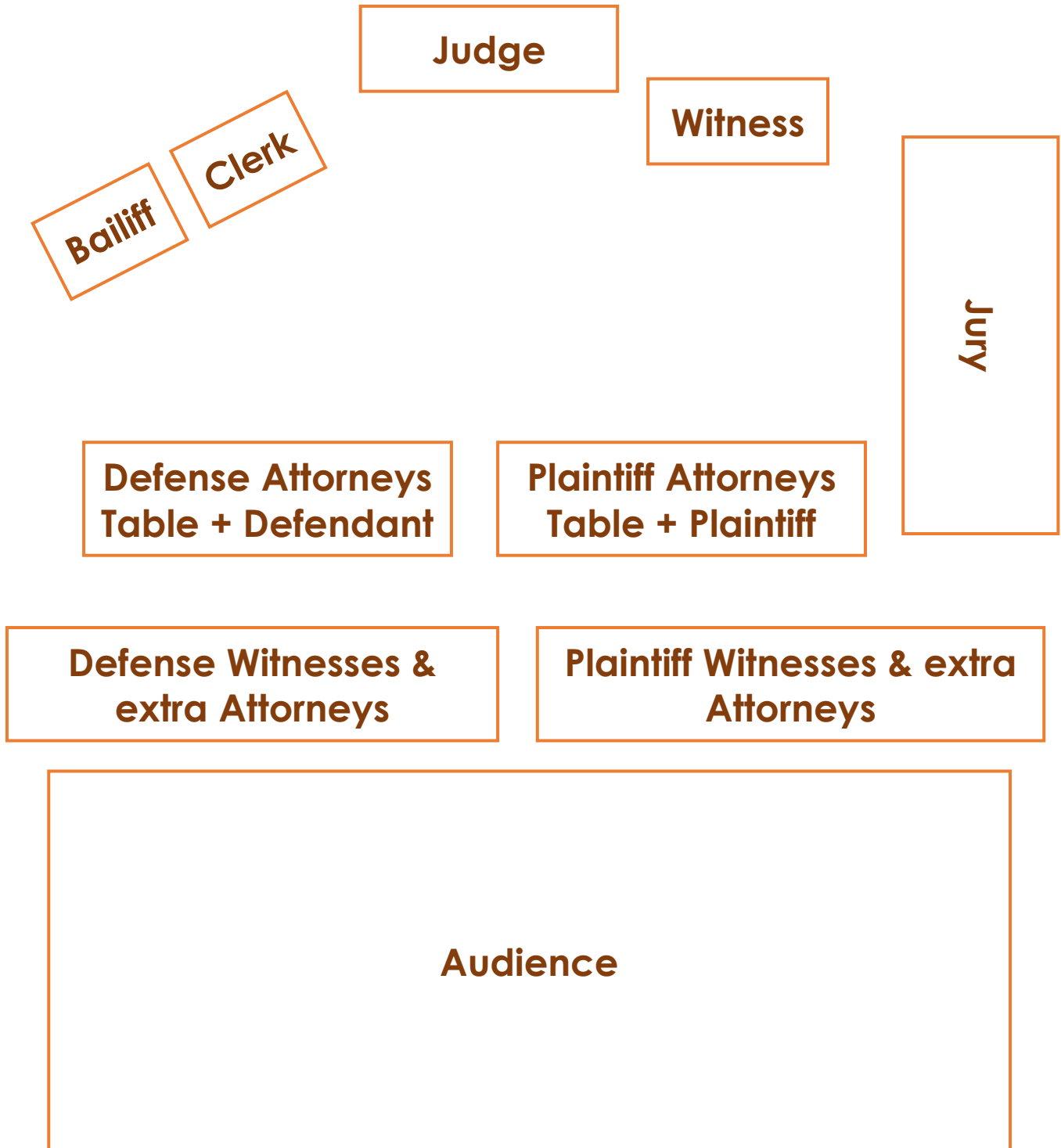
Objection Procedure (During witness testimony only, not during opening or closing statements):

1. Objection must be timely (occur right with the testimony as it happens)
2. Object to the statement before the speaker or responder continues
3. Rise and say "Objection!"
4. State the type of Objection and why (often a definition of the objection)
5. Judge gives other side a chance to respond
6. Objector may be allowed to respond again
7. The Judge rules on the objection (whether it can go forward: "sustained" or not "overruled")
8. Objector accepts the ruling gracefully ("Thank You Your Honor")

Common Objections

1. **Argumentative or Badgering the Witness:** The attorney is deliberately harassing, provoking or showing hostility towards the witness
2. **Leading the Witness:** The attorney must allow the witness to answer in their own words and not prompt the witness or lead the witness through the story or give their own version of events.
3. **Irrelevant Testimony:** the question asked is not actually related to the case or has nothing to do with the alleged incident
4. **Calls for a Conclusion:** Neither witnesses nor attorneys can give an opinion or infer meaning through opinions about the facts. They must just state the facts as they know them.
5. **Repetitive ("Asked and Answered"):** The attorney continues to ask the same or similar question or try to trip up the witness or get them to change their answer.
6. **Non-Responsive:** When the witness does not actually answer the question asked
7. **Lacks Expertise / Not Qualified:** The witness was not established as an expert and is, therefore, not qualified to answer the question
8. **Hearsay:** Witnesses may not testify to something they heard or saw from a secondhand source. Witness lacks personal first-hand knowledge.
9. **Assumes Facts not in Evidence:** Similar to hearsay. Tries to get the witness to answer with no factual information introduced. For example, talking about the crime scene with no exhibit introduced showing the crime scene.

Suggested Courtroom Set Up



Mock Trial Showcase Photography/Film Permission

Student's Name: _____

As a parent or guardian of this student, I hereby consent to the use of photographs/videotape taken during the course of the school year for publicity, promotional and/or educational purposes (including publications, presentation or broadcast via newspaper, internet or other media sources). I do this with full knowledge and consent and waive all claims for compensation for use, or for damages.

___ Yes, I give consent for _____(school) to photograph or video my child for school purposes and/or for their Mock Trial Showcase.

___ No, I do not authorize _____(school) to photograph or video my child for any event.

Parent Signature: _____ Date: _____

Mock Trial Showcase Court Tour Field Trip Permission

Student Name: _____

The culminating Mock Trial Showcase will take place in an authentic Courtroom at the _____ Courthouse. Please indicate below whether you give your student permission to participate in the trip to the Courthouse to be part of the Mock Trial Showcase.

Date of Trip: _____ Times: _____

Address of Courthouse: _____

Responsible Teacher: _____

___ Yes, I give consent for my student to travel with the school to participate in the Mock Trial at the Courthouse as detailed above.

___ No, I do not give permission for my student to participate in the Mock Trial at the Courthouse as detailed above.

Parent Signature: _____ Date: _____

Bergeron v. Glampers

The Harrison Bergeron Mock Trial

Section 2

The Crime Scene

| | |
|--|----|
| Understanding the issues: what does it mean to use a “handicap” in sports or for other reasons (distinguishing “handicap” from “disability”) | 34 |
| <i>Harrison Bergeron</i> , a short story by Kurt Vonnegut | 35 |

Using Handicaps in Sports (equalizing the playing field)

From *Encyclopedia Britannica*

A **handicap**, in sports and games, method of offsetting the varying abilities of competitors in order to equalize their chances of winning.



Handicapping takes many, often complicated, forms. In **horse racing**, a track official known as the handicapper may assign weights to horses according to their speed in previous performances; the presumed fastest horse must carry the most weight.

In **trotting**, horses sometimes start at different points; the horse thought to be the best in the race has to run farther than any other.

In **golf**, two unequal players may have a close match by allowing the poorer player a handicap, a certain number of uncounted strokes based on earlier performances. The same system applies to 10-pin **bowling**.



In **sailboat racing**, dissimilar boats compete under handicapping formulas that add time to the faster boats' actual elapsed time for a race; thus, the winner of a race may be not the first to finish but rather the boat that performs best in relation to its design.

Consider:

- Do you think trying to equalize competitors make the competition fairer for everyone?
- Would adding handicaps to people who have automatic advantages in life help to make everyone more equal to each other?

Harrison Bergeron

By Kurt Vonnegut

THE YEAR WAS 2081, and everybody was finally equal. They weren't only equal before God and the law. They were equal every which way. Nobody was smarter than anybody else. Nobody was better looking than anybody else. Nobody was stronger or quicker than anybody else. All this equality was due to the 211th, 212th, and 213th Amendments to the Constitution, and to the unceasing vigilance of agents of the United States Handicapper General.

Some things about living still weren't quite right, though. April for instance, still drove people crazy by not being springtime. And it was in that clammy month that the H-G men took George and Hazel Bergeron's fourteen-year-old son, Harrison, away.

It was tragic, all right, but George and Hazel couldn't think about it very hard. Hazel had a perfectly average intelligence, which meant she couldn't think about anything except in short bursts. And George, while his intelligence was way above normal, had a little mental handicap radio in his ear. He was required by law to wear it at all times. It was tuned to a government transmitter. Every twenty seconds or so, the transmitter would send out some sharp noise to keep people like George from taking unfair advantage of their brains.

George and Hazel were watching television. There were tears on Hazel's cheeks, but she'd forgotten for the moment what they were about.

On the television screen were ballerinas.

A buzzer sounded in George's head. His thoughts fled in panic, like bandits from a burglar alarm.

"That was a real pretty dance, that dance they just did," said Hazel.

"Huh" said George.

"That dance-it was nice," said Hazel.

"Yup," said George. He tried to think a little about the ballerinas. They weren't really very good-no better than anybody else would have been, anyway. They were burdened with sashweights and bags of birdshot, and their faces were masked, so that no one, seeing a free and graceful gesture or a pretty face, would feel like something the cat drug in. George was toying with the vague notion that maybe dancers shouldn't be handicapped. But he didn't get very far with it before another noise in his ear radio scattered his thoughts.

George winced. So did two out of the eight ballerinas.

Hazel saw him wince. Having no mental handicap herself, she had to ask George what the latest sound had been.

"Sounded like somebody hitting a milk bottle with a ball peen hammer," said George.

"I'd think it would be real interesting, hearing all the different sounds," said Hazel a little envious. "All the things they think up."

"Um," said George.

"Only, if I was Handicapper General, you know what I would do?" said Hazel. Hazel, as a matter of fact, bore a strong resemblance to the Handicapper General, a woman named Diana Moon Glampers. "If I was Diana Moon Glampers," said Hazel, "I'd have chimes on Sunday-just chimes. Kind of in honor of religion."

"I could think, if it was just chimes," said George.

"Well-maybe make 'em real loud," said Hazel. "I think I'd make a good Handicapper General."

"Good as anybody else," said George.

"Who knows better than I do what normal is?" said Hazel.

"Right," said George. He began to think glimmeringly about his abnormal son who was now in jail, about Harrison, but a twenty-one-gun salute in his head stopped that.

"Boy!" said Hazel, "that was a doozy, wasn't it?"

It was such a doozy that George was white and trembling, and tears stood on the rims of his red eyes. Two of the eight ballerinas had collapsed to the studio floor, were holding their temples.

"All of a sudden you look so tired," said Hazel. "Why don't you stretch out on the sofa, so's you can rest your handicap bag on the pillows, honeybunch." She was referring to the forty-seven pounds of birdshot in a canvas bag, which was padlocked around George's neck. "Go on and rest the bag for a little while," she said. "I don't care if you're not equal to me for a while."

George weighed the bag with his hands. "I don't mind it," he said. "I don't notice it any more. It's just a part of me."

"You been so tired lately-kind of wore out," said Hazel. "If there was just some way we could make a little hole in the bottom of the bag, and just take out a few of them lead balls. Just a few."

"Two years in prison and two thousand dollars fine for every ball I took out," said George. "I don't call that a bargain."

"If you could just take a few out when you came home from work," said Hazel. "I mean-you don't compete with anybody around here. You just sit around."

"If I tried to get away with it," said George, "then other people'd get away with it-and pretty soon we'd be right back to the dark ages again, with everybody competing against everybody else. You wouldn't like that, would you?"

"I'd hate it," said Hazel.

"There you are," said George. The minute people start cheating on laws, what do you think happens to society?"

If Hazel hadn't been able to come up with an answer to this question, George couldn't have supplied one. A siren was going off in his head.

