

SUPERIOR COURT OF NEW JERSEY
ESSEX VICINAGE



LAW DAY 2012

The April Fools

State of New Jersey v. Willy Wynn

**MOCK TRIAL
FACT PATTERN**

Mock Trial at the School

Acknowledgement

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Law Day Fact Pattern

Peaceful Valley, New Jersey, is a quiet, friendly town. New housing developments are complemented by many oak trees. Although Peaceful Valley has several main highways leading to it, there is little criminal activity there, perhaps because of a conscientious Crime Watch team. Teenagers in Peaceful Valley attend Peaceful Valley High School. It was there that Justin Case and Willy Wynn changed the reputation of their safe town.

On April 1, 2011, in Peaceful Valley High School, Justin approached Willy and Dee Prest, Willy's girlfriend. Since they were friends, Justin complimented Dee about her new outfit, and she responded with a compliment to him. Willy became jealous, lost his temper and started insulting Justin. Justin responded by shoving Willy into a locker. After about five minutes of fighting, Willy threatened Justin and told him, "When you least expect it, I will get you back." He walked away with an angry stare at Justin and Dee.

That evening was a dark, warm, clear April Fool's night. Kids often played pranks, but nothing serious. People in Peaceful Valley usually go to sleep early, so it was very quiet by 10:30 p.m.

The next day, Justin discovered that his family's exquisite \$500,000 home had been vandalized with red spray paint. The beautiful landscaping that enclosed the grounds had been trampled, and footprints were still visible in the soft soil. The police came, investigated the scene, and estimated that the graffiti was written about five and one-half feet from ground level. On the backyard gazebo the following words were sprayed in red paint: "I told you so" and "traitor."

The issue in this case is whether Willy Wynn is guilty of 1) criminal mischief; and / or 2) defiant trespass.

Instructions for Teachers

This fact pattern involves a case in which the State of New Jersey has charged Willy Wynn with the crimes of 1) criminal mischief and 2) defiant trespass.

On the day of the mock trial, a judge and two attorneys will visit your school. One of the attorneys will act as the prosecutor and will represent the State of New Jersey. The other attorney will act as the criminal defense attorney and will represent Willy Wynn.

Teachers should select four students to play the parts of the witnesses. The students should be familiar with their witness statements and the sequence of events. Some of the witnesses will be testifying for the prosecution and some of the witnesses will be testifying for the defense. Witnesses will be cross-examined by the opposing attorneys. Both attorneys will make their arguments and then the judge will lead a dialogue with the students in deciding the outcome of the case.

