

West Virginia Law Adventure Guidelines

Welcome to the West Virginia Law Adventure, an educational program about our state's justice system for West Virginia middle school students. The Supreme Court of Appeals of West Virginia has worked collaboratively with the West Virginia State Bar, the Young Lawyers Section of the West Virginia State Bar, and the West Virginia Bar Foundation to provide this interactive learning experience, which was adapted with permission from the New Jersey State Bar Foundation's original, award-winning *Law Adventure Competition*.

1. Eligibility for 2014-2015 School Year

West Virginia middle school teachers, as well as parents of home-schooled children of middle school age students, are invited to have their students write original mock trial cases based on one of the scenarios included in this guide. West Virginia Law Adventure is open to students in every middle school level, *i.e.*, Grade 5, 6, 7, 8, or combined middle-school grade levels.

2. Requirements for Submissions

In order to be considered for an award trip to The Supreme Court of Appeals of West Virginia, case scripts must be the following:

- jury trials
- suitable for use in classrooms
- developed from one of the scenarios provided with these guidelines
- written by different students for each case submission
- accompanied by a completed cover letter for each case
- submitted by teachers on behalf of their classes, not by individual students
- **performed before a local magistrate, family court judge or circuit judge by February 28, 2015**
- **Postmarked no later than March 1, 2015, and mailed to the Kandi Greter, Public Education Coordinator, West Virginia Supreme Court of Appeals, 1900 Kanawha Blvd. East, Building 1, Room E-100, Charleston, WV 25305, for review and selection of one winner per grade level (Grades 5,6, 7, 8,) and one winner for the combined grade level.**

Teachers may enter as many cases as they wish from each grade level or from combined grade levels, but there must be a separate entry form for each case, and each case must be written by different students.

In order to involve as many students as possible, teachers are encouraged to involve an entire class or students from several classes in the project rather than just a few students. Entries written by a combination of students in different grade levels are allowed and will be judged in the combined grade level.

Teachers are encouraged to have students who have not participated in writing the case to serve as jurors or have students who wrote one case serve as jurors on another case.

To be eligible for the competition, each class must go to their local courthouse for a performance of their mock trial in front of a magistrate, family court judge, or circuit judge by February 28, 2015. You may contact Kandi Greter for assistance in arranging your courthouse visit. Please note that judges' dockets are set months in advance, so the local court should be contacted early in the school year to set a date. The local judicial officer will preside in the trial, give students tips on how to make the scripts more realistic, and answer questions about the judicial branch of government.

After performance at the local courthouse, **case scripts must be sent to Kandi Greter, Public Education Coordinator, West Virginia Supreme Court of Appeals, 1900 Kanawha Blvd. East, Building 1, Room E-100, Charleston, WV 25305, by March 1, 2014,** to be eligible for the competition. Entries postmarked after that date will not be considered. The Young Lawyers will choose one winner in each grade level and one winner for the combined grade level. The winning classes will be invited to the Supreme Court Chamber at the State Capitol in Charleston to perform their trials in front of a Supreme Court justice.

3. Cost of Travel to Local Courthouses and Winners to the Supreme Court in Charleston

The West Virginia Bar Foundation and the Supreme Court of Appeals of West Virginia will reimburse the cost of transporting classes to their local courthouses and the winning classes to the Supreme Court Chamber at the State Capitol in Charleston. Transportation invoices may be submitted to Kandi Greter, Public Education Coordinator, 1900 Kanawha Blvd. E. Bldg. 1, Room E -100, Charleston, WV 25305.

4. Technical Assistance

West Virginia teachers are encouraged to work with their students on their mock trial scripts throughout the fall. Teachers are invited to seek the assistance of local attorneys. Teachers may also call the West Virginia State Bar at (866) 989-8227, for a list of attorneys willing to assist.

Kandi Greter of the Supreme Court Administrative Office, Division of Children's Services, is available to assist with questions about these guidelines and scheduling mock trials at local courthouses. She is available at (304) 340-2755, or Kandi.Greter@courtswv.gov.