"Reckon it'd fall all apart," said Hazel.

"What would?" said George blankly.

"Society," said Hazel uncertainly. "Wasn't that what you just said?"

"Who knows?" said George.

The television program was suddenly interrupted for a news bulletin. It wasn't clear at first as to what the bulletin was about, since the announcer, like all announcers, had a serious speech impediment. For about half a minute, and in a state of high excitement, the announcer tried to say, "Ladies and Gentlemen."

He finally gave up, handed the bulletin to a ballerina to read.

"That's all right-" Hazel said of the announcer, "he tried. That's the big thing. He tried to do the best he could with what God gave him. He should get a nice raise for trying so hard."

"Ladies and Gentlemen," said the ballerina, reading the bulletin. She must have been extraordinarily beautiful, because the mask she wore was hideous. And it was easy to see that she was the strongest and most graceful of all the dancers, for her handicap bags were as big as those worn by two-hundred pound men.

And she had to apologize at once for her voice, which was a very unfair voice for a woman to use. Her voice was a warm, luminous, timeless melody. "Excuse me-" she said, and she began again, making her voice absolutely uncompetitive.

"Harrison Bergeron, age fourteen," she said in a grackle squawk, "has just escaped from jail, where he was held on suspicion of plotting to overthrow the government. He is a genius and an athlete, is under-handicapped, and should be regarded as extremely dangerous."

A police photograph of Harrison Bergeron was flashed on the screen-upside down, then sideways, upside down again, then right side up. The picture showed the full length of Harrison against a background calibrated in feet and inches. He was exactly seven feet tall.

The rest of Harrison's appearance was Halloween and hardware. Nobody had ever born heavier handicaps. He had outgrown hindrances faster than the H-G men could think them up. Instead of a little ear radio for a mental handicap, he wore a tremendous pair of earphones, and spectacles with thick wavy lenses. The spectacles were intended to make him not only half blind, but to give him whanging headaches besides.

Scrap metal was hung all over him. Ordinarily, there was a certain symmetry, a military neatness to the handicaps issued to strong people, but Harrison looked like a walking junkyard. In the race of life, Harrison carried three hundred pounds.

And to offset his good looks, the H-G men required that he wear at all times a red rubber ball for a nose, keep his eyebrows shaved off, and cover his even white teeth with black caps at snaggle-tooth random.

"If you see this boy," said the ballerina, "do not - I repeat, do not - try to reason with him."

There was the shriek of a door being torn from its hinges.

Screams and barking cries of consternation came from the television set. The photograph of Harrison Bergeron on the screen jumped again and again, as though dancing to the tune of an earthquake.

George Bergeron correctly identified the earthquake, and well he might have - for many was the time his own home had danced to the same crashing tune. "My God-" said George, "that must be Harrison!"

The realization was blasted from his mind instantly by the sound of an automobile collision in his head.

When George could open his eyes again, the photograph of Harrison was gone. A living, breathing Harrison filled the screen.

Clanking, clownish, and huge, Harrison stood - in the center of the studio. The knob of the uprooted studio door was still in his hand. Ballerinas, technicians, musicians, and announcers cowered on their knees before him, expecting to die.

"I am the Emperor!" cried Harrison. "Do you hear? I am the Emperor! Everybody must do what I say at once!" He stamped his foot and the studio shook.

"Even as I stand here" he bellowed, "crippled, hobbled, sickened - I am a greater ruler than any man who ever lived! Now watch me become what I can become!"

Harrison tore the straps of his handicap harness like wet tissue paper, tore straps guaranteed to support five thousand pounds.

Harrison's scrap-iron handicaps crashed to the floor.

Harrison thrust his thumbs under the bar of the padlock that secured his head harness. The bar snapped like celery. Harrison smashed his headphones and spectacles against the wall.

He flung away his rubber-ball nose, revealed a man that would have awed Thor, the god of thunder.

"I shall now select my Empress!" he said, looking down on the cowering people. "Let the first woman who dares rise to her feet claim her mate and her throne!"

A moment passed, and then a ballerina arose, swaying like a willow.

Harrison plucked the mental handicap from her ear, snapped off her physical handicaps with marvelous delicacy. Last of all he removed her mask.

She was blindingly beautiful.

"Now-" said Harrison, taking her hand, "shall we show the people the meaning of the word dance? Music!" he commanded.

The musicians scrambled back into their chairs, and Harrison stripped them of their handicaps, too. "Play your best," he told them, "and I'll make you barons and dukes and earls."

The music began. It was normal at first-cheap, silly, false. But Harrison snatched two musicians from their chairs, waved them like batons as he sang the music as he wanted it played. He slammed them back into their chairs.

The music began again and was much improved.

Harrison and his Empress merely listened to the music for a while-listened gravely, as though synchronizing their heartbeats with it.

They shifted their weights to their toes.

Harrison placed his big hands on the girls tiny waist, letting her sense the weightlessness that would soon be hers.

And then, in an explosion of joy and grace, into the air they sprang!

Not only were the laws of the land abandoned, but the law of gravity and the laws of motion as well.

They reeled, whirled, swiveled, flounced, capered, gamboled, and spun.

They leaped like deer on the moon.

The studio ceiling was thirty feet high, but each leap brought the dancers nearer to it.

It became their obvious intention to kiss the ceiling. They kissed it.

And then, neutraling gravity with love and pure will, they remained suspended in air inches below the ceiling, and they kissed each other for a long, long time.

It was then that Diana Moon Glampers, the Handicapper General, came into the studio with a double-barreled ten-gauge shotgun. She fired twice, and the Emperor and the Empress were dead before they hit the floor.

Diana Moon Glampers loaded the gun again. She aimed it at the musicians and told them they had ten seconds to get their handicaps back on.

It was then that the Bergerons' television tube burned out.

Hazel turned to comment about the blackout to George. But George had gone out into the kitchen for a can of beer.

George came back in with the beer, paused while a handicap signal shook him up. And then he sat down again. "You been crying" he said to Hazel.

"Yup," she said.

"What about?" he said.

"I forget," she said. "Something real sad on television."

"What was it?" he said.

"It's all kind of mixed up in my mind," said Hazel.

"Forget sad things," said George.

"I always do," said Hazel.

"That's my girl," said George. He winced. There was the sound of a rivetting gun in his head.

"Gee - I could tell that one was a doozy," said Hazel.

"You can say that again," said George.

"Gee-" said Hazel, "I could tell that one was a doozy."

"Harrison Bergeron" is copyrighted by Kurt Vonnegut, Jr., 1961.

Bergeron v. Glampers

The Harrison Bergeron Mock Trial

Section 3

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Case Summary

This is a civil case in which plaintiffs are suing defendant for “wrongful death.” Usually a wrongful death is one that is caused by a negligent, reckless, or intentional act. Because the person injured is dead, the lawsuit is brought by someone on the behalf of the deceased person’s family or loved ones.

In this case, parents Hazel and George Bergeron (plaintiffs) have filed a complaint for wrongful death against Handicapper General Diana Moon Glampers (defendant) for killing their son, Harrison. Defendant claims that her actions were lawful because it is her job to maintain the handicapping practices that are meant to make everyone equal. Whether that is true depends on whether jurors believe the current laws are fair and her actions were justified.

Plaintiffs

Hazel Bergeron, mother of Harrison

George Bergeron, father of Harrison

Defendant

Diana Moon Glampers, Handicapper General

Witnesses

Broadcast Announcer, witnessed the event in question

Ballerina, was at the scene of the event in question

Musician, was at the scene of the event in question

Expert

Old Doctor, retired medical doctor

Exhibits

Exhibit A - ORS-30.020 (Wrongful Death)

Exhibit B - Handicapper Guidelines

Exhibit C - The Declaration of Independence (excerpt)

Exhibit D - The Bill of Rights (simplified version)

Exhibit E - Crime Scene Drawing

Exhibit F - 1990 Americans With Disabilities Act (excerpt)

Exhibit G - Constitutional Amendments 211, 212, 213

Exhibit H - Constitutional Amendment 214

Exhibit I - Constitutional Amendment 215

In the District Court of the State of Oregon for Chinook County

HAZEL and GEORGE BERGERON
Plaintiffs,

v.

DIANA MOON GLAMPERS,
Defendant

Case No. 00201903

COMPLAINT
(Wrongful Death)

ORS 30.020

INTRODUCTION

1. Plaintiffs George and Hazel Bergeron (“Plaintiffs”) bring this action against Defendant Diana Moon Glampers (“Defendant”). Plaintiffs are the parents of the deceased Harrison Bergeron. Defendant is the General Handicapper.

2. Defendant, in view of multiple eye witnesses, shot and killed Harrison Bergeron (“Bergeron”) and his dance partner, Ballerina (“Ballerina”).

PARTIES AND VENUE

3. Plaintiffs are individuals who reside in Chinook County, Oregon.

4. Defendant is the General Handicapper of the United States of America, a federally appointed position.

5. Venue is proper in this Court because plaintiffs live in Chinook County and their son, Bergeron is from Chinook County.

FACTS

6. The Declaration of Independence states that all people are guaranteed life, liberty, and the pursuit of happiness.

7. The Bill of Rights (Amendments 1-8) specifically prohibit the federal government from interfering in the private lives of citizens.

8. Bergeron was removed from his home by Defendant without any charges against him.

9. Bergeron escaped his unlawful imprisonment and at a live broadcast of a ballet performance harmlessly began to dance.

10. Without cause or provocation, Defendant shot Bergeron and Ballerina with a ten-gauge shotgun.

11. After Bergeron and Ballerina were dead, Defendant reloaded her shotgun and threatened the remaining ballerinas and musicians in the theater studio with death.

12. Defendant knew or should have known that killing Bergeron and Ballerina detrimentally would harm Plaintiffs by taking away their only son without cause.

CLAIM FOR RELIEF

(Wrongful Death)

13. Plaintiffs incorporate and reallege paragraphs 1 through 12 above, each as if fully stated herein.

14. Defendant's action amounts to a violation of ORS 20.030 - Wrongful Death because she caused Bergeron's death by her wrongful act.

15. Defendant's conduct caused Plaintiffs a special injury. Since Defendant killed Bergeron, plaintiffs now must suffer the loss of their son the rest of their lives.

16. Defendant's conduct also caused threat to the general public because of her specific life-threatening actions towards the other people at the scene, which was broadcast live.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

1. A legislative review of the handicap laws in Oregon and their violation of the first 10 Amendments and the Declaration of Independence; and
2. Such other relief as may be just and proper.

DATED: October 20, 2081

CARLYLE, POLLARD & SCHMIDT LLP

s/Shannon Schmidt

SHANNON T. SCHMIDT, OSB No. 714520

ALLAN M. BEACH, OSB No. 911149

Telephone: (541) 234-4000

Attorneys for Plaintiffs

In the District Court of the State of Oregon for Chinook County

HAZEL and GEORGE BERGERON
Plaintiffs,

v.

DIANA MOON GLAMPERS,
Defendant

Case No. 00201903

ANSWER

ORS 30.020

For its Answer to Plaintiffs Hazel and George Bergeron’s (“Plaintiffs”) Complaint, Defendant Diana Moon Glampers (“Defendant”) admits, denies, and alleges as follows:

INTRODUCTION

1. Defendant admits the allegations in paragraph 1.
2. Defendant admits the allegations in paragraph 2.

PARTIES AND VENUE

3. Defendant admits the allegations in paragraph 3.
4. Defendant admits the allegations in paragraph 4.
5. In response to the allegations in paragraph 5 of the Complaint, Defendant admits that venue is proper in this Court.

FACTS

6. Defendant admits the allegations in paragraph 6.
7. Defendant admits the allegations in paragraph 7.
8. Defendant denies the allegations in paragraph 8.
9. Defendant denies the allegations in paragraph 9.
10. Defendant denies the allegations in paragraph 10.
11. Defendant admits the allegations in paragraph 11.
12. Defendant denies the allegations in paragraph 12.

CLAIM FOR RELIEF

(Wrongful Death)

13. Defendant incorporates and realleges its responses to paragraphs 1 through 12 of the Complaint above, each as if fully set forth herein.

