

“JUST THE FACTS” – What are the steps in a trial?

An Interactive Activity for Middle School students

Summary: At the end of the session, the students shall have a basic understanding of the steps involved with a civil court trial, how a case is argued, who is involved, and what are the rights of the participants. The module includes a quick explanation of the bailiff’s role, respect for the court and the judge, and the difference between direct and cross-examination of witnesses. The students are then divided into Plaintiff and Defendant attorney, witnesses, and bailiffs. The “bailiffs” shall maintain order in the court and swear in witnesses, the “witnesses” shall take the witness stand, and the “attorneys” shall take turns with direct and cross examination questions. The lesson works well when the ALIES attorney explains the attorney process to the “attorneys” in a separate room, and the teacher explains the bailiff and witness to those students participating in those roles.

CLASS OUTLINE

Designed for 50 minute class; can be expanded or shortened as necessary

- I. Attorney introduction (2 minutes):
 - a. Introduce yourself, tell a little about your practice, etc.
 - b. Explain what you are doing today: (1) talking about what a trial is and respect of the courtroom and judge, and (2) enacting a civil trial exercise.
- II. Attorney explains general court “etiquette”: (3 minutes).
 - a. Judge enters, everyone must stand, and bailiff announces “All rise.”
 - b. “Parties” and attorney introduce themselves, explain what “the record” is
 - c. Must stand in order to speak to the judge
 - d. Must ask the judge for permission for certain things such as approaching a witness on the witness stand, letting the client speak directly to the judge, etc.
 - e. Everything is recorded and explain the need to verbally state your actions as if a blind person needed to understand what is happening
- III. Attorney explains who the players are and each player’s role: (3 minutes).
 - a. Judge and/or Jury, depending on the trial. Explain the difference
 - b. Prosecution/Plaintiff/Petitioner
 - c. Defendant/Respondent
 - d. Witnesses
 - e. Bailiff/Court security
 - f. Stenographer/Court reporter
 - g. Spectators
- IV. Attorney explains things to consider when going to trial and the formalities on how each is brought into the trial (3 minutes):
 - a. 90% of trial is done prior to being in court
 - b. Introducing “Discovery”
 - c. Calling witnesses
- V. Examination and Cross-examination (3 minutes):
 - a. Explain why the Plaintiff goes first
 - b. Explain the Defendant’s ability to cross examine

- c. Plaintiff can then re-examine, generally only on what was covered in cross (narrowing down the testimony)
 - d. Explain how the Plaintiff then “rests,” and the Defendant then calls witnesses, so now Defense is performing “direct” and Plaintiff is performing “cross,” etc.
- VI. Class prepares for calling their “witness” (10 minutes)
- VII. Plaintiff/Petitioner calls their witness and Defendant cross examines (10 minutes)
- a. Judge enters room, Bailiff asks class to stand
 - b. Bailiff swears in witnesses that attorneys call
 - c. Provide the “attorneys” with the appropriate questions to ask (Direct: who, what, when, where; Cross: “Isn’t it true that…” questions with Yes/No answers)
- VIII. Defense calls their witness and Plaintiff/Prosecutor cross examines (10 minutes)
- IX. Class discusses exercise and asks any questions (remaining time)

HAND OUT FOR CLASS

Players: Judge – participating attorney
Owner of Pizza place – teacher
Bailiff – swears in witness(es)
Plaintiff “Blondes” - students
Sandy Witness – student
Cory Heart - student
All remaining students are split between prosecution and defense attorneys

Fact Pattern:

On September 23, 2011, the Wood-Lin Middle school defeated the rival soccer team of Noble Middle school at a home game. After the game, the Wood-Lin team, cheerleaders, and students went to the local pizza place, B H Pizza, to celebrate with pizza and soda.

Upon entering B H Pizza, the owner of B H Pizza, Mr. Nelson, announced to the students that everyone except blondes is welcome to come to celebrate the victory. In fact, Mr. Nelson said he would pay for all the pizza as long as anyone with blonde hair did not come into his pizza place.

The law says that people with all hair colors must be treated equally; the blondes are prevented from eating at B H Pizza after a school soccer game where the school triumphed against the rival town.

The Blondes file a civil suit against the B H Pizza owner, Mr. Nelson for his unfair treatment of blondes.

The case is now before the judge and the class must present their case by calling a witness. If time permits (more class time than 50 minutes), step through how to introduce a document into evidence.

BAILIFF(S) ROLE:

Instructs the students to stand when the “judge” enters/exits

Directs parties/lawyer to stand when speaking to the judge, if necessary

Swears in the witnesses:

1. Instructs the witness to remain standing and raise his/her right hand
2. The Bailiff states:

In the testimony you are about to give, do you swear to tell the truth, the whole truth and nothing but the truth.

3. When witness answers, instructs witness he/she to take the witness seat.

ATTORNEYS:

Direct examination of a witness:

Ask questions so that the witness testifies, not the attorney.
Questions such as When, where, how? Very “open” questions
Examples: “Were you at BH Pizza on September 23?”
“What did you see?”
“Were other people there?”
“Who?”

