

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.

1. Eligibility for 2015-2016 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 26, 2016**
- **Postmarked no later than March 1, 2016, and mailed to the Kandi Greter, Public Education Coordinator, West Virginia Supreme Court of Appeals, 4700 MacCorkle Ave, SE, 9th Floor, Charleston, WV 25304** 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 26, 2016. 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, 4700 MacCorkle Ave, SE, 9th Floor, Charleston, WV 25304 by March 1, 2016**, 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, 4700 MacCorkle Ave, SE, 9th Floor, Charleston, WV 25304.

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 **one copy** 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
4700 MacCorkle Ave, SE
9th Floor
Charleston, WV 25304**

Scripts must be postmarked by **March 1, 2016**. 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
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 2015-2016

Fax Sheet

School: _____

Teacher: _____

Grade Level:

- 5th
- 6th
- 7th
- 8th
- Combined

Case Scenario:

-

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

West Virginia Law Adventure 2015-2016

Cover Sheet

School: _____

Teacher: _____

Grade Level:

- 5th
- 6th
- 7th
- 8th
- Combined

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

Case Scenario:

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 2015-2016

Cover Sheet

School: _____

Teacher: _____

Grade Level:

- 5th
- 6th
- 7th
- 8th
- Combined

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

Case Scenario:

- Lee v. Metro City Public Schools
- Wilkins v. New Columbia School District
- Billing v. Pearson

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 2015-2016

Fax Sheet

School: _____

Teacher: _____

Grade Level:

- 5th
- 6th
- 7th
- 8th
- Combined

Case Scenario:

- Lee v. Metro City Public Schools
- Wilkins v. New Columbia County School District
- Billings v. Pearson

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

Lee v. Metro City Public Schools

On November 14, 2014, Jefferson High School (JHS) commemorated former student Sonny Lee at halftime of a JHS football game. The field is across the street from JHS in JFK Park, a Metro City park. Sonny Lee was a student at JHS from the fall of 2009 until the spring of 2013, when he graduated. Sonny, the quarterback of the JHS 2012 championship team, was killed in 2013 during a convenience store robbery at which he was a bystander. Sonny's younger sister, Jesse Lee, and her friend Tyler attended the commemoration, where Principal Kris Skinner and two Metro City police officers, one of whom was Officer Alex Carrico, asked them to take off their rosaries. Principal Skinner contended that the rosary was gang paraphernalia, which was prohibited by JHS school policy. Principal Skinner believed that rosaries were worn by members of the Metro City gang Los Santos.

Jesse complied, but Tyler did not. Tyler exchanged words with Principal Skinner, who told Tyler he had to leave the game. When Tyler refused, he was arrested by a MPD Officer for trespassing and sustained an injury to his head during the arrest. Tyler was taken to the hospital for the head wound and later died. Many students at JHS witnessed the arrest and took pictures and videos of the incident with their smartphones.

News of Tyler's arrest and death spread throughout Metro City and the nation. A particular photo of Tyler with a bloody head went viral. Recent events involving deaths of unarmed persons by police officers had already created unrest in the country, and reports of this tragic incident fueled that further. Protests began popping up in Metro City and around the country. Some of the protests turned violent, with a police officer shot at a protest in Metro City. Religious leaders were interested in the story because of the ban on rosaries. Two hashtags, #SonnysSaints and #IamTyler, appeared on social media and became popular references by protesters.

After Tyler's death, Jesse planned a commemoration/protest at JFK Park for December 5, 2014, at 4:00pm. Jesse advertised the event at JHS and asserted that it would be peaceful. Principal Skinner invited Jesse, civic and religious leaders, parents, and a group of MPD officers to discuss the upcoming event, including the potential for violence at the protest, the uniforms or riot gear the police would wear, and JHS's rules about gang paraphernalia. Jesse agreed not to wear the rosary.

On the day of the event, fifty police officers were at the football field. The media was there covering it, and approximately 500 people turned out, including JHS students and members of the community. Religious and civic leaders were also present to speak.

