West Virginia Law Adventure 2016-2017

Cover Sheet

School:_____

Teacher:_____

Email:_____ **Phone:**_____

Grade Level (Please Circle): 5th 6th 7th 8th Combined

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

_____

_____

Case Scenario:

- **Brooks v. Lawrence**
- **New Martinsburg v. Christopher Archer**
- **Christian Moss v. The New Columbia Public School District and Dr. Terry Preece, As an Employee for the NCPSD**

Standard of proof: _____

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 2016-2017

Fax Sheet

School:_____

Teacher:_____

Phone Number: _____

E-Mail Address:

_____

Grade Level:

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

Case Scenario:

- **Brooks v. Lawrence**
- **New Martinsburg v. Christopher Archer**
- **Christian Moss v. The New Columbia Public School District and Dr. Terry Preece, As an Employee for the NCPSD**

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

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 2016-2017 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 24, 2017**
- **Postmarked no later than March 1, 2017, 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 24, 2017. 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, 2017**, 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, 2017.** 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 statues.

Brooks v. Lawrence

On March 15, 2015, at approximately 10:15 pm, eight police officers arrived on the scene of a local One Stop store in Metro City, West Virginia and arrested Kevin Brooks. Brooks was charged with trespassing and disorderly conduct.

Brooks is an 18 year old high school student who plans to graduate from Metro City High School in June 2016 with honors. In 2015, Brooks participated in the West Virginia Law Adventure program. During the competition, Brooks won a certificate for best lawyer. In the fall, Brooks plans to attend Marshall University to study political science and criminal justice. After college, Brooks hopes to attend WVU College of Law and become a lawyer.

Brooks stopped at the One Stop near closing time to make a return and purchase some last minute items before leaving on a 6:00 am flight for Myrtle Beach the next day. Brooks planned to attend his older sister's wedding. Brooks was in the checkout line before closing time but left it to get an additional item for her trip. The security guard at the One Stop, Officer Lawrence, informed Brooks it was closing time and told him to go to the register with his items. Lawrence is a police officer for Metro City, who also works as a security guard for One Stop when off duty. Brooks continued to shop. At the registered, Lawrence ordered Brooks to leave the store without completing the purchase. Brooks and Lawrence got into an argument and scuffle, which resulted in Brooks' detention and arrest. The arresting officers did not witness the event or question Brooks about the incident.

Brooks spent about five and a half hours in police custody where he was searched, fingerprinted, and escorted to the courthouse across the street with shackles. After Brooks was released, he spent three to four more hours in the Metro City hospital emergency room for pain, cuts and bruises on his body from the incident.

The criminal charges against Brooks were dismissed after Brooks agreed to a pre-trial diversion which required him to do thirty (30) hours of community service. Brooks brought a civil lawsuit against Lawrence, the One Stop and the Metro City Police Department for battery, false arrest, and intentional infliction of emotional distress.

Metro City Statutes

MC Code §22-302 – Trespass

A person commits trespass if such person enters any public or private building without lawful authority or remains in any public or private building and refuses to leave upon the reasonable demand of the lawful occupant or the person lawfully in charge of the building.

MC Code §22-321 – Disorderly Conduct

A person commits disorderly conduct if such person acts with intent to provoke a breach of peace or acts in a way that results in a breach of peace, including, but not limited to: (1) annoying, disturbing, interfering with, obstructing or being offensive to others; (2) congregating with others on a public street and refusing to move on when ordered by police; (3) shouting or making a noise either outside or inside a building during the nighttime to the annoyance or disturbance of a considerable number of persons; (4) interfering with any person in any place by jostling or unnecessarily crowding the person; or, (5) causing a disturbance in any railroad car, bus, or other public vehicle, by running through it, climbing through windows or upon the seats or otherwise annoying passengers or employees.

MC Civil Code §2211 – Battery

A person is liable for battery when he or she performs an intentional act that causes harmful or offensive bodily contact, without legal justification.