14. Defendant denies the allegations in paragraph 13.

15. Defendant denies the allegations in paragraph 14.

16. Defendant denies the allegations in paragraph 15.

17. Defendant denies the allegations in paragraph 16.

PRAYER FOR RELIEF

WHEREFORE, Defendant prays for relief as follows:

1. An order dismissing Plaintiffs' claim with prejudice;
2. An award of the costs and disbursements Defendant incurs in defending this action; and
3. Such other relief as may be just and proper.

DATED: October 25, 2011.

McCOY & RUBEROSA LLP

s/Corrina M. Ruberosa

JAMES J. MCCOY (OSB No. 750046)

CORRINA M. RUBEROSA (OSB No. 083376)

Telephone: (541) 871-7000

Attorneys for Defendant

1 **AFFIDAVIT OF GEORGE BERGERON** (PLAINTIFF)
2

3 My name is George Bergeron and I am married to Hazel Bergeron. We had a son
4 named Harrison. My main handicap is an ear radio. Though I know it is important to
5 have it, I do admit it gives me frequent headaches and distracts me and makes me
6 lose my train of thought very often. We loved our son very much. But we knew from the
7 time he was young that he would have to be severely handicapped to be equal to
8 everyone else. He was such a handsome and talented little boy! But by the time he was
9 14, despite our best intentions and attempts to keep his handicaps on him, he
10 continuously threw them off. The Handicapper General's office came and took him
11 away when he was 14. At first, I was so sad, but eventually I just couldn't think about it
12 too much because my ear radio did its job.

13 My wife and I are quiet folks, and one of our favorite things to do together is sit
14 and watch television in the evening. On the night my son was killed, we were watching
15 a ballet performance. All through the performance, I got different sounds in my ear
16 radio that hurt my head. Sometimes I have the fleeting thought of taking off some of my
17 handicaps, like lightening the handicap bag I wear around my neck - but then I know I
18 would get two years in prison and two thousand dollars fine for every ball of birdshot I
19 took out of the bag.

20 Anyway, the ballet performance was interrupted by a news bulletin with a
21 ballerina saying that Harrison had escaped from jail. They showed a picture of him,
22 even with all his heavy handicaps, I knew it was him. Then I saw him come into the
23 theater and he was stomping up onto the stage. I knew it was him - but suddenly I got
24 such a blast in my ear radio I couldn't keep my eyes open!

1 **AFFIDAVIT OF HAZEL BERGERON** (Plaintiff)
2

3 My name is Hazel Bergeron and I am married to George Bergeron. My son's
4 name is Harrison. I mean, my son's name WAS Harrison. He was a lovely child, but I knew
5 a soon as he was born he'd have to have a lot of handicaps. That's just the way our
6 country works because it is important that we all be equal. I didn't want my son to not
7 be equal. I don't have any handicaps like my husband and son, but I do love them
8 both dearly.

9 For some reason, Harrison was taken away from us when he was 14. George said
10 it was because Harrison kept taking off his handicaps, but I didn't remember that
11 happening. I was so terribly sad when my son went to prison, but only at first. After a
12 while, it felt normal again and I thought he would just come home after his two-year
13 sentence.

14 One night while George and I were watching a lovely ballet performance on the
15 television, there was a news bulletin that Harrison had escaped. They showed a picture
16 of my son, but at first I didn't realize it was him. George yelled "That must be Harrison!"
17 but then he shrieked in pain from his ear radio. I have often thought that they should
18 use gentler noises in the ear radios. Anyway, there was more that happened, but I
19 don't quite remember the performance itself.

20 I only remember that my Harrison was killed by General Glampers right on
21 television. I don't quite recall seeing it happen, but I know it did because I have a
22 reminder to myself when I forget that she murdered him. It was so unfair because he
23 only deserved a two-year sentence, and he was such a lovely boy! My George usually
24 feels these things much more strongly than I do, but I can say that a mother's love is so
25 important. General Glampers took that away from me, and I don't believe the law

1 gave her the right to do that. I am so, so sad, when I remember to be. I don't want to
2 be so sad, but I have no choice because my Harrison is dead.

3
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13

Hazel Bergeron

Mother
Dated: October 4, 2081

Subscribed and sworn to me this 4th day of October, 2081.

Geneva Blossom

Geneva Blossom
Dated: October 4, 2081

1 **AFFIDAVIT OF DIANA MOON GLAMPERS** (DEFENDANT)
2

3 My name is Diana Moon Glampers, and I am the Handicapper General of the
4 United States. My job is to make sure that everyone complies with the Handicapping
5 Rules and Amendments 211,
6 212, 213. I also decide all handicaps from the heaviness of the weights to type and
7 volume
8 of the ear interrupters and many more. It is very important that everyone use their
9 handicaps as instructed by my office. If they don't, they need to be punished because
10 the most important rule is that everyone must be as equal as possible.

11 On the night of the ballet performance, everything was proceeding normally.
12 The ballerinas who should have been wearing masks, as well as those with ear radios
13 were performing together as planned. I was watching peacefully from my office in the
14 government building next to the theater.

15 Suddenly, Harrison Bergeron burst into the theater shouting and causing havoc.
16 He was even claiming to be, "The Emperor" and then demanded, "Everyone must do
17 what I say, at once!" It was impossible to tell from the television screen that anything
18 was happening to stop him from disrupting everything. So, I immediately decided to go
19 over to the theater. I took my weapon because I didn't know if I would have to defend
20 myself.

21 By the time I got to the theater, Bergeron had obviously yanked the handicaps
22 from an innocent ballerina and was leaping around, dragging her with him. He must
23 have threatened the musicians because they were playing bizarre music. All equality
24 had been destroyed and everything was chaos. I knew if I didn't act quickly to stop
25 him, he would corrupt everyone viewing the performance.

1 **AFFIDAVIT OF BROADCAST ANNOUNCER**

2

3

My name is Broadcast Announcer. I have been an announcer in television and broadcasting for 15 years. Like all broadcasting announcers I have a speech disrupter.

5

On the night of the performance at the theater, things began normally. I was rehearsing my segments in an effort to make my announcements as smooth as possible, considering my handicap disrupts my speech so much I feel like it is almost impossible to understand what I am saying. Suddenly, I was handed a news bulletin by the producer and told to prepare to go on stage in one minute. I quickly glanced at the words on the page and was shocked at what I saw!! My heart began to pound and mouth went dry as I read, "Harrison Bergeron, age 14, has just escaped from jail, where he was held on suspicion of plotting to overthrow the government. He is a genius, and an athlete, is under-handicapped, and should be regarded as extremely dangerous." Because of my state of anxiety, when I went on stage to make the announcement I couldn't even get out the words, "Ladies and Gentlemen," much less the rest of the announcement. After about half a minute of trying, over and over, I finally gave up in frustration and defeat. I handed the news bulletin to a ballerina to read.

18

The ballerina read the news bulletin but just as she was finishing there was the crashing sound of a door being torn off its hinges and shock of all shockers there stood the very protestor we had just announced. He must have been like a Greek God. He had the most handicaps I have ever seen on any human being.

22

I watched in awe and amazement as he leapt onto the stage with the doorknob still in his hand. While others backed away I felt drawn to his strength and power.

24

Suddenly I fell to my knees. The rest was a blur as I watched he and his Empress

1 ballerina dance the way ballet should be danced. Gracefully and majestically. Even
2 the musicians suddenly performed music that was a joy to hear.

3 Then as their final leap and kiss crescendo inches from the ceiling, the
4 performance came to a screeching halt when the handicapper general exploded into
5 the studio with a double barreled, 10 gauge shot gun. She fired twice, and Harrison
6 and his beautiful mate, the ballerina, were dead before they hit the floor. You could
7 feel the despair in the studio. I watched in shock and fear for my own life as Diana
8 Moon Glampers, loaded the gun again. This time she aimed it at the musicians and
9 told them they had, "10 seconds, to get their handicaps back on." I wondered if they
10 wanted to defy her as much as I wanted to, but my fear held me in check.

11

12

Broadcast Announcer

13

Broadcast Announcer

14

Dated: October 4, 2081

15

16

17 Subscribed and sworn to me this 4th day of October, 2081.

18

19

Geneva Blossom

20

Geneva Blossom

21

Dated: October 4, 2081

22

23

24

25

1 **AFFIDAVIT OF MUSICIAN**

2
3 My name is Musician and I am part of an orchestra that plays to back up the
4 Ballet. When I was young, I loved music and played on my own for hours and hours. But
5 then as I was given my handicaps, I learned that it was better to be part of a group
6 and play along with the same music everyone else played together. Our laws say it is
7 important that no one is better than another, so I try to stay in line with my orchestra
8 and not worry about how my handicaps keep me from playing music like when I was
9 young. I'd rather not stand out and get into trouble, so I count myself lucky I can play
10 my music at all.

11 On the night of the ballet performance, we were all playing our parts as usual.
12 Several times a year we play for a television audience so we were used to the set up in
13 the theater. I knew the music by heart, so I was playing along as normal, when
14 suddenly, Harrison Bergeron burst into the theater yelling and running around. At first,
15 he was loaded down with his handicaps, but he jumped onto the stage and started
16 ripping them off! I couldn't believe my eyes - I was terrified of what was happening,
17 and stopped playing. The other musicians in the orchestra also stopped - we were
18 stunned and frightened watching him.

19 He pulled off all his handicaps and I couldn't believe my eyes - he was so strong
20 and handsome, it was almost blinding. I was stunned and didn't know what to think. He
21 yelled that he was going to be "emperor" and I didn't understand what was
22 happening when he grabbed a ballerina and pulled off her mask. She was beautiful! I
23 couldn't stop staring at the two of them.

24 Bergeron yelled he wanted music so they could dance. At first I didn't
25 understand what he was saying because I was so shocked. Then he came around and

1 pulled off all OUR handicaps! Right there, in front of everyone! He took off my handicap
2 too, and I had never felt so much relief. I was disoriented. But I felt so uncomfortable
3 and afraid because I knew it was wrong.

4 He told us to start playing, so the orchestra started playing our usual music. It
5 gave me comfort to start playing again and focus on my instrument. But Bergeron
6 interrupted us and yelled at us to stop. Then he grabbed me by my collar, and grabbed
7 my fellow musician in his other hand and LIFTED us both up! Then he swung us around as
8 if we were his music batons, I could not believe his strength! I was terrified at first, but
9 then I focused on his singing letting us know how he wanted the music played. Abruptly
10 he slammed us back into our chairs. The music he wanted was closer to the music I
11 played as a child and not anything like the normal music the orchestra played so as not
12 to be too flamboyant. The more we played the new music, the more I felt afraid - it was
13 music I loved, but I was terrified by Bergeron and by not having my proper handicap.

14 Suddenly, General Handicapper Glampers burst into the theater and shot
15 Bergeron and the ballerina right in front of us! We all stopped playing in stunned silence
16 until she swung the gun towards us and told us to put our handicaps back on. I was
17 quick to get my handicap back on. I was at first scared by her, but I understand she
18 had to keep order and make sure we were all equal. I felt much more calm and less
19 afraid once my handicap was back on, and I knew she'd taken care of the scary
20 situation for us.

21 MUSICIAN
22 Musician
23 Dated: October 5, 2081

24
25 Subscribed and sworn to me this 5th day of October, 2081.
26 Geneva Blossom
27 Geneva Blossom
28 Dated: October 5, 2081

1 **AFFIDAVIT OF BALLERINA**

2
3 My name is Ballerina, and I just joined the National Ballet last year. I have been
4 working hard - but not too hard - so that I can make sure to dance just like all the other
5 ballerinas in my company. The goal for us is to dance all together and no one stand out
6 more than the others. The handicaps most of us have are masks and weights, though
7 two in our company have ear radios. Sometimes the ear radios disrupt their rhythm and
8 flow as part of the group, but they still work hard to stay in sync. I wear a mask, and at
9 first it was hard to dance because it affects my peripheral vision - not that I am
10 complaining! I learned very quickly (but not too quickly) how to dance with the mask,
11 and I am grateful to be part of the National Ballet.

12 On the night of the television performance, I was looking forward to it because it
13 would be my first time on live TV. We had practiced so we all knew our parts and how
14 to dance together - it was meant to be a very soothing and calm performance. We
15 were dancing along, with only a few minor disruptions from the girls with ear radios. All
16 of a sudden, there was a noise I didn't recognize, --like a crash! The musicians quit
17 playing, and all of us ballerinas on stage stopped mid-twirl as a giant man stomped into
18 the room. He was terrifying! Despite the massive amount of handicaps he had all over
19 him, he moved like a giant monster up onto the stage! I was so terrified I cowered back
20 towards the back of the stage with the other ballerinas.