Jesse opened the event with a speech during which she held up a rosary for everyone to see. Principal Skinner attempted to take away the rosary. When Jesse refused, he had Jesse removed from the stage and attempted to end the event. The mood of the crowd changed, and the scene erupted into chaos. Students began sitting with linked arms, trash and debris were

thrown at the officers, and protesters were fighting with one another. Several arrests were made, and many protesters were injured in the melee. Jesse Lee was among those arrested.

Shortly after the event, Principal Skinner suspended Jesse and recommended expulsion of Jesse for inciting a riot at the event. After a hearing by Metro City Public Schools, Jesse was expelled from school. Due to the expulsion, Jesse is now ineligible for the academic scholarships she had won for college. Jesse Lee brings this suit against Metro City Public Schools to overturn the expulsion.

Statutes

New Columbia Civil Code §1983; Civil Action for Deprivation of Rights. If a person, while exercising power granted to them by state law or government, deprives (or cause to be deprived) any other person of any rights, privileges, or immunities secured by the United States Constitution, the injured party may bring a civil action to seek a remedy.

- a. **Damages.** If the injured party prevails in the civil action, the court may order a monetary award for damages, an injunction, reasonable attorney's fees and costs, or any other appropriate relief.
- b. **Individual Liability.** Only the government entity that granted power to the person who deprived the injured party of their rights shall be held liable, except that school personnel who fail to report to the proper authorities, an incident that could reasonably be interpreted as an act of Bullying, as defined by §489000, maybe found personally liable.

§ 389(d): Standing to Commence Action in Municipal Court. An injured party may file a claim against New Columbia government entity in Municipal Court if the injured party claims to be deprived of any rights, privileges, or immunities secured by the United States Constitution. The party is not required to exhaust administrative remedies before filing their claim in Municipal Court.

§1242: Actions Against New Columbia Government Entities. To promote efficiency in the judicial system, where a claim filed is against New Columbia government entity, the Municipal Court has authority to decide whether the injured party was deprived of any rights, privileges or immunities secured by the United States Constitution, and to decide any administrative questions brought before the court in connection to the claim.

New Columbia Civil Code §2625 School board and school administrators powers.

§2625.1. The school board or administration of high school may take reasonable steps to promote the cause of education and provide a safe school environment for students. This includes making rules for the organization, graduation and government of the schools of the

district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and favorable academic atmosphere. School boards and school administrators must adhere to the rules and procedures as written.

Wilkins v. New Columbia County School District

Chris Wilkins, a senior at Lincoln High School (“LHS”) in New Columbia County, died on March 24, 2013, from a heart attack caused by excessive steroid usage and steroids ingested that day. Dan Peters, a junior, sold Chris anabolic steroids on the day of Chris’s death. The sale took place inside LHS after Dan entered the school by opening the side exit door located next to the teachers’ parking lot.

Chris Wilkins attended LHS from fall 2009 until his death. March 24, 2013, was the day of the Tri-Conference track meet hosted by LHS. Chris was a member of the LHS track team. While warming up, Chris collapsed and was rushed to the New Columbia Hospital by ambulance, accompanied by his parents, Kyle and Penny Wilkins. Chris was pronounced dead at 4:15 pm.

LHS (grades 9th – 12th), located in a high crime neighborhood in New Columbia County, has a student body of 1,000. Dr. Terry Taylor has been the principal since 1997. Marion Summers is the police captain for an area that encompasses LHS. The school is particularly proud of its nationally respected track team that has produced highly gifted athletes. Chris ran varsity track throughout his high school career and showed tremendous promise. The track team is coached by Pat Conner. Jamie Wallace was also a member of the LHS Track Team.

In the summer of 2012, the New Columbia County School District commissioned Dr. Devon Grace to examine issues related to school safety at LHS. Dr. Grace submitted recommendations to Principal Taylor and the School District on January 20, 2013.