MC Civil Code §3299 – False Arrest

A person is liable for false arrest when he or she detains or restrains another, without consent, and without legal justification.

MC 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 or causes severe emotional distress to another.

MC Civil Code §110 – Employers' Liability for Torts of Employees

An employer is liable under the common law doctrine of respondeat superior for the negligence or intentional torts of employees who are acting within the scope of their employment.

MC Civil Code §111 – Vicarious Liability of the State

Metro City may be sued and is vicariously liable, under the common law doctrine of respondeat superior, for the negligence or intentional torts of its officers who are acting within the scope of their employment.

MC Civil Code §4444 – Pain and Suffering Awards in Torts Actions

In actions for intentional torts, plaintiffs may be awarded for reasonable pain and suffering at the discretion of the finder of fact, based upon the facts of the case.

New Martinsburg v. Christopher Archer

On November 23, 2007, 18-year-old Micah Jackson died as a result of a 26-foot fall from the clock tower located in the student center of Martinsburg University, in the State of New Columbia. Her death occurred during a pledging activity sponsored by Gamma Phi Gamma (hereafter "Gamma"), the coed fraternity that Micah was pledging at the time. Micah was a freshman at Martinsburg University, having graduated from New Martinsburg High School in 2007.

Greek life plays a large role on the campus of Martinsburg University. Gamma, in particular, is known for having members in high academic and social standing. Micah was eager to become a part of this organization, as had her aunt, Tonya Maddow, in 1986.

Pledging is the process fraternities use to select which freshmen they will accept into their group that year. In the Gamma fraternity, the last week of pledging is known as "Hell Week." During Hell Week, pledges are given various tasks by the fraternity's upper-classmen, which they must complete if they want to be considered for membership. The defendant, Christopher Archer, is the president of Gamma, and was in charge of planning Gamma's 2007 pledging activities.

On the last night of pledging during Hell Week, all the pledges of the Gamma fraternity were blindfolded while inside of the Gamma fraternity house. Then they were to be led, one at a time, outside of the fraternity house to perform one last task before they were informed who made it into the fraternity and who had not. While Micah was outside and blindfolded, the defendant whispered something in her ear. Shortly thereafter, Micah grabbed the fraternity flag, ran to the student center and up the clock tower. It was from the top of the clock tower that she fell to her death.

At the time of her death, Micah's blood alcohol level was 0.101% by weight. The per se level of alcohol impairment is 0.08% by weight.

The State of West Virginia charges Christopher Archer with the following violations of the Code:

Count 1 – 1st degree murder in violation of §2-745
Count 2 – Criminal hazing in violation of §4-1214

Christopher Archer denies all charges, claiming that the death of Micah Jackson was accidental and solely the direct result of Ms. Jackson's own actions.

Applicable Law

NEW COLUMBIA CRIMINAL CODE

§2-745: First Degree Murder

a) First degree murder is the deliberate and premeditated unlawful killing of a human being. Premeditation means that the defendant actually reflected on the idea of killing, if only for a brief period.

b) First degree murder is punishable by life imprisonment.

c) There is no death penalty in New Columbia

§2-746: Second Degree Murder

a) Second degree murder is the unlawful killing of a human being with malice aforethought. Malice aforethought may be expressed or implied. *

b) Malice aforethought exists if the defendant has any of the following states of mind:
(I) Intent to kill ("express" malice)
(ii) Intent to inflict great bodily injury
(iii) Reckless indifference to an unjustifiably high risk to human life
(iv) Intent to commit a felony

*In the case of (ii), (iii), or (iv), the malice is "implied" (assumed)

c) Second degree murder is punishable by a maximum period of imprisonment not less than 20 years and not to exceed a sentence of life.