5. Tips for the Writing Process

Students must write a trial script based on one of the three case scenarios presented in this rules packet.

Each mock trial must have at least two witnesses for each side, *i.e.*, two for the prosecution and two for the defense. Because the defendant cannot be forced to testify in the American court system, the defense team should strategize about whether to have the defendant take the witness stand.

While there is no limit on the number of witnesses, the total trial – including jury deliberation – should last no longer than forty-five (45) minutes. Please keep facts and witness statements concise without sacrificing content.

The prosecution and the defense each may have up to two attorneys, although both do not have to have speaking roles. There also may be roles for a non-murder victim, clerk, bailiff, and court reporter.

Students must write opening statements, testimony, closing arguments, and jury instructions. Students should produce evidence (*e.g.*, a fire marshal's report) and visual trial props like photos and maps. The facts presented must be consistent with the case scenarios provided in the rules packet.

Please use fictitious names for people, companies, and other entities. If using material from other sources, please provide footnotes and/or a bibliography.

Here are a couple of suggestions for development of witness testimony:

1. Once students choose and develop a scenario, have the defendant and victim act out the crime with witnesses watching. Then have the witnesses write their own witness statements/affidavits based on what they saw. Act out the scenario only once; after all, in real life the incident they witness would occur only once.
2. Witness credibility can depend on whether one witness' testimony matches the testimony of other witnesses.

6. Format of Script Submissions

The enclosed cover letter must be completed and accompany each script.

Entries must be typewritten, double-spaced, and titled. Please do not submit videotapes, DVDs or audiotapes.

Please submit **two** copies of each case entered.

Please keep an electronic copy of each case.

Each entry should be mailed to the following:

**Kandi Greter, Public Education Coordinator
West Virginia Supreme Court of Appeals
1900 Kanawha Blvd. East, Building 1, Room E-100
Charleston, WV 25305**

Scripts must be postmarked by **March 1, 2015**. No e-mailed or faxed entries will be accepted. All entries received must be considered final. No revisions can be made after you have submitted your entry/entries.

Only entries that follow the above guidelines will be considered.

7. Judging Criteria

All entries should promote middle school students' understanding of the law and the judicial branch of government. The scripts should be written by students and grade-appropriate.

Points will be awarded as follows:

Correct Use of Grammar	10 points
Opening Statements (persuasiveness, description of evidence)	20 points
Testimony (questions, consistency with the scenario, creativity)	20 points
Closing Arguments (persuasiveness, description of evidence)	20 points
Jury Instructions (clarity and accuracy)	20 points
Use of Evidence (consistency with the scenario, creativity)	10 points.

Winners will be selected in each grade level. Winning schools will receive plaques.

FOR MORE INFORMATION

If you have any questions about **West Virginia Law Adventure**, including how to receive reimbursement for the field trips to courthouses, contact

Kandi Greter, Public Education Coordinator
Supreme Court of Appeals of West Virginia
1900 Kanawha Blvd. E., Bldg. 1, Room E-100
Charleston, WV 25305
Phone: 304-340-2755; Fax: 304-558-0775

Email: kandi.greter@courtswv.gov.

8. The Cases

On the following pages you will find information on three cases. Classes should choose one case on which to base a script. For each case, you will be provided an indictment, introduction, stipulations, and relevant West Virginia statutes.

West Virginia Law Adventure 2014-2015

Cover Sheet

School: _____

Teacher: _____

Grade Level:

- 9th
- 10th
- 11th
- 12th
- Combined

Student Script Writers (if different grades please list each student's grade level): _____

Case Scenario:

- State v. Willimas
- State v. Miracle Industires
- Meadows v. Criswell

Standard of proof: beyond a reasonable doubt

Potential sentence for the crime: _____

List of witnesses for the prosecution: _____

List of witnesses for the defense: _____

Main issue in the case: _____

Sub-issues: _____

West Virginia Law Adventure 2014-2015

Fax Sheet

School: _____

Teacher: _____

Grade Level:

- 9th**
- 10th**
- 11th**
- 12th**
- Combined**

Case Scenario:

- State v. Williams**
- State v. Miracle Industries**
- Meadows v. Criswell**

***Please fill out and Fax (304-558-0775) Attention Kandi Greter back ASAP ***

State v. Williams

Scott Williams is a 34 year old construction worker. Scott was working on a large construction job with 29 year-old James McHenry. Over the course of the project, the two often got into heated arguments over topics from sports teams to politics. On Tuesday, Scott and James were working at the job site and James, apparently by accident, hit Scott in the head with a long board. Scott fell to the ground and received a deep cut on his forehead. Several co-workers heard Scott yell out that he would settle the score once and for all with James for hitting him in the head.