The New Columbia County School District contains twenty-five high schools with enrollments ranging from 500 to 2,000 students. New Columbia, like many school districts nationally, is facing tough fiscal times. Eighty percent of the families in the New Columbia School District have incomes at or near the middle income of American families. The new Columbia County School District also contains pockets of poverty and wealth.

APPLICABLE LAW OF NEW COLUMBIA¹

Statutory Law

Sec16-2400. Safe Schools Act

- (A) A school district has a duty to provide for the health and safety of its students on school premises during school hours and to enforce pertinent rules and regulations. A failure to do so constitutes actionable negligence.
- (B) The duty of care owed by the school district to students is that which a reasonable parent would exercise under similar circumstances.
- (C) A school district had a duty to supervise students in a manner appropriate to the age of the students and circumstances.
- (D) An agent of a school, such as a teacher, a coach, an administrator, or staff member, has a duty to maintain the degree of care which a reasonable person with the duties involved would exercise under the same circumstances.
- (E) The New Columbia County School District is liable for the negligent acts of omissions of its agents.
- (F) For suits against the school district brought under this section, the New Columbia County School District waives any claims of immunity.

Sec. 18-101. Negligence. Standards Governing Tort Actions.

(A) Standard Governing Negligence Actions.

- i. To support a finding of negligence, a plaintiff must prove by a preponderance of the evidence that:
 - a) defendant owed plaintiff a duty of care;
 - b) defendant breached that duty;
 - c) defendant's breach caused plaintiff's injuries, and;
 - d) plaintiff suffered damages as a result.

(B) Comparative Negligence: In negligence action, to assess damages, the finder of fact must:

- i. determine the percentage of fault attributable to each party; and
- ii. reduce the amount of the damages due the plaintiff by the percentage of fault attributed to the plaintiff.
- iii. In an action for damages brought by any representative of an estate, who is also a parent of the deceased, the action of bot the deceased and the parent must be considered when applying the comparative negligence provisions.

¹ The statutory case law are fictitious. For the purpose of this mock trial, statues or case law are binding if from the jurisdiction of New Columbia. The statutory and case law have been modified and adapted, in part, from actual cases and statues.

Billings v. Pearson

King High School (“KHS”) is a public high school within the Metro City School District (“MCSD”), located in Metro City, in the State of New Columbia, where 1,250 students are enrolled. Alex Billings and C. J. Pearson attended KHS’s freshman orientation from August 16-18, 2014. During this orientation, Alex and C.J. became friendly. By the conclusion of orientation, they had exchanged cell phone numbers, as well as “friended” each other on MyFace, a popular social networking website. On August 23, 2014, Alex and C.J. began classes at KHS. They were in the same freshman English class.

At the end of the first week of school, on the evening of August 27, 2014, Alex Billings and C.J. Pearson met at a musical all-ages club. Following this evening, over the course of three months, Alex and C.J. exchanged over 2,300 text messages through their cellular phones. Some of these text messages were sent during KHS school hours; others were sent outside of school hours. KHS policy prohibits students from bringing cell phones on the school campus. The two also had significant interaction through MyFace. Students are prohibited from accessing MyFace from KHS computers. In fact, the KHS administration blocks MyFace on all school computers.

On November 1, 2014, KHS’s ninth grade counselor, Ms. Cook, called Alex Billings into her office to discuss Alex’s poor attendance and grades. During this conversation, Alex revealed that she was unable to participate fully in school because of a problem with C.J. Pearson. Ms. Cook told Alex that she would investigate the matter and asked Alex to report back to her if the problem continued or worsened. Alex never spoke to Ms. Cook about C.J. Pearson again. On the same day, Ms. Cook emailed Principal Li about her conversation with Alex. On November 10, 2014, Ms. Cook spoke to C.J. Pearson regarding Alex.

On December 1, 2014, Francis Billings, Alex’s mother, learned of C.J. Pearson’s MyFace postings about Alex. At this time, Mrs. Billings initiated a discussion with Alex about the MyFace postings. On the same day, Alex and Mrs. Billings met with the KHS principal. During this meeting, Mrs. Billings angrily confronted Principal Li about C.J. Pearson’s alleged bullying of Alex and showed Principal Li some of the text messages and MyFace posts.