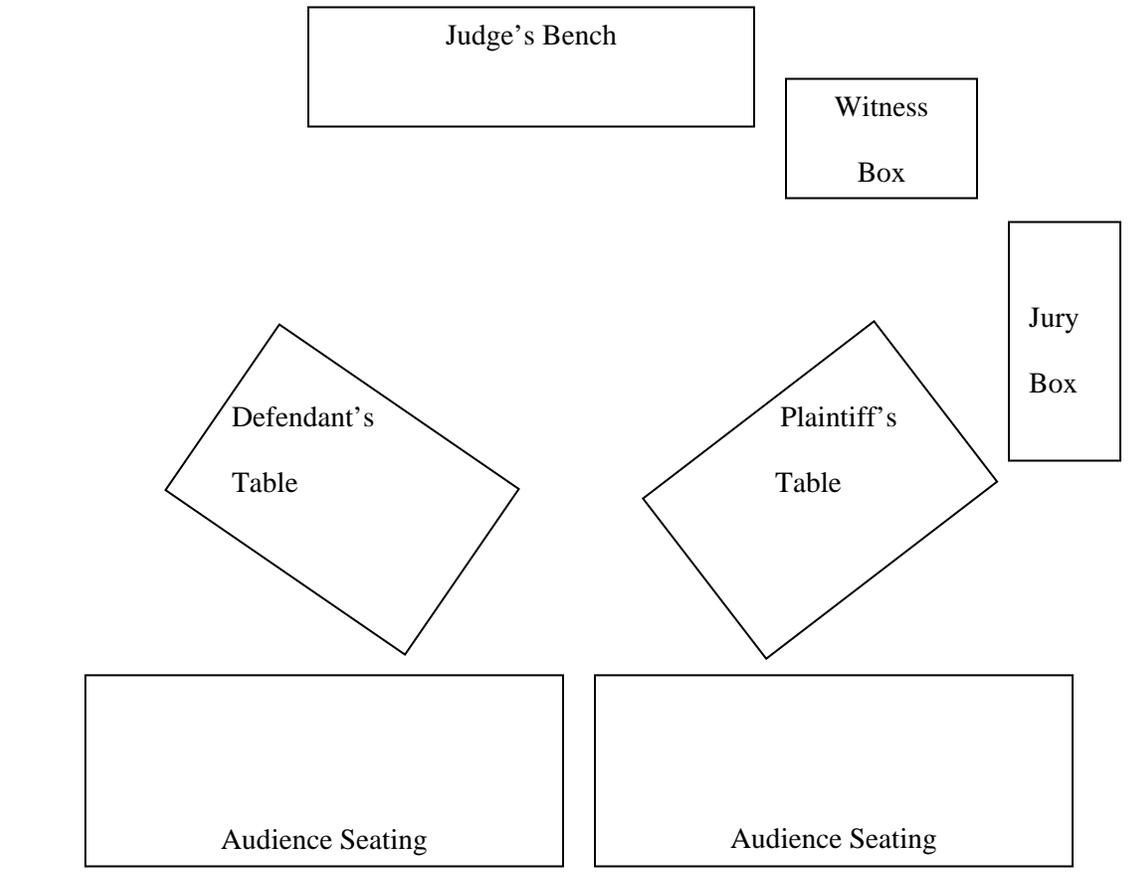
Teachers should also choose two students to act as co-counsel, who will assist the visiting attorneys. Please have each student create an opening and closing statement as well as a list of questions for the witnesses. Teachers should also inform the visiting attorneys of who their co-counsel will be prior to the start of the mock trial.

The student body will act as the jury. The jury will decide whether Willy Wynn is guilty of the crimes of 1) criminal mischief and / or 2) defiant trespass.

The students should be familiar with the entire fact pattern and understand the sequence of events prior to the date of the mock trial.

Creating a Courtroom

The room that will be used for the mock trial should be set up as shown below.



Instructions to the Attorneys / Judges

The students will have received the fact pattern in advance of the mock trial date. The teachers have selected students to portray the witnesses and to act as co-counsel. The judge will preside over the mock trial. The attorneys will role-play. One attorney will act as the attorney for the prosecution and one attorney will act as the attorney for the defendant. The judge will give beginning instructions to the students. Each attorney will make a five minute opening argument. The direct and cross-examination of each witness should take no longer than five minutes. Then the attorneys will each make a five minute closing argument.

The judge will then give the ending instructions and final charge. This will include a brief explanation of the applicable law. The judge will provide an overview of the facts of the case and an overview of the issue and arguments. The judge will then lead the students through an analysis of the issues so that they can make a decision.

The students acting as jurors should be encouraged to express their various viewpoints. Feedback and participation are encouraged. Additional discussion questions are available on page 23.

Judge's Beginning Instructions to Students

My name is _____ and I am a judge in the case of the State of New Jersey vs. Willy Wynn. This is a criminal trial. In this case, the State of New Jersey claims that Willy Wynn is guilty of the crimes of criminal mischief (N.J.S.A. 2C:17-3) and defiant trespass (N.J.S.A. 2C:18-3).

Briefly this case involves the charge that the defendant Willy Wynn committed criminal mischief and defiant trespass by spray painting the house of the family of Justin Case. The State alleges that this followed a fight in school the day before between Willy Wynn and Justin Case. The defendant, Willy Wynn denies the charges.