21 As he stomped around declaring he would be free and be Emperor, he threw off
22 all of his handicaps! I was stunned to see a man so tall, strong and handsome but so
23 scary at the same time! Then he looked right at all of us ballerinas trying to huddle
24 together, and he yelled "I shall now select my Empress!" He looked right at each of us!

1 Then he said "Let the first woman who dares rise to her feet, claim her mate and her
2 throne!"

3 We were huddled and scared, but of course, Ballerina Two (we go by numbers
4 when we are all together, otherwise, we are just "Ballerina") got up and walked toward
5 him! I couldn't believe it, but I also remembered she'd been scolded many times
6 before for stopping mid-dance to adjust her mask. She was committing crimes right in
7 front of all of us! Bergeron tore the ear radio and her other handicaps off of her, and
8 then took off her mask! She didn't seem to care. They started dancing and jumping so
9 high. I was so confused and scared.

10 We ballerinas just huddled together not knowing what to do, but General
11 Glampers ran in and brought order back to everything - she could do nothing else but
12 shoot them. I was sad for Ballerina Two, but she really sort of deserved it for so blatantly
13 breaking all the laws, and on live television! We all scurried back to our positions, and I
14 suddenly felt better and safer. The TV show of course was canceled, and General
15 Glampers reassured us that we were safe again. It was a night I will never forget, but it
16 reminds me all the time how lucky I am to have my handicaps and be part of the
17 Ballet.

18 *Ballerina*

19 Musician

20 Dated: October 5, 2081

21
22 Subscribed and sworn to me this 5th day of October, 2081.

23
24 *Geneva Blossom*

25 Geneva Blossom

26 Dated: October 5, 2081
27

1 **AFFIDAVIT OF OLD DOCTOR**

2
3 My name is Old Doctor. I served as a doctor for many years, but I now live in
4 Institution for the Unhandicapped retirement home and have had my handicaps
5 removed because I will probably die of old age soon. I got here when I retired and
6 turned 80. I was a doctor for many years, and I believe I am an expert in the use of
7 handicaps and their effects on people who must wear them. I became a doctor in
8 2032, before amendments, 211, 212 and 213 were created. I was an orthopedic
9 surgeon and I helped people with bad backs, bad knees, bad hips, bad shoulders etc.
10 The parts of the body dealing with joints or movement. I loved my job back then.
11 Helping to repair the human body and free people from pain was the most rewarding
12 part of my job.

13 The human body is designed to function very well when your body weight is at
14 it's optimum and when your muscles are strong to help the joints work well with the
15 least amount of strain. However, when you are doing daily labor where the same joints
16 are working excessively and repetitively the joints can be damaged. For example,
17 pounding nails into wood at a job for eight hours every day will eventually give you
18 shoulder damage, elbow damage, even wrist damage through constant repetitive use.
19 If you work hunched over doing this work you will eventually sustain back injuries as well.
20 Within 5-10 years you will have damaged your body and it will require repair through
21 either surgery, or rest or physical therapy to correct. Often if you continue the same
22 job, it will reoccur and further surgery or therapy will be required. If you do it over your
23 working lifetime it may become permanently damaged and you will then be unable to
24 repair it and the remainder of your lifetime will be spent in pain.

Exhibit A

Oregon Revised Statute (ORS) 30.020*

When the death of a person is caused by the wrongful act or omission of another. Typically, a wrongful death is one that is caused by a negligent, reckless, or intentional act -- the same sorts of actions that would support a claim for personal injury if the deceased person had lived.

In this way, it is possible to think of a wrongful death claim as a personal injury claim. The primary difference is that the injured person in a wrongful death claim is no longer available to bring his or her own claim to court. Instead, another party must bring the wrongful death claim on behalf of the deceased person's estate and any surviving beneficiaries.

*summary via Legal Encyclopedia

Exhibit B

Handicapper Guidelines

| Occupation | Talent | Handicap |
|--|---|---|
| Dancer | Grace, strength | <ul style="list-style-type: none"> ▪ Body wraps ▪ Weights |
| Athlete | Strength, coordination, competitive, risk-taker | <ul style="list-style-type: none"> ▪ Weights ▪ Slings |
| Vocalist, Singer | Beautiful singing voice | <ul style="list-style-type: none"> ▪ Electronic voice modifier |
| Orchestra / Band Musician | Instrumental music talent | <ul style="list-style-type: none"> ▪ Non-dominant hand use ▪ Taped fingers ▪ Modified mouthpiece |
| Newscaster, Actor, Leader | Excellent / compelling speaking voice | <ul style="list-style-type: none"> ▪ Electronic stuttering device |
| Academic, Teacher, Doctor, Scientist, Strategist, Writer, Analytical Thinker | Eidetic memory, creative, imaginative, genius | <ul style="list-style-type: none"> ▪ Electronic brainwave interrupter |
| Psychologist, Social Mediator, Extroverted Individual | Excellence with: social cues, understanding others, empathy, listening, body language | <ul style="list-style-type: none"> ▪ Ear plugs ▪ Extreme distortion eyeglasses or sunglasses |
| Artist, Photographer or Graphic Designer | Drawing and visual artistic talent | <ul style="list-style-type: none"> ▪ Non-dominant hand use ▪ Fingers taped or thick glove ▪ Distortion eye glasses or sunglasses |
| Model, Actor | Physical beauty, excellent speaking | <ul style="list-style-type: none"> ▪ mask |

Exhibit C

The Declaration of Independence (excerpt)

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. --That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

~1776

Exhibit D

Bill of Rights (abbreviated)

- 1st Freedom of religion, speech, and the press; rights to petition the government and assemble peaceably
- 2nd Right to keep and bear arms
- 3rd No forced quartering of troops in people's homes
- 4th No unreasonable searches and seizures of people's property or things
- 5th Right to due process of law, no double jeopardy, right not to incriminate yourself
- 6th Rights of the accused: speedy and public trial by jury, clear charges, witnesses in defense, and an attorney
- 7th Right to trial by a jury in a civil case
- 8th No cruel or unusual punishments
- 9th Just because a right isn't specifically listed in the Constitution does not mean it does not exist.
- 10th Powers not given to the federal government by the Constitution belong to the states or to the people.

Exhibit E

Crime Scene Drawing

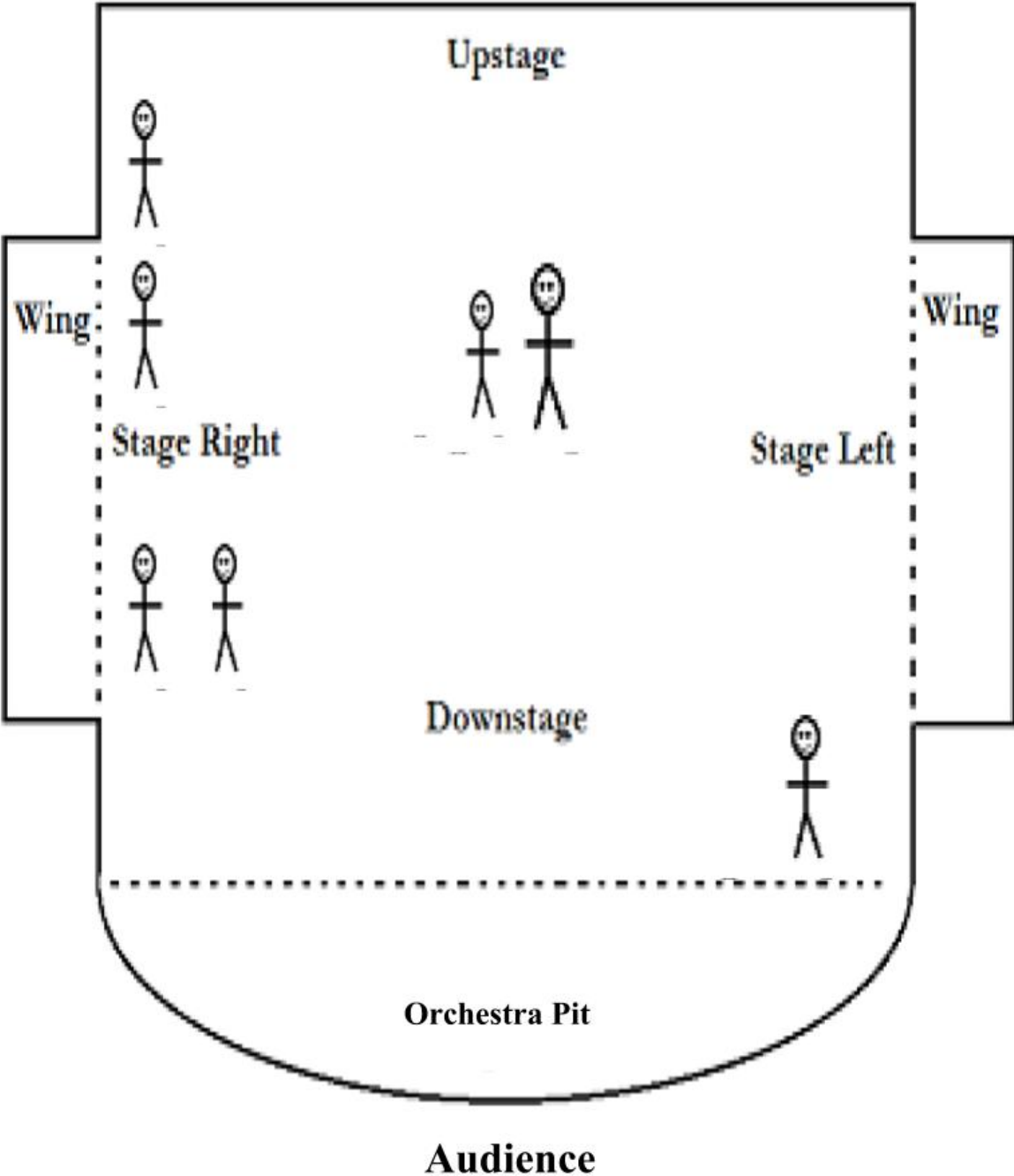


Exhibit F

1990 Americans with Disabilities Act (excerpts)

To establish a clear and comprehensive prohibition of discrimination on the basis of disability.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

...SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- The Congress finds that--

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and

relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

...

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE- It is the purpose of this Act--

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

Exhibit G

Constitutional Amendments 211, 212, 213

Amendment 211

Equality of Strength and Speed (2042)

Passed by Congress June 15, 2040. Ratified November 3, 2042.

No persons born, naturalized or residing in the United States and subject to the jurisdiction thereof can be stronger or quicker than anyone else.

Amendment 212

Equality of Physical Attributes (2048)

Passed by Congress September 13, 2047. Ratified February 14, 2048.

No persons born, naturalized or residing in the United States and subject to the jurisdiction thereof can have physical attributes better than anyone else. These shall include, but are not limited to: physical beauty, grace compelling speaking voice, melodic singing voice, dexterity.

Amendment 213

Equality of Mind and Intellect (2055)

Passed by Congress April 1, 2054. Ratified July 4, 2055.

No persons born, naturalized or residing in the United States and subject to the jurisdiction thereof can be smarter, more creative, more socially adept, have greater academic depth or stronger memory abilities than anyone else.

Exhibit H

Constitutional Amendment 214

Right to Retire Handicap (2056)

Passed by Congress January 25, 2056. Ratified August 13, 2056.

No persons born, naturalized or residing in the United States and subject to the jurisdiction thereof, upon reaching the age of majority, or 80 years, may be retired to the Institution for the unhandicapped and have all handicaps removed until death. All persons must be given the opportunity to choose either the Institution or their handicaps. All persons decisions are considered final and may not be changed under the law.

Exhibit I

Constitutional Amendment 215

Equitable and Speedy Trial (2058)

In conjunction with the 6th & 7th Amendments:

Passed by Congress March 17, 2058. Ratified October 31, 20158.