Scott was taken to the hospital and missed the next day of work. On Thursday, Scott returned to work but James was in a fatal single car accident on the way to the job site. The autopsy showed that James had a blood-alcohol level of .06 and an investigation of the vehicle showed that the brake lines had been cut.

The police interviewed James' friends and co-workers and learned of the incident between Scott and James on Tuesday. The police obtained a search warrant for Scott's home

The police investigated James' home and noticed several boot prints in the mud leading going from the sidewalk in front of James' house to the exterior door to the garage and back. The lock on the exterior door to the garage had been pried open and there were muddy boot prints on the floor. The police also discovered a large puddle of brake fluid on the floor of the garage.

Based on the investigation, Scott was arrested and charged with first degree murder.

Stipulations

1. During the search of Scott's garage, the police found a pair of muddy boots and a pair of jeans with brake fluid stains on them.
2. Scott liked to work on cars and had several bottles of brake fluid in his garage.
3. Scott had been to James' apartment on several occasions to watch sporting events on James flat screen TV.
4. One of James' neighbors worked an evening shift at the hospital and returned home around 2:00 am on the morning of the accident and saw a car matching the description of Scott's car illegally parked just down the street from James' home.
5. On his way to work, James failed to make a turn at the bottom of a steep hill and hit a tree head on.

Relevant Statute

West Virginia Code § 61-2-1. First and second degree murder defined; allegations in indictment for homicide

Murder by poison, lying in wait, imprisonment, starving, or by any willful, deliberate and premeditated killing, or in the commission of, or attempt to commit, arson, kidnapping, sexual assault, robbery, burglary, breaking and entering, escape from lawful custody, or a felony offense of manufacturing or delivering a controlled substance as defined in article four, chapter sixty-a of this code, is murder of the first degree. All other murder is murder of the second degree.

State v. Miracle Industries

Miracle Industries is a coal mining company in the state of W.Va. Miracle was charged state's "Safe Water drinking act. The statute applies to every public water system in W.Va. with 15 service connections or that regularly provides service to at least 25 individuals.

On January 23, 2014, a strange smell was reported by several hundred residents of Sunnyside and a metallic sheen was observed on the Kanawha River. Later that afternoon, Miracle Industries contacted the W.Va. Department of Environmental Protection to report a hole discovered in an empty tank at its plant. The President also advised that several local mine sites utilized diesel fuel in their operations and opined that the smell in the area appeared to be diesel fuel fumes.

There are 8 coal mine sites in the Sunnyside area which span a 20 mile radius. Each site is located within 1 mile of the Kanawha River.

The State must prove beyond a reasonable doubt that Miracle used diesel fuel in its operations which breached a local water system after a hole was found in one of the company's tanks which serviced a mine located in Sunnyside, W. Va.

Stipulations

1. A tank was found at the Miracle Industries site with a 6" hole as a result of weather and corrosion.
2. The Sunnyside Branch mine site is less than 2 miles from Miracle Industries and has 2 diesel fuel pumps on site.
3. Miracle Industries President and CEO has given a statement to the Department of Environmental Protection wherein he denied the presence of diesel fuel on site.
4. Local police found a purchase order dated December 30, 2013 for 680 gallons of diesel fuel which were delivered to the Sunnyside, W.Va. Miracle Industries plant.

Relevant Statutes

W.Va. Code Section 109-84 provides that “any person who intentionally, knowingly or recklessly violates the Safe Water drinking Act shall be punished by a fine of three hundred thousand dollars per occurrence and shall be guilty of a felony punishable by up to 3 years imprisonment per violation.”