I would like to introduce to you the attorneys. The State of New Jersey will be represented throughout these proceedings by (*insert name of attorney(s) playing role of prosecutor*). I would like him / her to rise and introduce himself / herself to you. The defendant will be represented by (*insert name of attorney(s) playing role of defense attorney*). I would like him / her to rise and introduce himself / herself to you, and his / her client.

Ladies and gentlemen of the jury you are the sole judges of the facts in this matter. Your determination of the facts is to be based solely upon the evidence submitted during the course of the trial. When I use the term "evidence" I mean the testimony of witnesses who will testify, and any exhibits which may be marked into evidence.

The State and the defendant are entitled to jurors who are impartial and agree to keep their minds open until a verdict is reached. Jurors must be as free as humanly possible from bias, prejudice or sympathy and must not be influenced by preconceived ideas.

The first order of business will be the prosecutor's opening statement. In the opening statement the prosecutor will present the State's contentions and will outline what he / she

expects to prove. Following that, the defense counsel, if he / she chooses, will make an opening statement. What is said in an opening statement is not evidence. The evidence will come from the witnesses who will testify and from whatever documents or tangible items that are received in evidence.

At the conclusion of the testimony the attorneys will speak to you once again in closing statements. At that time they will present to you their final arguments based upon their respective recollections of the evidence. Again, this is not evidence but their recollection as to the evidence.

Following closing statements you will receive your final instructions on the law from me, and you will then retire to consider your verdict. It is your duty to weigh the evidence calmly and without bias, passion, prejudice or sympathy, and to decide the issues upon the merits.

The defendant on trial, Willy Wynn, is presumed to be innocent and unless each and every essential element of the offense(s) charged is (are) proved beyond a reasonable doubt, the defendant must be found not guilty of that charge.

The burden of proving each element of the charge(s) beyond a reasonable doubt rests upon the State and that burden never shifts to the defendant. It is not the obligation or the duty of the defendant in a criminal case to prove his / her innocence or offer any proof relating to his / her innocence.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. A reasonable doubt is an honest and reasonable uncertainty in your minds about the guilt of the defendant after you have given full and impartial consideration to all of the evidence.

OPENING STATEMENTS

ARE WE READY? THE PROSECUTION MAY CALL ITS FIRST WITNESS.

WITNESSES FOR THE PROSECUTION:

Witness: Justin Case

Witness: Dee Prest

WITNESSES FOR THE DEFENSE:

Witness: Office Seymour Justice

Witness: Willy Wynn

CLOSING STATEMENTS

JUDGES ENDING INSTRUCTIONS TO STUDENTS AND FINAL CHARGE

Statement of Justin Case

My name is Justin Case. I am 18 years old and a 12th grade student at Peaceful Valley High School. I'm an average student and always do my homework. My favorite sports are basketball, baseball and football, and I play on all of those teams at school. Many people at school are my friends and think I am a responsible person. So do my teachers.

On April 1, 2011, I complimented Dee when I saw her in the hallway at school. Dee liked the compliment, but Willy got jealous. He threatened me so I pushed him and he fell into the locker. He said he would get me back when I least expect it. The next morning when I went to get the newspaper, I was shocked to see my house trashed with red spray paint. There was graffiti everywhere, and it said, "I told you so." By the time the police arrived, I had already left for school.

I stormed into school and found Willy taking some objects out of his locker. I ran up to him and saw that he was holding three cans of red spray paint and a shirt with red stains on it. The spray paint on the shirt looked like the same kind that was on my house. I then accused Willy of the crime and ran to the principal to tell her what happened. She called the police.

Outside the principal's office Dee came by and said that she was sorry about what happened to my home. We both thought it must have been Willy getting his revenge as he said he would. At first I didn't think anything about Dee's remark, but now I do not understand how she could have known about the damage to my house.