All persons born, naturalized or residing in the United States and subject to the jurisdiction thereof are protected under the 6th and 7th amendments to an equitable and speedy trial by a jury of their peers. All trials shall therefore be tried without handicaps. Lawyers, judges, witnesses, jurors and court personnel shall refrain from using any and all handicaps during the time period of the actual trial. Upon arrival, all handicaps will be checked in at the courthouse door and reissued upon leaving. Every effort shall be made to select jurors who are just average with minimal handicap removal during the trial. All non-court members of the trial case will re-engaged their handicaps full time once the verdict has been declared.

Bergeron v. Glampers

The Harrison Bergeron Mock Trial

Section 4

Student Materials

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What's Your Role?

The court system has many participants. In order to ensure that Amendments 6 & 7 of the Bill of Rights are complied with, it is important for all the players to take the justice system seriously and prepare to the best of their ability. In this mock trial, your teacher will allow you some choice in the role that suits you best. However, your teacher CANNOT GUARANTEE your first choice, which is why you will **select 7 top choices**.

Convince your teacher you are perfect person for your part! **Place a 1-7 in the order of preference of these roles (1 is your top choice, 7 is your last)**. Then at the bottom, **write why you think you will do a great job with your top 2 choices**.

_____ **Plaintiffs' Attorney** (*think on your feet, deliver part of a story well, ask quality questions, defend your clients' interests*)

_____ **Defense Attorney** (*think on your feet, deliver part of a story well, ask quality questions, defend your client's' interests*)

_____ **Witness** (*Create a character or play a role from a story. Be able to put yourself in the character's place and use the information provided to develop that character's personality with conviction and believability*)

_____ **Bailiff** (*Stand up in a courtroom, use a clear, loud voice, enforce judge's decisions; swear in witnesses*)

_____ **Clerk/Timekeeper** (*use a stopwatch and track time during sessions; keep track of exhibits and documents to use for clarification during the trial; have good organizational skills*)

_____ **Juror** (*Thoughtful and analytical thinker; able to work and reason in a group. Takes good notes and uses evidence to support decisions*)

_____ **Journalist/Artist** (*takes notes during trial; draws pictures or takes photographs to create a report or image of the trial, its events, and its outcomes.*)

Convince me why you are perfect for your 1st and 2nd choice roles (you can continue to write on the back):

SUMMONS

You: _____, are hereby commanded to appear in the Circuit Court of Chinook County, Oregon. Judge _____ will preside for the State of Oregon in Chinook County on the Date and Time specified below.

Please appear on _____(date) at _____ am/pm (time)

Be prepared to:

A. Serve as a member of the jury

OR

B. Testify as an eyewitness or expert witness for:

Plaintiffs

Defense

- Failure to comply with this SUMMONS will result in CONTEMPT charges.

REQUESTED by _____, of the Mock Trial Court.
(teacher(s))

Approved by the Honorable _____, Presiding Judge, Circuit Court of Chinook County, Oregon.

OCTOBER 2081

I have served this summons: _____
(Bailiff / Clerk Signature)

Steps in a Trial (Sequence of Events)

Opening:

1. Bailiff announces "all rise" - all in the courtroom rise
2. Judge enters the room and are seated
3. Judge calls for rest of courtroom to sit down
4. Judge asks teams if they are ready to proceed; Teams respond "yes, your Honor."

(Clerk keeps time for each part going forward)

5. Plaintiff Attorney(s) makes opening statement
6. Defense Attorney(s) makes opening statement

Plaintiff's Case:

7. Plaintiff Attorney calls Plaintiff Witness #1 to the stand
8. Clerk leads Witness #1 in oath to tell the truth
9. Plaintiff Attorney direct examination of Plaintiff Witness #1
10. Defense Attorney cross examination of Plaintiff Witness #1
11. Plaintiff Attorney re-direct of Plaintiff Witness #1 (if desired)

12. Plaintiff Attorney calls Plaintiff Witness #2 to the stand
13. Clerk leads Witness #2 in oath to tell the truth
14. Plaintiff Attorney direct examination of Plaintiff Witness #2
15. Defense Attorney cross examination of Plaintiff Witness #2
16. Plaintiff Attorney re-direct of Plaintiff Witness #2 (if desired)

17. Plaintiff Attorney calls Plaintiff Witness #3 to the stand
18. Clerk leads Witness #3 in oath to tell the truth
19. Plaintiff Attorney direct examination of Plaintiff Witness #3
20. Defense Attorney cross examination of Plaintiff Witness #3
21. Plaintiff Attorney re-direct of Plaintiff Witness #3 (if desired)

Defense Case:

22. Defense Attorney calls Defense Witness #1 to the stand
23. Clerk leads Witness #1 in oath to tell the truth
24. Defense Attorney direct examination of Defense Witness #1
25. Plaintiff Attorney cross examination of Defense Witness #1
26. Defense Attorney re-direct of Defense Witness #1 (if desired)

27. Defense Attorney calls Defense Witness #2 to the stand
28. Clerk leads Witness #2 in oath to tell the truth
29. Defense Attorney direct examination of Defense Witness #2
30. Plaintiff Attorney cross examination of Defense Witness #2
31. Defense Attorney re-direct of Defense Witness #2 (if desired)

32. Defense Attorney calls Defense Witness #3 to the stand
33. Clerk leads Witness #3 in oath to tell the truth
34. Defense Attorney direct examination of Defense Witness #3
35. Plaintiff Attorney cross examination of Defense Witness #3
36. Defense Attorney re-direct of Defense Witness #3 (if desired)

Closing:

37. Plaintiff Attorney(s) makes closing statement
38. Defense Attorney(s) makes closing statement
39. Judge gives Jurors their direction and asks them to adjourn to decide
40. Judge declares court in recess while Jurors adjourn (Jurors have limited time to adjourn)
41. Bailiff asks courtroom to stand while Judge and Jurors exit

Verdict:

42. Bailiff calls the courtroom to order & all stand while Judge and Jury return
43. Judge asks Jury if they have reached a verdict; Lead Juror responds
44. Judge asks jury to read its verdict (judge may poll the jurors)
45. Judge thanks the jury and declares case closed

Name: _____

Bailiff Preparation Form

Bailiff is responsible for enforcing the rules of the court, announcing the judge's entry and exit, and swearing in witnesses.

Announcing entry of the Judge:

All Rise. The Circuit Court of Chinook County is now in session.

The Honorable _____ presiding.

Stand until Judge says the courtroom may be seated.

For **each witness**, before they sit down in the witness chair, have them stand facing you.

The Oath:

Please raise your right hand.

Do you promise to tell the truth, the whole truth, and nothing but the truth?

The witness should respond "yes" or "I do" before they can be questioned by attorneys.

End of the Trial:

When the trial is concluded the judge will gavel the court closed and get up to leave. Bailiff should announce "all rise" and then stand up to lead the courtroom to stand until the judge exits the room.

After jury deliberations:

Repeat announcing the **entry of the judge** when the judge and jury return after deliberation.

Name: _____

Clerk Preparation Form

The Clerk is responsible for keeping time for the mock trial and for accepting any exhibits turned in by attorneys for the judge to view.

The clerk should sit near the judge and when an attorney hands over a copy of an exhibit, the clerk should then hand that to the judge and sit back down to time that part of the trial.

Each side is allowed 58 minutes in the trial, broken up over certain parts of the process. Clerk should use a stop watch and a 2nd clock or timer so that you can clock section times but also keep an eye on the overall time passing during the trial.

Parties may periodically ask the clerk how much time they have left in their section. Just subtract time passed on stopwatch from time allowed (listed on timesheet on back).

Timesheet for tracking trial times is on the back of this sheet.

Bergeron v. Glampers ~ Trial Timesheet

PLAINTIFF TEAM

Opening:

5 minute maximum - Used: _____

Witness 1

5 minutes each team

Direct Examination Cross Examination

_____ + _____

3 minutes each team

Plaintiff Rebuttal Defense Rebuttal

_____ + _____

Witness 2

5 minutes each team

Direct Examination Cross Examination

_____ + _____

3 minutes each team

Plaintiff Rebuttal Defense Rebuttal

_____ + _____

Witness 3

5 minutes each team

Direct Examination Cross Examination

_____ + _____

3 minutes each team

Plaintiff Rebuttal Defense Rebuttal

_____ + _____

Closing:

5 minute maximum - Used _____

58 minutes Total Allowed

DEFENSE TEAM

Opening:

5 minute maximum - Used: _____

Witness 1

5 minutes each team

Direct Examination Cross Examination

_____ + _____

3 minutes each team

Plaintiff Rebuttal Defense Rebuttal

_____ + _____

Witness 2

5 minutes each team

Direct Examination Cross Examination

_____ + _____

3 minutes each team

Plaintiff Rebuttal Defense Rebuttal

_____ + _____

Witness 3

5 minutes each team

Direct Examination Cross Examination

_____ + _____

3 minutes each team

Plaintiff Rebuttal Defense Rebuttal

_____ + _____

Closing:

5 minute maximum - Used _____

58 minutes Total Allowed

Name: _____

Eyewitness Affidavit Outline

Use this outline to help you read through the witness affidavit to begin analyzing this witness' role in the trial.

Witness Name: _____

Witness Age: _____

Witness Occupation: _____

Witness Talent/Skills: _____

Witness Handicap(s): _____

Witness' Relationship to the Case: _____

What the witness saw (from their point of view):

Additional research/information needed for help in answering possible questions:

Name: _____

Expert Witness Affidavit Outline

Use this outline to help you read through the expert witness to begin analyzing this witness' role in the trial.

Witness Name: _____

Witness Age: _____

Witness Occupation: _____

Witness Talent/Skills: _____

Witness Handicap(s): _____

Witness' area of expertise: _____

What Expert can testify to:

Additional research/information needed for help in answering possible questions:

Name: _____

Witness Analysis Form

Witness Name: _____

For the (circle one): **Plaintiffs** **Defense**

Strengths and Weaknesses of Witness

| Strengths as Witness in this Trial (list as many as you can think of) | Weaknesses as a Witness in this Trial (list as many as you can think of) |
|--|---|
| | |
| | |
| | |
| | |
| | |
| | |
| | |

Issues and Level of Importance (on a scale of 1 to 5; 1 = most important)

| Issue with this witness (positive or negative) | Importance for Plaintiff (1-5) | Importance for Defense (1-5) |
|--|-----------------------------------|------------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Note on location of supporting key facts in Witness Affidavit or Exhibits

| Key Fact | Location (Page & Line #) |
|----------|-----------------------------|
| | |
| | |
| | |
| | |
| | |
| | |

Thoughts, questions, comments, and tasks to achieve with this witness:

- 1.
- 2.
- 3.
- 4.

Name: _____

Witness Profile Template

Complete this template if you are acting as one of the witnesses in the trial.

Witness: _____ For the (circle one): **Plaintiffs** / **Defense**

My motivation to testify is:

My testimony is strongest on these issues:

- 1.
- 2.
- 3.
- 4.

My testimony is weakest on these issues, and here is how I'm going to deal with that:

- 1.
- 2.
- 3.
- 4.

How I will relate to the direct-examination attorney when they question me:

How I will relate to the cross-examination attorney when they question me:

How I will relate to other witnesses:

(Continued on back)

Witness Character Development

My character's social status:

My character is ____ years old (as far as I can tell)

Eight adjectives that describe my character:

- | | |
|----|----|
| 1. | 5. |
| 2. | 6. |
| 3. | 7. |
| 4. | 8. |

The person/issue/thing most important to my character is:

I like my character because:

I don't like my character because:

Exhibit Analysis Form

Exhibit # _____

Description of Exhibit:

How might **Plaintiffs** use this exhibit? (background information, to prove some facts, for drama?)

- 1.
- 2.
- 3.

How might **Defense** use this exhibit? (background information, to prove some facts, for drama?)

- 1.
- 2.
- 3.

With which **Witnesses** might this exhibit be used & why?

- 1.
- 2.
- 3.

Are there any reasons **NOT** to use it?

- 1.
- 2.
- 3.

Name: _____

Plaintiff's Theory of the Case

REMEMBER: A case theory is a **detailed and accurate story** of what occurred in the case at trial. It is how you tell the story of your side of the matter.

In a civil case, Plaintiffs must present a case theory that shows they are entitled to the relief that is sought in their Complaint. Plaintiffs must prove to the jury their theory of the case is *more* true than not true.