The Safe Water Drinking Act provides that “any person who intentionally or unintentionally causes a toxic substance to enter and/or contaminate a potable/drinking source shall be in violation of the Safe Water Drinking Act.”

Meadows v. Criswell

The Meadows family has operated a 320 acre farm in West Virginia for over one-hundred years. In 1952, Eric Meadows inherited the complete title to the farm, including mineral rights. Eric never married but had two first cousins, James and Edward Meadows, who moved to Memphis, Tennessee in the 1970's. Eric did not keep in touch with either James or Edward.

In 1981, Thomas Criswell bought a small house on a 2 acre plot located near Eric's farm. Over the years, Eric and Thomas became good friends even though Thomas was many years younger than Eric. As Eric grew older, Thomas took on more responsibility in managing the farm. Thomas also helped care for Eric when he became ill.

In 2012, a large Marcellus Shale formation was discovered near the farm. Later that year, Eric was approached by a large gas exploration and development company that was interesting in leasing Eric's mineral rights for a significant amount of money. Eric discussed the offer with Thomas but soon thereafter, Eric was diagnosed with a serious illness.

In 2014, Eric passed away. Eric's important papers and bank deposit box were searched but no will was found. Eric's lawyer, Terrance Boggs, was contacted and Mr. Boggs said that Eric had met with him recently and had discussed the need for a will. In fact, Mr. Boggs drafted a will for Eric that left everything to Thomas but the will was never signed.

James and Edward were notified of Eric's death and they came back to West Virginia for the funeral and to settle Eric's estate. While cleaning out the attic in Eric's house, Thomas found a footlocker that contained some of Eric's old business papers. Among the papers, Thomas found a handwritten will that stated the following:

August 18, 1984

I, Eric Meadows, being of sound mind and body hereby state the following as my Last Will and Testament:

1. I direct that One Valley Bank be appointed the administrator of my estate.
2. I direct that \$10,000.00 be given to the American Cancer Society.
3. I direct that my cousins James and Edward each be given \$25,000.00 but no more.
4. Thomas Criswell has become like a son to me and it would please me greatly if he received the 320 acre farm along with the mineral rights.

Signed,
Eric Meadows

James and Edward have filed a lawsuit challenging the validity of paragraph 4 of the will.

Stipulations

1. The will is completely in Eric's handwriting.
2. Eric's signature on the will has been authenticated.
3. If paragraph 4 of the will is invalid, James and Edward receive the farm and the mineral rights along with \$25,000.00 each.
4. If paragraph 4 of the will is valid, James and Edward receive only \$25,000.00 each and Thomas will receive the farm and mineral rights.

Relevant Law

West Virginia Statute § 41-1-3. Must be in writing; witnesses

No will shall be valid unless it be in writing and signed by the testator, or by some other person in his presence and by his direction, in such manner as to make it manifest that the name is intended as a signature; and moreover, unless it be wholly in the handwriting of the testator, the signature shall be made or the will acknowledged by him in the presence of at least two competent witnesses, present at the same time; and such witnesses shall subscribe the will in the presence of the testator, and of each other, but no form of attestation shall be necessary.

A testator is a person who makes a will. Black's Law Dictionary (7th Abr. Ed. 1198)

Pursuant to W. Va. Code § 41-1-3, three requirements must be met to establish the validity of a handwritten will: (1) the will must be wholly in the handwriting of the testator; (2) the will must be signed; and (3) the writing must evidence a testamentary intent. Syllabus Point 1 of *In re Teubert's Estate*, 171 W.Va. 226, 298 S.E.2d 456 (1982)

Testamentary intent means that **the testator intended that the will give directions for the actual disposition of the testator's property** to take effect after the testator's death. A testator's mere expression of what he expected to do or desired that others should do after his death is insufficient to establish testamentary intent. *See* Syllabus Point 3 of *Rice v. Henderson*, 140 W.Va. 284, 83 S.E.2d 762 (1954) and p. 291, 767.