Statement of Dee Prest

My name is Dee Prest. I go to Peaceful Valley High School. I am 18 years old and am in the 12th grade. I am five feet, six inches tall and weigh 125 pounds. I guess that's why I'm pretty athletic. I play softball and basketball really well, and I'm a good student, especially in science and art. On April 1, 2011, I was walking down the hall with Willy when Justin came up to us and complimented me. I thought that was cool so I gave him one back. Willy started dissing Justin so Justin pushed him, but only lightly. Willy totally overreacted and fell into the lockers. He was so angry that he charged into Justin. He was screaming and swearing, and he took Justin by the shirt and said, "I'll get you back for this when you least expect it." Then he told me to get lost. His face was bright red, and he was really angry! I was so scared, I didn't know what to do. Finally, Willy left.

I was upset about what happened in school, and I couldn't play well in my championship game that date. What made matters worse was that my parents weren't even there to cheer me on. They were too busy with their friends in Las Vegas. I got benched and we lost the game. That night I was in a really bad mood because of everything that happened. I mouthed off to the babysitter at dinner so she sent me to my room. I wanted to be by myself anyway. I wrote in my diary for a while and worked on my graffiti project for art class. I couldn't stand the smell of the paint anymore so I decided I would go out. I turned the radio up really loud and locked my door so my babysitter wouldn't catch on. Then I sneaked out, went for a long walk, and decided to finish my art project in the park. I walked home at about 11:00 p.m. and went to bed.

The next morning at school, I went up to Justin and said, "I'm so sorry about what happened at your house." As I was leaving, Willy went to his locker to drop off his books. Justin ran over to him and accused Willy of vandalizing his home. He then noticed three cans of

red spray paint that were empty and a shirt covered with red paint. He ran to the principal and she called the police. Later that day, I was questioned by Officer Seymour Justice. He asked me many questions. I told him about the fight between Justin and Willy, and how Willy threatened Justin. I also told him that I saw three cans of red paint in Willy's locker.

Statement of Officer Seymour Justice

My name is Officer Seymour Justice. I've been in the Peaceful Valley Police Department for six years. There has been no history of a problem of vandalism in Peaceful Valley. On April 2, 2011, I was called to investigate a vandalized home at 74 Shady Lane. The house was severely damaged with red spray paint. The graffiti was sprayed over five and one-half feet above ground level on the front of the house and backyard gazebo. The landscape was trampled, and there were still large footprints visible in the soil. At 8:34 a.m., I was dispatched to Peaceful Valley High School to investigate some possible evidence in this case. When I got to the school, the principal led me to Willy Wynn's locker. When I searched his locker, I found three cans of red spray paint and a shirt covered with red paint stains. I later checked for fingerprints and found different sets. You see, the paint was from the art classroom where several students used it. Next, I tested the evidence on the shirt and found that the paint on it matched the color in the cans exactly, and also matched the color on the Cases' house. During my search, I overheard Dee Prest tell Justin Case how sorry she was about his house. I thought this was strange since the only people who could have known about the incident at that time were Justin, his family and Willy. I questioned 10 other students, but no one knew about the incident. However, eight of the 10 students said they had seen Dee wearing a shirt like the one we found in the locker. It appears to be a girl's shirt and has buttons like one, too. The label has been cut out of it, but I saw a shirt just like it in *Teen Vogue* with a "Guess" label.