Cross examination:

Attorney must “control” the witness by asking *leading* questions such as
“Isn’t it true that you were not the only person in BH Pizza?”
“Wouldn’t you agree that Mr. Nelson offered free pizza?”
“I am accurate in stating that your testimony was...”
“Isn’t it true that you wrote in your statement...”

Objections:

An attorney can object to another attorney’s question – such as
“Objection – attorney is leading the witness”
“Objection – compound question” (attorney asked two questions at once)
“Objection – hearsay” (witness is saying what someone else said)
Do the students know of other objections?

WITNESSES:

Make up answers based on the fact pattern, but your story must remain consistent!
Participants can call any witness, including the owner, a blond, Cory Heart or Sandy
Witness.

Introducing a document into evidence:

The person who created or wrote the document must be the witness.
The attorney must ask permission from the judge to approach the witness
Attorney must show the opposing counsel/other side the document first before giving to
the judge or the witness.
Attorney states out loud to the witness “I am handing you a document. Do you recognize
that document?” (Don’t forget THE RECORD)
Attorney asks witness why he/she recognizes the document (because that person wrote,
signed it, it is his/her handwriting, etc.
Attorney requests to have the document admitted into evidence.
Other side can object

OBJECTIONS:

Not properly authenticated (witness did not have enough knowledge)

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

GRAFTON, SS.

OCTOBER, 2008

BLONDES
v.
B H PIZZA

DOCKET # 2011-CV-00001

INJUNCTION FOR RELIEF AND EQUAL RIGHTS

NOW COMES the Plaintiff BLONDES, by and through their attorneys, Law Offices of Dewey, Sue-em & Howe, PLLC, and submits the following request for injunction relief and in support thereof states as follows:

1. The Plaintiffs, THE BLONDES, reside in the Wood-Lin School District.
2. The Respondent, Mr. Nelson, is the owner of B H Pizza.
3. B H Pizza is located in the town of Wood-Lin.
4. On September 23, the Blondes tried to enter the B H Pizza place to celebrate our schools' victory at a soccer game.
5. Mr. Nelson, without any reason, would not let us into his pizza place because we have blonde hair.
6. We BLONDES believe we should be treated equally and the Mr. Nelson should not discriminate against us just because of our hair color.

WHEREFORE, the Plaintiffs, the BLONDES pray that this Honorable Court:

- A. Require Mr. Nelson to serve all people, regardless of hair color;
- B. Require Mr. Nelson to give us free pizza for a year because he embarrassed us with his actions on September 23, 2011; and
- C. Grant such other and further relief as the Court deems fair and just.

Respectfully submitted by,
The Blondes
By and through
Law Offices of Dewey, Sue-em & Howe, PLLC

Dated: _____

By: _____
Howdy Dewey, Esq.
NH Bar # 00001
123 Anywhere Street, Concordville, NH 03333
603-555-1234

CERTIFICATE OF SERVICE

I certify that a copy of this Injunction has been forwarded this date via email, USPS, fax or hand-delivery to Attorney for Mr. Nelson, B H Pizza owner.

Dated: _____

Howdy Dewey, Esq.

WITNESS STATEMENT

Date: September 26, 2011

Time: 3:30 PM

My name is Sandy Witness and I go to school a Wood-Lin Middle school and on September 23, 2011, I was at the B H Pizza right after our soccer game ended celebrating our school crushing the other team at a soccer game. A whole bunch of us were going into the pizza place to eat pizza, play the video games, use the vending machines, and have fun. While we were ordering our pizza, all of a sudden this guy starts screaming something about his ex-wife being a blonde and how he hates blondes. He then started saying that anyone with blond hair was going to have to leave the pizza place. I don't have blonde hair so I didn't have to leave. He started yelling right toward anyone with blonde hair telling them to get out. Then the guy said that as long as blondes were not in the place and left, he would buy everyone else pizza.

Date

Sandy Witness

WITNESS STATEMENT

Date: November 3, 2011

Time: 3:30 PM

My name is Cory Heart and I live in Hometown, New Hampshire. On September 23, 2011, I was sitting in a pizza place called B H Pizza in the town of Wood-Lin, New Hampshire. I was visiting Wood-Lin while on vacation with my kids and significant other and we were all waiting for our pizza order to come out. We had ordered our pizza about 10 minutes earlier when this woman came into the pizza place and started yelling at people behind the counter. She was really mad at one of the guys working there. The two people had a yelling match. I was getting nervous because my family was with me, but then the woman left, but not without kicking over the gum ball machine which smashed to pieces. The guy she was yelling at came from out back, cleaned up the mess, and was mad because he lost money on the gum balls. I remember the woman had really long, long beautiful blond hair. We left about the time that a bunch what seemed like kids who were celebrating something were all entering the place. The kids were being kind of wild.

Date

Cory Heart