A good case theory is:

- Based on strong facts and inferences that can be fairly drawn from these facts;
- Built on facts not subject to much, if any, dispute;
- Consistent with any incontestable fact;
- Takes into account and explains away as many unfavorable facts as possible;
- Accepted by the trier of fact without having to stretch the imagination;
- Not based on wishful thinking about any aspect of the case.

Briefly tell the story about what happened from the Plaintiffs'' point of view keeping in mind the points above:

(Continued on back)

What will Plaintiffs' need to convince the jury?

What might be Plaintiffs' main themes (words, phrases, ideas to repeat and emphasize to the judge and jury):

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

How does Plaintiffs' theory/story connect to the claim of Wrongful Death?

Name: _____

Defense Theory of the Case

REMEMBER: A case theory is a **detailed and accurate story** of what occurred in the case at trial. It is how you tell the story of your side of the matter.

In a civil case, the Defense must present a case theory that shows plaintiffs do not have enough "preponderance of the evidence" to entitle them to the relief they claimed. That means Defense must show the jury that their theory of the case is *more* true than what the plaintiffs claim.

A good case theory is:

- Based on strong facts and inferences that can be fairly drawn from these facts;
- Built on facts not subject to much, if any, dispute;
- Consistent with any incontestable fact;
- Takes into account and explains away as many unfavorable facts as possible;
- Accepted by the trier of fact without having to stretch the imagination;
- Not based on wishful thinking about any aspect of the case.

Briefly tell the story about what happened from the Defendant's point of view keeping in mind the points above:

(Continued on back)

What will Defense need to convince the jury?

What might be the Defense's main themes (words, phrases, ideas to repeat and emphasize to the judge and jury):

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

How does Defendant's theory/story disprove the claim of Wrongful Death?

Name: _____

Opening Statement Preparation Form

The attorneys from both sides present their theory/story to the judge and jury as the trial begins. This is their opportunity to begin the trial with the jury hearing their version and having it foremost in their minds as testimony begins.

Write a paragraph of your side's theory of the case:

List the themes (words and phrases) you want to weave into your opening:

List your witnesses and which facts they each will testify to:

Identify who has the burden of proof and what the burden is for this case:

Write down what your side wants the jury to do ("please decide a verdict for the plaintiff/defense").

Opening Statement Guide:

Your Honor, members of the jury, my name is _____, and I represent _____ in this case. We intend to prove that _____.

Witness _____ will testify that _____.

Witness _____ will testify that _____.

Witness _____ will testify that _____.

When you have heard all the facts, please decide a verdict for the _____.

Name: _____

Direct Examination of Eyewitness Preparation Worksheet

Direct examination is when the attorney questions their own witness. They are telling the same story. During direct, the attorney:

- “disappears” as a major presence, giving prominence to the witness
- asks OPEN ENDED QUESTIONS (start with Who, What, Where, When, Why, How)
- gives room to the witness to tell their story
- takes a chronological approach to tell the story

Witness: _____

Background questions to get to know the witness and why they are in Court:

- 1.
- 2.
- 3.

Questions to help the witness tell their story (start with Who, What, Where, When, Why, How):

- 1.
- 2.
- 3.

Ending question/statement to conclude with something you want the jury to remember:

List some possible re-direct questions (to follow up after the other side cross-examines your witness):

- 1.
- 2.
- 3.

Name: _____

Direct Examination of Expert Witness Preparation Worksheet

Expert Witness Name: _____

Background questions to establish the expert's background and qualifications:

- 1.
- 2.
- 3.

You will ask the judge to qualify the witness as an expert in: _____

Questions about what the expert reviewed to prepare for their testimony:

- 1.
- 2.
- 3.

Ask: did the expert form any conclusions/opinions based on what they reviewed. They should answer "yes" --- Identify the opinions/conclusions for the expert to state and how you will delve into them for the jury to understand:

- 1.
- 2.
- 3.

Ending question/statement to conclude with something you want the jury to remember:

List some possible re-direct questions (to follow up after the other side cross-examines your witness):

- 1.
- 2.

Cross Examination of Witness Preparation Worksheet

Cross examination is when the attorney questions an opposing witness. The attorney wants to keep their own theory of the case prominent so will try to limit what the witness can answer. During cross, the attorney:

- asks CLOSED ENDED QUESTIONS (only "yes" or "no" answers possible)
- asks for only one new fact per question
- asks questions only for which you know what the answer will be
- does not argue with the witness
- uses 3 strong approach points (three major areas to question)
- includes page and line numbers with questions so you know where to look if you believe the witness has not kept to their previous testimony or their testimony may be false (called "impeaching the witness").

Witness: _____

Approach Point 1 (a **strong** area for your side)

List your main questions & themes. Begin with: "Now let's talk about..."

- 1.
- 2.
- 3.

Approach Point 2 (your **weakest** area)

List your main questions & themes. Begin with: "Now let's talk about..."

- 1.
- 2.
- 3.

Approach Point 3 (your **strongest** area)

List your main questions & themes. Begin with: "Now let's talk about..."

- 1.
- 2.
- 3.

Name: _____

Closing Argument Preparation Form

The attorneys from both sides present their final argument to the judge and jury at the end of the trial. This is their opportunity to leave the jury with their version of the case. The Closing Argument should try to show witness testimony supports your theory of the case and what was proven (or not proven) during the trial.

Write an opening to your Argument that restates the theory of your case (1-2 sentences):

List the themes (words and phrases) you want to weave into your opening and throughout your argument:

List what the witnesses said (predict this but be prepared to adjust based on testimony during the trial):

List what key facts the exhibits showed (predict this but be prepared to adjust based on testimony during the trial):

Identify who has the burden of proof and what the burden is for this case - did your side prove what it needed to?

Write down what your side wants the jury to do ("please decide a verdict for the plaintiff/defense").

Closing Argument Guide:

Your Honor, members of the jury, today you heard testimony about: _____
_____.

I would like to remind you of important information about this case that you should think about as you make your decision: _____

_____.

When you have heard all the facts, please find for the _____. Thank you.

Name: _____

Judge/Juror Observation Checklist: Plaintiff Side

The jury will decide whether the plaintiff has proved by a preponderance of the evidence (they are more believable than the defense) the Complaint of Wrongful Death based on the facts that you hear in the trial and whether you believe the witnesses. Use this checklist to keep track of what you hear and observe in the trial.

Plaintiff Opening Statement - What is the plaintiff going to try to prove?

What did you learn from:

Plaintiff Witness #1:

Plaintiff Witness #2:

Plaintiff Witness #3:

Do you Believe or Not Believe:

Circle the response which is closest to what you think of each plaintiff witness:

Plaintiff Witness #1 _____ was:
(Name)

- Very believable
- Sort of believable
- Not really believable
- Not believable at all

Plaintiff Witness #2 _____ was:
(Name)

- Very believable
- Sort of believable
- Not really believable
- Not believable at all

Plaintiff Witness #3 _____ was:
(Name)

- Very believable
- Sort of believable
- Not really believable
- Not believable at all

Plaintiff Closing Statement - did the plaintiff prove their case? Why or why not?

Name: _____

Judge/Juror Observation Checklist: Defense Side

The jury will decide whether the plaintiff has proved by a preponderance of the evidence their Complaint of Wrongful Death based on the facts that you hear in the trial and whether you believe the witnesses. Use this checklist to keep track of what you hear and observe in the trial on the Defense side.

Defense Opening Statement - What is the plaintiff going to try to prove?

What did you learn from:

Defense Witness #1:

Defense Witness #2:

Defense Witness #3:

Do you Believe or Not Believe:

Circle the response which is closest to what you think of each Defense witness:

Defense Witness #1 _____ was:
(Name)

- Very believable
- Sort of believable
- Not really believable
- Not believable at all

Defense Witness #2 _____ was:
(Name)

- Very believable
- Sort of believable
- Not really believable
- Not believable at all

Defense Witness #3 _____ was:
(Name)

- Very believable
- Sort of believable
- Not really believable
- Not believable at all

Defense Closing Statement - Did plaintiff prove their complaint against the defendant? Why or why not?

Jury Verdict Form

Jury Instructions:

It is up to the jury to **determine the facts**. Once you decide what facts the evidence proves, you must then **apply the law**.

This case is special with regard to the law. While you must decide whether the defendant violated ORS 30.020: the Wrongful Death statute. You must FIRST decide what constitutional law should underpin that statute.

You may find certain Amendments in contradiction with each other, and so you must decide which laws prevail in order to decide whether the defendant violated them.

The Amendments in question are 211-215, as well as the original Bill of Rights (Amendments 1-10).

In this case, you must determine which laws underpin the wrongful death statute in order to know if the defendant committed a wrongful death act.

Whatever verdict you choose, it must be **unanimous**.

Verdict

(to be completed by the Foreperson and returned to Bailiff)

1. Did the Defendant violate the law against wrongful death?

2. Which Constitutional Amendment(s) must be used to underlie the Wrongful Death law?

Signed:

Foreperson: _____

Mock Trial Script

Note to Teachers:

This is a complete script of a mock trial to help the students visualize and practice the lines and proper courtroom etiquette of a trial.

The specific statements of different characters are included, along with space for filling in original content in preparation and for use during the trial.

It can also be used as an option way for observing students to follow the trial as it happens to be used for reflection afterward.

This outline is adapted for a civil case and use in *Bergeron v. Glampers*. However, it can be adapted to any trial and can be useful as both a preparation and a note taking resource.

Name: _____

Bergeron v. Glampers Mock Trial Script

Bailiff: Please rise. The Circuit Court of Chinook County is now in session, the Honorable _____ presiding.

Judge: Everyone but the jury may be seated. Bailiff, please swear in the jury.

Bailiff (to the jury): Please raise your right hands. Do promise that you will listen to this case and render a true and fair verdict for this defendant?

Jury: "Yes" or "I Do"

Bailiff: You may be seated.

Judge: Members of the jury, your duty today will be to determine whether the plaintiffs prove that the defendant caused the wrongful death of their son. You must find a verdict based on a preponderance of the evidence, or the most convincing evidence and facts presented. If you believe that plaintiffs have shown more evidence for their argument, you must find for them. If you believe that they did not show enough evidence for their argument, you must find for the defendant. Bailiff, please announce today's case.

Bailiff: Your Honor, today's case is Hazel and George Bergeron versus Diana Moon Glampers

Judge: Are the Plaintiffs ready?

Plaintiff Attorneys & Plaintiffs: (stand up) Yes, your Honor. (be seated)

Judge: Is Defense ready?

Defense Attorneys & Defendant: (stand up) Yes, your Honor. (be seated)

~~~~~ **Opening Statements** ~~~~~

**Plaintiff Attorney Opening Statement:**

Your Honor, members of the jury, my name is \_\_\_\_\_, and I

represent \_\_\_\_\_ in this case. We intend to prove that

- 1.
- 2.
- 3.

When you have heard all the facts, please decide a verdict for the Plaintiffs.



**Defense Attorney Opening Statement:**

Your Honor, members of the jury, my name is \_\_\_\_\_, and I represent \_\_\_\_\_ in this case. We intend to prove that

- 1.
- 2.
- 3.

When you have heard all the facts, please decide a verdict for the Defendant.

~~~~~ **Plaintiff's Case** ~~~~~

First Plaintiff Witness

Judge: Thank you. Plaintiffs, you may call your first witness.

Plaintiff Attorney: Thank you, your Honor. I call to the stand _____.

Judge: Will the witness please stand to be sworn in by the bailiff.

(witness proceeds to witness chair then stands facing the bailiff)

Bailiff: (to the witness) Please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Witness: Yes / I Do. (sit down in witness chair)

Plaintiff Direct Examination: Hello. Please state your name for the Court.

Plaintiff Direct Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

Judge: Defense may cross-examine the witness.

Defense Attorney:

Defense Cross-Examination Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

Judge: Plaintiffs, do you have any re-direct questions?

Plaintiff Attorney: No, Your Honor / Yes, Your Honor (if Yes, proceed with two quick follow up questions)

Judge (to witness): You may step down. (witness return to audience seat).

Second Plaintiff Witness

Judge: Thank you. Plaintiffs, you may call your first witness.

Plaintiff Attorney: Thank you, your Honor. I call to the stand _____.

Judge: Will the witness please stand to be sworn in by the bailiff.

(witness proceeds to witness chair then stands facing the bailiff)

Bailiff: (to the witness) Please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Witness: Yes / I Do. (sit down in witness chair)

Plaintiff Direct Examination: Hello. Please state your name for the Court.