Statement of Willy Wynn

I am Willy Wynn and I am 18 years old. I am a 12th grade student at Peaceful Valley High School. My grade are As and Bs, and I am pretty popular. In school, my favorite subjects are science, math, and I really like art. Since I play hockey and football, I'm kind of strong for a 4 foot 10 inch, and 100 pound person. On April 1, 2011, I was walking with my girlfriend, Dee, in the hall at school. Justin said to her, "You look good in those jeans." I felt jealous because Dee liked the compliment. She even told Justin that she liked the way he looked. I never saw her blush or giggle the way she did that day. I was so angry, I made fun of Justin. After all, he and I had been friends since the 4th grade. Then Justin grabbed me and pushed me into a locker. I told him I was so hurt, I couldn't think clearly. It was just my way of letting off steam. I couldn't believe that Justin, my friend, would try to take my girlfriend. I told Dee, "If you want to go out with Justin, go ahead. I don't care." I walked away and left them standing there.

The night Justin's house was trashed, my father had to take my little sister to the emergency room at the hospital because she fell down the stairs and hit her head. I had to stay home and put my brother to sleep. That was about 8:30 p.m. I finished my art project at about 9:30 p.m., and then I watched *American Idol* on TV. During the show, my father called to check on me at about 9:45 p.m. He said the emergency room was really busy so he would be home later than he thought. After the show, I walked my dog in our neighborhood. Then I went to bed at about 11:00 p.m., when my father came home.

The next morning, I found a shirt in my locker with red spray paint on it. Also, three cans of red spray paint fell out of my locker and clattered to the floor. I don't know how they got in there because nobody knows the combination to my locker except Dee. Justin and Dee approached me just as I was picking up the cans. When Justin saw them, his face lit up with

anger. "I can't believe it was you who trashed my house! How could you do this to me?" he yelled. He stormed off, but came back later with a police officer. They asked me where I got the paint and whose shirt was in my locker. My shirts button differently so I told them it must be a girl's shirt. I don't know how a girl's shirt got into my locker. It's not my mother's because it is too small for her. It sure isn't my little sister's, she's only four years old! I used spray paint for my art project, but I threw the empty cans out last week in the art room.

Justin is my friend. I wouldn't hurt him. I was angry, but I didn't even know how I would get back at him when I said I would. I have never been in trouble, and I swear that I did not do this!

Judge's Ending Instructions to Students and Final Charge

GENERAL INFORMATION

Ladies and gentlemen of the jury, the evidence in this case has been presented and the attorneys have completed their summations. We now arrive at that time when you, as jurors, are to perform your final function in this case.

At the outset, let me express my thanks and appreciation to you for your attention to this case. I would like to commend counsel for the professional manner in which they have presented their respective cases and for their courtesy to the court and jury during the course of this trial.

As jurors, it is your duty to weigh the evidence calmly and without passion, prejudice or sympathy. Also, speculation, conjecture and other forms of guessing play no role in the performance of your duty.

NATURE OF CHARGES

The defendant, Willy Wynn, stand(s) before you charged with criminal mischief (N.J.S.A. 2C:17-3) and defiant trespass (N.J.S.A. 2C:18-3). The defendant has pleaded not guilty to the charges.

PRESUMPTION OF INNOCENCE, BURDEN OF PROOF, REASONABLE DOUBT

The defendant on trial is presumed to be innocent, and unless each and every essential element of an offense charged is proved beyond a reasonable doubt, the defendant must be found not guilty of that charge.

The burden of proving each element of a charge beyond a reasonable doubt rests upon the State and that burden never shifts to the defendant. The defendant in a criminal case has no obligation or duty to prove his innocence or offer any proof relating to his innocence.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. A reasonable doubt is an honest and reasonable uncertainty in your minds about the guilt of the defendant after you have given full and impartial consideration to all of the evidence.

Proof beyond a reasonable doubt is proof, for example, that leaves you firmly convinced of the defendant's guilt. In this world, we know very few things with absolute certainty. In criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty. If, on the other hand, you are not firmly convinced of defendant's guilt, you must give defendant the benefit of the doubt and find him not guilty.