Following this conversation, Mrs. Billings withdrew Alex from KHS. On the same day, the Billingses visited St. Joseph Academy (“SJA”) and spoke with Dr. Gabriel Rodriguez, the SJA psychologist. Following this conversation, Mrs. Billings enrolled Alex at SJA. She began attending SJA the following week, on December 6, 2014. SJA agreed to charge Alex \$15,000 in tuition for the remainder of the 2014-2015 school year and \$20,000 per year thereafter. The following day, Mrs. Billings went to the Metro City Superior Court and received a Temporary Restraining Order prohibiting C.J. Pearson from contacting Alex.

Alex Billings began seeing Dr. Snyder, a therapist, twice a week. Dr. Snyder charges \$200 per visit and recommends treatment for one year, for a total cost of \$20,800.

King High School Cell Phone Policy

Implemented on August 1, 2003

Cell Phone Use Prohibited All KHS students are prohibited from using a cell phone on the KHS campus.

Defining Cell Phone Use Cell phone use is interpreted as using any cell phone function or feature, including sending or receiving calls, taking photographs, text messaging, and recording/video taping.

Disciplinary Action for Cell Phone Use Violations Students who are found using a cell phone on the KHS campus will be referred for insubordination and disciplinary action will be enacted, consequences include possible police referral. All cell phones found on campus will be confiscated.

School Not Responsible for Cell Phones KHS and its faculty and staff are not responsible for any damaged, missing, or stolen cell phones. KHS will not utilize administrative time to investigate incidents in which cell phone is damaged, missing, or stolen, or other related incidents involving cell phones.

King High School Anti-Bullying Policy

Implemented on August 1, 2003

King High School (KHS) has determined that a safe and civil environment in school is necessary for students to learn and achieve academic standards. Bullying detracts from such an environment, and as such is prohibited at KHS.

Defining Bullying Bullying is any gesture or written, verbal, graphic, or physical act that occurs on school grounds, at any school-sponsored event, or in a school vehicle. Bullying is conduct that is (1) directed at one or more students; (2) substantially interferes with educational opportunities for one or more students, and (3) adversely affects the ability of a student to benefit from KHS educational opportunities because the conduct, as reasonably perceived by the target student, is very severe or offensive, or because the conduct places the targeted student in reasonable fear of physical harm or causes the targeted student emotional distress.

Administrative Procedures for Responding to Reports of Bullying The KHS principal is responsible for receiving complaints alleging bullying. All school employees are required to report alleged bullying to the principal. The principal is required to conduct a prompt and thorough investigation of each alleged bullying incident that is reported to him/her.

Retaliation Prohibited Retaliation against any person who reports an act of bullying is prohibited.

False Accusations of Bullying Prohibited Any student who falsely reports bullying will face disciplinary action.

STATUTES

In the State of New Columbia, the common law tort offense of negligent supervision and intentional infliction of emotional distress have been codified in the New Columbia Civil Code.

New Columbia Civil Code §2211; Negligent Supervision. A school district shall be held liable for a foreseeable injury of a minor enrolled as student within the school district, if it can be established that the school district's unreasonable, insufficient supervision was the proximate cause of the injury.

New Columbia Civil Code § 5500; Intentional Infliction of Emotional Distress. A person is liable for intentional infliction of emotional distress when he or she intentionally or recklessly engages in extreme and outrageous conduct that intends to cause and causes severe emotional distress to another.

New Columbia Civil Code §4372; Pain and Suffering Awards in Tort Actions. In actions for negligent and intentional torts, plaintiffs maybe awarded for reasonable pain and suffering at the discretion of the finder of fact, based upon facts of the case.

New Columbia Civil Code §4382; Apportionment of Tort Damages. In any tort action, damages may be apportioned (divided) among the parties to the action, including the plaintiffs and defendants, according to the judge's determination of their relative contribution to the damages, i.e., their relative fault.