Plaintiff Direct Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

Judge: Defense may cross-examine the witness.

Defense Attorney:

Defense Cross-Examination Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

Judge: Plaintiffs, do you have any re-direct questions?

Plaintiff Attorney: No, Your Honor / Yes, Your Honor (if Yes, proceed with two quick follow up questions)

Judge (to witness): You may step down. (witness return to audience seat).

Third Plaintiff Witness

Judge: Thank you. Plaintiffs, you may call your third witness.

Plaintiff Attorney: Thank you, your Honor. I call to the stand _____.

Judge: Will the witness please stand to be sworn in by the bailiff.

(witness proceeds to witness chair then stands facing the bailiff)

Bailiff: (to the witness) Please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Witness: Yes / I Do. (sit down in witness chair)

Plaintiff Direct Examination: Hello. Please state your name for the Court.

Plaintiff Direct Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

Judge: Defense may cross-examine the witness.

Defense Attorney:

Defense Cross-Examination Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

Judge: Plaintiffs, do you have any re-direct questions?

Plaintiff Attorney: No, Your Honor / Yes, Your Honor (if Yes, proceed with two quick follow up questions)

Judge (to witness): You may step down. (witness return to audience seat).

~~~~~ **Defense Case** ~~~~~

**First Defense Witness**

**Judge:** Thank you. Defense, you may call your first witness.

**Defense Attorney:** Thank you, your Honor. I call to the stand \_\_\_\_\_.

**Judge:** Will the witness please stand to be sworn in by the bailiff.

(witness proceeds to witness chair then stands facing the bailiff)

**Bailiff:** (to the witness) Please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

**Witness:** Yes / I Do. (sit down in witness chair)

**Defense Direct Examination:** Hello. Please state your name for the Court.

|                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| Defense Direct Questions:<br><br>1.<br><br>2.<br><br>3.<br><br>4.<br><br>5.<br><br>Thank you. Your Honor, no further questions. (witness stays seated). |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|

**Judge:** Plaintiffs may cross-examine the witness.

**Plaintiffs Attorney:**

Plaintiffs Cross-Examination Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

**Judge:** Defense, do you have any re-direct questions?

**Defense Attorney:** No, Your Honor / Yes, Your Honor (if Yes, proceed with two quick follow up questions)

**Judge (to witness):** You may step down. (witness return to audience seat).

---

**Second Defense Witness**

**Judge:** Thank you. Defense, you may call your second witness.

**Defense Attorney:** Thank you, your Honor. I call to the stand \_\_\_\_\_.

**Judge:** Will the witness please stand to be sworn in by the bailiff.

(witness proceeds to witness chair then stands facing the bailiff)

**Bailiff:** (to the witness) Please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

**Witness:** Yes / I Do. (sit down in witness chair)

**Defense Direct Examination:** Hello. Please state your name for the Court.

Defense Direct Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

**Judge:** Plaintiffs may cross-examine the witness.

**Plaintiffs Attorney:**

Plaintiffs Cross-Examination Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

**Judge:** Defense, do you have any re-direct questions?

**Defense Attorney:** No, Your Honor / Yes, Your Honor (if Yes, proceed with two quick follow up questions)

**Judge (to witness):** You may step down. (witness return to audience seat).

---

**Third Defense Witness**

**Judge:** Thank you. Defense, you may call your third witness.

**Defense Attorney:** Thank you, your Honor. I call to the stand \_\_\_\_\_.

**Judge:** Will the witness please stand to be sworn in by the bailiff.

(witness proceeds to witness chair then stands facing the bailiff)

**Bailiff:** (to the witness) Please raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

**Witness:** Yes / I Do. (sit down in witness chair)

**Defense Direct Examination:** Hello. Please state your name for the Court.

Defense Direct Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

**Judge:** Plaintiffs may cross-examine the witness.

**Plaintiffs Attorney:**

Plaintiffs Cross-Examination Questions:

- 1.
- 2.
- 3.
- 4.
- 5.

Thank you. Your Honor, no further questions. (witness stays seated).

**Judge:** Defense, do you have any re-direct questions?

**Defense Attorney:** No, Your Honor / Yes, Your Honor (if Yes, proceed with two quick follow up questions)



**Judge (to witness):** You may step down. (witness return to audience seat).

~~~~~ **Closing Arguments** ~~~~~

Judge: Both the plaintiffs and the defense have now rested their cases. The attorneys will now present their final arguments. Plaintiffs, you may begin.

Plaintiff Attorney: Thank you, your Honor.

Your Honor, members of the jury, today you heard testimony about: _____

_____.

I would like to remind you of important information about this case that you should think about as you make your decision: _____

_____.

When you have heard all the facts, please find for the plaintiffs. Thank you.

Judge: Defense, you may proceed with your closing argument.

Defense Attorney: Thank you, your Honor.

Your Honor, members of the jury, today you heard testimony about: _____

_____.

I would like to remind you of important information about this case that you should think about as you make your decision: _____

_____.

When you have heard all the facts, please against the plaintiffs' complaint and for the defendant. Thank you.

~~~~~ **Jury Instructions** ~~~~~

**Judge:** Members of the jury, you have heard all of the testimony concerning this case. It is now up to you to determine the facts. You and you alone are the judges of the facts. Once you decide what facts the evidence proves, you must then apply the law. This case is special with regard to the law. You may find certain laws in contradiction with each other, and so you must decide which laws prevail in order to decide whether the defendant violated them.

The laws in question are ORS 30.020: Oregon's wrongful death statute. However, also in question are Constitutional Amendments 211-215, as well as the original Bill of Rights (Amendments 1-10). In this case, you must determine which laws underpin the wrongful death statute in order to know if the defendant committed a wrongful death act.

*You must answer two questions:*

3. Did the Defendant violate the law against wrongful death?
4. Which Constitutional Amendment(s) must be used to underlie the Wrongful Death law?

In just a moment, the bailiff will take you to the jury room to deliberate and consider your verdict.

The first thing you should do is select a foreperson. The foreperson's duty will be to sign the verdict statement from the jury when you have agreed. Whatever verdict you render must be **unanimous**. The Bailiff will now escort you to the deliberation room.

**Bailiff:** All rise. (stand up)

(Judge Exits. Bailiff leads jury out of courtroom to deliberation room)

~~~~~ **Jury Deliberation** ~~~~~

Jury has a set amount of time to deliberate. **They should focus on answering the two questions the judge presented by referring to their Jury Checklists they completed during the trial.**