FUNCTION OF THE JURY

In my beginning instructions to you when we started the case, I explained that you are the judges of the facts and, as judges of the facts, you are to determine the credibility of the various witnesses as well as the weight to be attached to their testimony. You and you alone are the sole and exclusive judges of the evidence, of the credibility of the witnesses and the weight to be attached to the testimony of each witness. Although the attorneys may point out what they think important in this case, you must rely solely upon your understanding and recollection of the evidence that was admitted during the trial. It is your sworn duty to arrive at a just conclusion after considering all the evidence which was presented during the course of the trial.

FUNCTION OF THE COURT

The function of the court is separate and distinct from the function of the jury. It is my responsibility to determine all questions of law arising during trial and to instruct the jury as to the law which applies in this case. You must accept the law as given to you by me and apply it to the facts as you find them to be.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

Evidence may be either direct or circumstantial. It is not necessary that all the facts be proven by direct evidence. They may be proven by direct evidence, circumstantial evidence or by a combination of direct and circumstantial evidence. All are acceptable as a means of proof.

CREDIBILITY OF WITNESSES

As the judges of the facts, you are to determine the credibility of the witnesses. In determining whether a witness is worthy of belief you may take into consideration:

- the demeanor of the witness;
- the witness's interest in the outcome of the trial if any;
- his or her means of obtaining knowledge of the facts;
- the extent to which the witness is either supported or discredited by other evidence;
- the reasonableness or unreasonableness of the testimony the witness has given;
- whether the witness made any inconsistent or contradictory statement;
- and any and all other matters in the evidence which serve to support or discredit his or her testimony.

Through this analysis, as the judges of the facts, you weigh the testimony of each witness and then determine the weight to give to it.

CRIMINAL MISCHIEF **(N.J.S.A. 2C:17-3)**

Count one of the indictment charges Willy Wynn with committing the offense of criminal mischief. To find the defendant guilty of this offense you must find that the State has proved beyond a reasonable doubt each of the following three elements:

1. That Willy Wynn damaged tangible property;
2. That the tangible property damaged belonged to another person; and
3. That Willy Wynn acted purposely or knowingly when he damaged the property.

If you find that the State has not proven beyond a reasonable doubt every element of the offense, you must find Willy Wynn not guilty of criminal mischief. But if you determine that the State has proven every element of criminal mischief beyond a reasonable doubt, you must find Willy Wynn guilty of that offense.

DEFIANT TRESPASS

(N.J.S.A. 2C:18-3)

The second count of the indictment in this case charges Willy Wynn with criminal trespass. To find the defendant guilty of this offense, the State must prove the following elements beyond a reasonable doubt:

1. That Willy Wynn entered in any structure; and
2. That Willy Wynn did so knowing that he had no right to enter or to be there at that time.

“Knowing” under this statute means that the defendant was aware that he was not licensed or privileged to enter the home owned by Justin Case’s family.

If you find that the State has not proven beyond a reasonable doubt every element of the offense, you must find Willy Wynn not guilty of defiant trespass. But if you determine that the State has proven every element of defiant trespass, you must find Willy Wynn guilty of that offense.

DELIBERATIONS

That concludes my instructions as to the principles of law regarding the offenses charged in the indictment.

As jurors, you are expected to use your own good common sense; consider the evidence for only those purposes for which it has been admitted and give it a reasonable and fair construction in the light of your knowledge of how people behave.

The verdict must represent the considered judgment of each juror and must be unanimous as to each charge. This means all of you must agree if Willy Wynn is guilty or not guilty on each charge.

It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. You are judges - - judges of the facts.

INSTRUCTIONS AS TO VERDICT FORM

To assist you in reporting a verdict I have prepared a verdict sheet for you.

APPOINTING FOREPERSON:

(Insert juror's name) you are the foreperson of the jury because of your position in the jury box.¹ You will preside over the deliberations and tell us the verdict when reached. Your vote carries no greater weight than that of any other deliberating juror.

THE JURY DELIBERATES, WITH JUDGE'S GUIDANCE

THE VERDICT IS RECEIVED AND READ AS TO EACH COUNT

¹ See R. 1:8-4, designating juror number one as the foreperson, unless that juror is designated an alternate or otherwise discharged.