§2-747: Involuntary Manslaughter

a) Involuntary manslaughter is a killing which occurs as a result of an unreasonable failure to perceive the risk of harm to others, while engaging in conduct resulting in extreme danger to life or of serious bodily injury. This conduct is also known as criminal negligence.

b) Involuntary manslaughter is punishable by a maximum of 20 years imprisonment.

§4-1213: Anti-Hazing/Gang Initiation Statute

a) A person commits criminal hazing if:

(1) Serious physical injury or death results, or is likely to result, from an act or the direct influence of a gang or fraternity/sorority member during the initiation process.
(2) This charge may be brought in conjunction with any other violent crimes against a human being.

b) Hazing is a class D misdemeanor and is punishable by fine of not less than ten dollars nor more than one hundred dollars, or imprisonment of not less than thirty days nor more than one year, or both, at the discretion of the court.

Criminal Rule 31 - Verdict

a) CONVICTION OF A LESSER INCLUDED OFFENSE. The defendant may be found guilty of an offense necessarily included in the offense charged. In a non-jury trial, the judge will make such a finding, without motion by either prosecution or defense.

Christian Moss v. The New Columbia Public School District and Dr. Terry Preece, as an employee of the NCPSD

Christian Moss lives at 2300 14th Street in San Huntington, in the State of New Columbia, and is a senior at New Columbia High School. New Columbia High School is a public school within the New Columbia Public School District. Christian has been enrolled in New Columbia public schools since entering kindergarten at the age of five. Christian has progressed from grade to grade and has always at least minimally passed all classes. He has never been tested for any learning disabilities, and the standardized test scores indicate that Christian is an average student. He is scheduled to graduate on time and receive a high school diploma at the end of the school year.

Christian's basic skills in reading, writing and arithmetic are extremely weak. The basic skills Christian possesses are so poor that he finds it difficult to function adequately in society. Christian has difficulty reading simple books, the newspapers, a menu in a restaurant, writing a simple letter or making sure correct change is given by a store clerk.

Christian has applied for several jobs during the past year and a half and has been unsuccessful in finding and holding a job. Christian has had difficulty in filling out job applications due to poor reading and writing skills. Prospective employers feel Christian cannot handle minimal responsibilities in a job. He has also been looking for a full-time job to begin after graduation and has not been able to find one. Christian believes that his inability to find employment is directly related to a lack of basic academic skills.

Christian has filed suit against New Columbia Public School District and Dr. Terry Preece for educational malpractice, which is classified as a tort. Educational malpractice is not widely recognized, but is emerging as a new cause of action in many jurisdictions. Christian claims that the school district, and Dr. Preece as the implementer of the district's educational policies, have negligently failed in their statutory duty, under New Columbia Education Code Sections 2097, 2098, 2099, and 2101, to educate students and to meet the individual needs of students in the school district and that they have failed to do so in this case. Since he has not acquired the basic skills necessary to succeed in society, Christian in unable to secure employment and will be unable to provide for his basic needs in the future.

The defendants claim that they have met their duty, which they describe as providing educational opportunities for students enrolled within their school system. Christian was afforded the opportunity to attend school and was exposed to the same educational opportunities as other students who were able to learn and master basic academic skills and more. In addition, the defendants assert that there is no proof that the schools or their agents are responsible for Christian's failure to learn, as there are many outside factors that can contribute to a student's inability to learn.

Christian is seeking a finding of educational malpractice and injunctive relief. The school district should be ordered to develop a program and policies that meet the needs of individual students so that all students who graduation will do so with the ability to perform basic academic tasks. In addition, Christian is requesting $20,000 to pay for an individual tutor, plus attorney's fees and court costs. Defense seeks a finding of no educational malpractice and the denial of any injunctive or monetary relief.

New Columbia Educ. Code Section 2100: Administrative Duties

Each competent school administrator shall support the process of learning by providing appropriate and reasonable materials and equipment and by making reasonable assignments of tasks.

Each competent school administrator shall enforce the statutory requirements to the best of their ability.