They should vote and re-vote until they reach a unanimous verdict.

~~~~~ **Jury Returns** ~~~~~

(Jury re-enters the courtroom, foreperson gives verdict to bailiff, jury sits down)

**Bailiff:** All Rise.

**Judge** (enters): (to the jury) Have you reached a verdict?

(Bailiff hands verdict to judge)

**Jury Foreperson:** We have, your Honor.

**Judge:** How have you decided?

**Jury Foreperson:** We the jury, in the case Hazel and George Bergeron v. Diana Moon Glampers, find for the \_\_\_\_\_.

**Judge:** Which laws did the jury base their decision upon?

**Jury Foreperson:** (response based on verdict)

**Judge:** Thank you, jury, for your service today. Court is adjourned.

# *Bergeron v. Glampers*

The Harrison Bergeron Mock Trial

## Section 5

# Scoresheets & Evaluation Rubrics

|                                                           |     |
|-----------------------------------------------------------|-----|
| Official OR Presiding Judge Ballot (overall trial).....   | 116 |
| Official OR Mock Trial Score Sheet for Attorneys .....    | 118 |
| Official OR Score Sheet for Witnesses.....                | 120 |
| Individual Evaluation Rubric for students & teachers..... | 122 |



OREGON HIGH SCHOOL  
**MOCK TRIAL**

# Presiding Judge Ballot

The Presiding Judge shall score the teams on their overall performance.

\_\_\_\_\_ v. \_\_\_\_\_  
 (Team Code-PLF) (Team Code-DEF)

Round (circle one): **1**    **2**    **3**

**SCORING:** For each criterion, score the *team as a whole* as follows.

- 9-10: Excellent, Amazing:** mastery or near mastery of the criteria at all times
- 7-8: Good, Very Good:** proficiency with the criteria, nearly all of the time
- 5-6: Fair, Average:** meets the criteria, some of the time
- 3-4: Weak, Needs Practice:** developing the criteria, but inconsistent
- 1-2: Poor, Unprepared:** weak or unpracticed; does not meet criteria

| Criteria                                                                                                                                                                                                        | Plaintiff Scoring 1-10 | Defense Scoring 1-10 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|----------------------|
| Theme/theory/strategy were consistent and emphasized throughout the opening, closing, and witness examinations.                                                                                                 |                        |                      |
| Overall presentation of the case created a <b>clear and coherent portrayal</b> of the events and issues, including legal issues.                                                                                |                        |                      |
| Team members stayed <b>in character throughout the trial</b> and were <b>memorable in their performances</b> , contributing to the success of the overall presentation, and never distracting from the process. |                        |                      |
| Team members were <b>attentive and collaborative</b> at all times, quietly and appropriately conferring at the counsel table, and acting in support of one another.                                             |                        |                      |
| Team members exhibited <b>knowledge, flexibility, and spontaneity</b> when dealing with courtroom procedures, rules, objections, and the unexpected.                                                            |                        |                      |
| Team members handled introductions, judge's questions, objections, and the unexpected with <b>confidence, poise, and professionalism</b> .                                                                      |                        |                      |
| <b>TOTAL POINTS (up to 60 points each, NO TIES):</b>                                                                                                                                                            |                        |                      |

**Team with the best overall performance: Circle P or D**

**Procedural Roles (these do not impact overall team score):**

| Answer by Circling Yes or No for each:                                                                       |       |
|--------------------------------------------------------------------------------------------------------------|-------|
| <b>Clerk (plaintiff):</b> Did the clerk fulfill his/her duties and contribute to the team's performance?     | Y / N |
| <b>Bailiff (defense):</b> Did the bailiff's fulfill his/her duties and contribute to the team's performance? | Y / N |

*Feel free to take notes on the reverse. These notes, along with your ballot, will be shared with the teams.*

**Presiding Judge Notes:**

| <b><i>Plaintiff</i></b><br>theme/theory/strategy | <b><i>Defense</i></b><br>theme/theory/strategy |
|--------------------------------------------------|------------------------------------------------|
| clear and coherent portrayal                     | clear and coherent portrayal                   |
| all characters memorable in their performances   | all characters memorable in their performances |
| attentive and collaborative                      | attentive and collaborative                    |
| knowledge, flexibility, and spontaneity          | knowledge, flexibility, and spontaneity        |
| confidence, poise, and professionalism           | confidence, poise, and professionalism         |



# Attorneys Ballot

The Attorney Judge shall score the performances of the **attorneys only**.

\_\_\_\_\_ v. \_\_\_\_\_  
 (Team Code-PLF) (Team Code-DEF)

Round (circle one): **1**    **2**    **3**

**SCORING:** For each component, score the **attorney** as follows; see the reverse for additional detail.

- 9-10: Excellent, Amazing:** mastery or near mastery of the criteria at all times
- 7-8: Good, Very Good:** proficiency with the criteria, nearly all of the time
- 5-6: Fair, Average:** meets the criteria, some of the time
- 3-4: Weak, Needs Practice:** developing the criteria, but inconsistent
- 1-2: Poor, Unprepared:** weak or unpracticed; does not meet criteria

|                                                       |                   | Plaintiff Scoring<br>1-10 points |                                                     | Defense scoring<br>1-10 points |
|-------------------------------------------------------|-------------------|----------------------------------|-----------------------------------------------------|--------------------------------|
| Plaintiff Opening:                                    |                   |                                  | Defense Opening:                                    |                                |
| Plaintiff First Witness                               | Plaintiff Direct: |                                  | Defense Cross:                                      |                                |
| Plaintiff Second Witness                              | Plaintiff Direct: |                                  | Defense Cross:                                      |                                |
| Plaintiff Third Witness                               | Plaintiff Direct: |                                  | Defense Cross:                                      |                                |
| Defense First Witness                                 | Plaintiff Cross:  |                                  | Defense Direct:                                     |                                |
| Defense Second Witness                                | Plaintiff Cross:  |                                  | Defense Direct:                                     |                                |
| Defense Third Witness                                 | Plaintiff Cross:  |                                  | Defense Direct:                                     |                                |
| Plaintiff Closing:                                    |                   |                                  | Defense Closing:                                    |                                |
| TOTAL POINTS PLAINTIFF<br>(up to 80 points, NO TIES): |                   |                                  | TOTAL POINTS DEFENSE<br>(up to 80 points, NO TIES): |                                |

**Team with the best overall attorney performance: Circle P or D**

**Outstanding Attorney for the Plaintiff:** \_\_\_\_\_

**Outstanding Attorney for the Defense:** \_\_\_\_\_

## Scoring Guidelines for Opening Statement, Directs, Crosses, & Closing Argument

**Note:** Using notes is not a penalty by itself, though over-reliance, scripted, or distracting use can be marked down, just as a fluid, note-free performance can be rewarded.

---

### Opening Statement

- Provided a case overview and story
- The theme/theory of the case was identified
- Mentioned the key witnesses
- Provided a clear and concise description of their team's evidence and side of the case
- Stated the relief or verdict requested
- Discussed the burden of proof
- Presentation was non-argumentative; did not include improper statements or assume facts not in evidence
- Professional and composed
- Spoke naturally and clearly

### Direct Examinations

- Properly phrased and effective questions
- Examination was organized effectively to make points clearly; questions had clear purpose
- Used proper courtroom procedures
- Handled objections appropriately and effectively
- Did not overuse objections
- Did not ask questions that called for an unfair extrapolation from the witness
- Demonstrated an understanding of the Modified Federal Rules of Evidence
- Handled physical evidence appropriately and effectively
- Professional and composed
- Spoke confidently and clearly

### Cross Examinations

- Properly phrased and effective questions
- Examination was organized effectively to make points clearly; questions had clear purpose
- Used proper courtroom procedures
- Handled objections appropriately and effectively
- Did not overuse objections
- Did not ask questions that called for an unfair extrapolation from the witness
- Used various techniques, as necessary, to handle a non-responsive witness
- Properly impeached witnesses
- Demonstrated an understanding of the Modified Federal Rules of Evidence
- Handled physical evidence appropriately and effectively
- Professional and composed
- Spoke confidently and clearly

### Closing Argument

- Theme/theory reiterated in closing argument
  - Summarized the evidence
  - Emphasized the supporting points of their own case and mistakes and weaknesses of the opponent's case
  - Concentrated on the important, not the trivial
  - Applied the relevant law
  - Discussed burden of proof
  - Did not discuss evidence that was not included in the trial presentation
  - Overall, the closing statement was persuasive
  - Use of notes was minimal, effective, and purposeful
  - Contained spontaneous elements that reflect unanticipated outcomes of this specific trial
  - Professional and composed
  - Spoke naturally and clearly
-





OREGON HIGH SCHOOL  
**MOCK TRIAL**  
**Witnesses Ballot**

*The Witness Judge shall score the performances of the witnesses only.*

\_\_\_\_\_ v. \_\_\_\_\_  
 (Team Code -PLF) (Team Code-DEF)

Round (circle one): **1**    **2**    **3**

**SCORING:** *For each examination, score the **witness** as follows; see the reverse for additional detail.*

- 9-10: Excellent, Amazing:** mastery or near mastery of the criteria at all times
- 7-8: Good, Very Good:** proficiency with the criteria, nearly all of the time
- 5-6: Fair, Average:** meets the criteria, some of the time
- 3-4: Weak, Needs Practice:** developing the criteria, but inconsistent
- 1-2: Poor, Unprepared:** weak or unpracticed; does not meet criteria

| Witnesses for the Plaintiff                           |        | Plaintiff's Witnesses Scoring 1-10 pts | Witnesses for the Defense                           |        | Defense's Witnesses Scoring 1-10 pts |
|-------------------------------------------------------|--------|----------------------------------------|-----------------------------------------------------|--------|--------------------------------------|
| Plaintiff First Witness<br>Name: _____                | Direct |                                        | Defense First Witness<br>Name: _____                | Direct |                                      |
|                                                       | Cross  |                                        |                                                     | Cross  |                                      |
| Plaintiff Second Witness<br>Name: _____               | Direct |                                        | Defense Second Witness<br>Name: _____               | Direct |                                      |
|                                                       | Cross  |                                        |                                                     | Cross  |                                      |
| Plaintiff Third Witness<br>Name: _____                | Direct |                                        | Defense Third Witness<br>Name: _____                | Direct |                                      |
|                                                       | Cross  |                                        |                                                     | Cross  |                                      |
| TOTAL POINTS PLAINTIFF<br>(up to 60 points, NO TIES): |        |                                        | TOTAL POINTS DEFENSE<br>(up to 60 points, NO TIES): |        |                                      |

**Team with the best overall witness performance: Circle P or D**

**Outstanding Witness for the Plaintiff:** \_\_\_\_\_

**Outstanding Witness for the Defense:** \_\_\_\_\_

## **Scoring Guidelines for Witnesses**

### **9-10: Excellent, Amazing**

- Character was carefully created to strongly reflect values, manners, knowledge and personality consistent with the trial context.
- Remained consistently and convincingly in character.
- Fluent, persuasive, clear, understandable.
- Showed mastery of the case and materials; adhered to the content of the affidavit.
- No errors in testimony or inconsistencies in the story line.
- Used no notes; used no unfair assistance in testifying.
- Convincing spontaneity was demonstrated in responses to questions.

### **7-8: Good, Very Good**

- Character was created to reflect values, manners, knowledge and personality mostly consistent with the trial context.
- Remained consistently and convincingly in character.
- Fluent, persuasive, clear, understandable.
- Showed solid understanding of the case and materials; adhered to the content of the affidavit.
- Testimony may have contained some minor errors in testimony or inconsistencies in the story line.
- Used no notes; used no unfair assistance in testifying.
- May have had minor problems handling unexpected questions.

### **5-6: Fair, Average**

- Character was created to reflect values, manners, knowledge and personality mostly consistent with the trial context.
- May at times have slipped slightly out of character.
- May have been minor problems understanding witness testimony.
- Showed understanding of the case and materials; may have deviated in minor ways from the affidavit.
- Some errors in testimony or inconsistencies in the story line.
- Used no notes; used no unfair assistance in testifying.
- May have had some problems handling unexpected questions.

### **3-4: Weak, Needs Practice**

- Character only weakly reflected values, manners, knowledge and personality consistent with the trial context.
- Problems remaining in character.
- Witness was difficult to understand.
- Witness seemed somewhat unprepared or deviated from the affidavit; may have been impeached.
- Significant errors in testimony or inconsistencies in story line.
- Used no notes; used no unfair assistance in testifying.
- Witness struggled with unexpected questions.

### **1-2: Poor, Unprepared**

- Character was largely undefined and witness did not stay in character
- Witness was difficult to understand.
- Witness seemed unprepared, used notes, showed misunderstanding of the case and materials, or was impeached.
- Errors or inconsistency in testimony that fundamentally detracted from the team's case.
- Witness was unable to answer unexpected questions.

# Mock Trial Individual Evaluation

Please determine an honest score for yourself, based on your preparation for and performance in the Mock Trial. Because this is a **team** effort, the weight falls on preparation, not on performance.

|                                                               | 5 - Exemplary                                                                                                                                                                                                                                                                                                                                                 | 4 – Proficient                                                                                                                                                                                                                                                                                                                        | 3 –Developing                                                                                                                                                                                                                                                    | 2 – Beginning<br>(let team down)                                                                                                                                                                                                                                                                  | Student<br>Self<br>Score | Teacher<br>Score |
|---------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------|
| <b>Teamwork, cooperation &amp; attitude: all for the team</b> | Offers leadership, constructive assistance, adaptability, and a helpful vibe. 100% effort throughout. <ul style="list-style-type: none"> <li>• <b>Teamwork:</b> Collaborates well; constructively shares understanding as needed; encourages focus; a leader</li> <li>• <b>Attitude:</b> Consistently positive, helpful and flexible - adapts well</li> </ul> | Offers constructive assistance, flexibility, open attitude; shares understanding as needed. 80-90% effort throughout. <ul style="list-style-type: none"> <li>• <b>Teamwork:</b> Collaborates well; offers constructive assistance; shares understanding as needed</li> <li>• <b>Attitude:</b> Generally positive; flexible</li> </ul> | Limited assistance, poor attitude, little flexibility. 60-70% effort throughout. <ul style="list-style-type: none"> <li>• <b>Teamwork:</b> Limited assistance</li> <li>• <b>Attitude:</b> attitude negative over 30% of the time. Little flexibility.</li> </ul> | Provides no assistance, exhibits detrimental attitude, and inflexibility. Doesn't care. Less than 50% effort <ul style="list-style-type: none"> <li>• <b>Teamwork:</b> Provides no assistance to team; unhelpful</li> <li>• <b>Attitude:</b> attitude detrimental to team; inflexible.</li> </ul> |                          |                  |
| <b>Preparation &amp; focus</b>                                | Over prepared and always on task; can compensate for others. <ul style="list-style-type: none"> <li>• Always has all mock trial materials and other team-agreed materials.</li> <li>• Consistently arrives with revised and improved work</li> <li>• Always on task</li> </ul>                                                                                | Prepared and knows what's going on; mostly focused (90%). <ul style="list-style-type: none"> <li>• Has all mock trial materials, and other team-agreed materials.</li> <li>• Often arrives with revised and improved work.</li> <li>• Almost always on task</li> </ul>                                                                | Often unprepared; focus often wavers <ul style="list-style-type: none"> <li>• Mock Trial materials often missing</li> <li>• Occasionally arrives with revised work.</li> <li>• More on task than not</li> <li>• Occasionally pulls others off task</li> </ul>    | Unprepared; others do your work for you; rarely focused <ul style="list-style-type: none"> <li>• Rarely brings materials</li> <li>• Relies on others to revise your work or rally you to action</li> <li>• Mostly off task</li> <li>• You pull others off task</li> </ul>                         |                          |                  |
| <b>Mock Trial Performance</b>                                 | My performance in the Mock Trial helped my team succeed.                                                                                                                                                                                                                                                                                                      | My performance in the mock trial helped my team.                                                                                                                                                                                                                                                                                      | My performance didn't help my team, but it also didn't harm my team.                                                                                                                                                                                             | My performance harmed my team                                                                                                                                                                                                                                                                     |                          |                  |
| <b>Total out of 15</b>                                        |                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                   |                          |                  |

What was the best part of your Mock Trial Experience and why:

# *Bergeron v. Glampers*

The Harrison Bergeron Mock Trial

## Section 6

### After the Mock Trial

|                                                        |     |
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# Socratic Discussion Essential Questions

1. What does it mean to be equal?
2. What did it mean to be equal in the *Bergeron v. Glampers* trial?
3. Is competition good, bad, or a little of both? Why?
4. What do you believe author Kurt Vonnegut wanted to convey to his readers? (What was the message or theme of the story?)
5. Why is the character Harrison Bergeron such a threat to the society of 2081?
6. What sort of life do you think the general population in this story leads in 2081?
7. Consider how “handicap” carries a negative connotation. How does this change your perception if instead we used the words “differently abled” when referring to people we previously called “handicapped?”
8. What is the origin of Vonnegut's handicapping ideas?
9. What do you think was the most damaging piece of evidence in trial? Why?
10. Should the plaintiffs/defendant have testified in the trial? Why or why not?
11. Should Harrison and the Ballerina been allowed to break the law in order to make a point? Why or why not?
12. Explain a mistake you think the plaintiffs made in the trial.
13. Explain a mistake you think the defense made in the trial.
14. Explain what you think was the strongest argument from the plaintiff.
15. Explain what you think was the strongest argument from the defense.
16. Were you satisfied with the verdict? Why or why not?
17. Was there any evidence that could have been introduced in the trial to make you change your mind about the verdict? Explain.
18. Were all people in the story/case able to achieve “Life, Liberty and the Pursuit of Happiness” under the equality amendments enforced in 2081? Explain your reasoning.

Name: \_\_\_\_\_

*Bergeron v. Glampers*  
**Final Reflection**

1. What did you know about the justice and trial courts before the Mock Trial?

2. What did the Mock Trial experience teach you?

3. How do you think participating in this Mock Trial will help you in the future?