Additional Questions for Students to Consider

1. What was the direct evidence and the circumstantial evidence? How do you feel about someone being found guilty solely on circumstantial evidence?
2. Who is responsible for the damage to the Case home, and to what extent are they liable?
3. Should someone have been charged for the altercation that Willy Wynn and Justin Case had while they were at school?
4. What evidence is there that Dee Prest committed a crime? Was it defiant trespass or criminal mischief?
5. Does the school bear some responsibility because they allowed students to bring paint cans home?

Vocabulary List

Admissible Evidence: evidence that the court allows to be admitted at trial. Evidence which the trial judge finds is useful in helping the trier-of-fact, which cannot be objected to on the basis that it is irrelevant, immaterial, or violates the rules against hearsay and other objections.

Attorney: a person who has been qualified by a state or federal court to provide legal services, including appearing in court.

Beyond a Reasonable Doubt: the standard that must be met by the prosecution's evidence in a criminal case; that no other logical explanation can be derived from the facts except that the defendant committed the crime, thereby overcoming the presumption that a person is innocent until proven guilty.

Burden of Proof: a duty placed upon a civil or criminal defendant to prove or disprove a disputed fact. In a criminal trial the burden of proof required of the prosecutor is to prove the guilt of the accused "beyond a reasonable doubt."

Charge: the specific crime a defendant is accused of committing. Formal accusation of a crime, including by indictment.

Circumstantial Evidence: evidence in a trial which is not obtained directly from an eyewitness or participant and requires some reasoning to prove a fact.

Credibility: whether testimony is worthy of belief, based on competence of the witness and likelihood that it is true.

Crime: an act committed or omitted in violation of a law forbidding or commanding it and for which punishment is imposed upon finding of guilt.

Cross Examination: the examination of a witness by the party opposed to the one who produced her / him.

Damages: the amount of money which a plaintiff, the person suing, may be awarded in a civil case.

Defendant: the accused in a criminal case.

Defense Attorney: the attorney representing the accused in a criminal case.

Deliberate: to weigh, discuss and consider.

Direct Evidence: real, tangible or clear evidence of a fact, happening or thing that requires no thinking or consideration to prove its existence, as compared to circumstantial evidence.

Direct Examination: the examination of a witness by the party on whose behalf he / she is called.

Evidence: every type of proof legally presented at trial (allowed by the judge) which is intended to convince the trier-of-fact of alleged facts material to the case.

Exhibits: a paper, chart, or other item presented to the court.

Guilty: having committed a crime; justly charged with a specified crime.

Indictment: a formal accusation in writing, found and presented by a grand jury, charging that the person named in it has committed or omitted an act, in violation of the law.

Innocent: free from guilt.

Intent: mental desire and will to act in a particular way, including wishing not to participate. Intent is a crucial element in determining if certain acts were criminal.

Judge: an official with the authority and responsibility to preside in a court, try lawsuits and make legal rulings.

Jury: a group of persons sworn to render a verdict or true answer on a question or questions submitted to them.

Jury Charge: direction that the judge gives the jury concerning the applicable law of an issue or case.

Liable: answerable according to law; bound or obligated according to law or equity.

Negligence: failure to exercise the care toward others which a reasonable or prudent person would do in the circumstances, or taking action which such a reasonable person would not.

Preponderance of the Evidence: the greater weight of the evidence required in a civil (non-criminal) lawsuit for the trier-of-fact (jury or judge without a jury) to decide in favor of one side or the other.

Prosecutor: one who prosecutes another for a crime in the name of the government.

Reasonable: in law, just, rational, appropriate, ordinary or usual in the circumstances.

Testify: to give evidence as a witness.

Verdict: a jury's decision or judgment.

Witness: an individual who actually sees, hears or perceives something; an individual who provides testimony in court.