

Bergeron v. Glampers

The Harrison Bergeron Mock Trial

Section 4

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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?

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).

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**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.