

CIVIL TRIAL: TEXTING WHILE DRIVING

This activity is based on a civil suit arising from a car crash that may have been caused by texting while driving. In the trial simulation, participants will play different roles and learn about some of the legal and long-term consequences that can arise when texting while driving.

About these Resources

- Follow the [agenda](#) as a guide during a classroom or courtroom event.
- Read the [fictional scenario](#) describing the accident of a high school driver who may have been texting while driving on a federal parkway.
- The witness stand [script](#) provides all the speaking parts for the civil trial simulation.
- Use the [jury instructions](#) to help participants understand how to determine the verdict.
- Use critical thinking skills and share reflections on the [discussion questions](#).

General Resources

These trial tools provide structure for participation in the civil trial simulation.

- [Differences between Opening Statements and Closing Arguments](#)
- [Guide to Writing Closing Arguments](#)

How to Use these Resources

This trial simulation can be done in the classroom or courtroom. In a classroom, students play all the parts in this scripted simulation. In a courtroom, a real federal judge presides and attorneys coach the student lawyers at the counsel tables. Pre-assigned students play the parts of witnesses. All other students are jurors who deliberate in groups of 12.

The trial simulation is followed by a conversation with probation officers about a series of situations — like texting while driving — that young people do not realize can have legal and long-term consequences. Use the discussion questions to stimulate critical thinking.

In Advance of the Program

Use the discussion questions to stimulate critical thinking. Four participants are chosen in advance to be the attorneys — two for the plaintiff and two for the defense. Witnesses are chosen in advance and read the script for their testimony.

During the Program

1. Start by review the [agenda](#) to see a timeline of the activity.
2. Read the [fictional scenario](#) describing the accident.
3. Assign speaking roles and read the witness stand [script](#).
 - Additional resources are available in the [guide to writing closing arguments](#) and the [differences between opening statements and closing arguments](#).
4. Start the jury deliberation using the [jury instructions](#) to determine the verdict.
5. Check for understanding using the [discussion questions](#): *Reality Check Quiz — Sometimes There Are No Do-Overs*

AGENDA

Use the program agenda as a guide during a classroom or courtroom event.

In Advance:	Four students are chosen in advance to be the attorneys — two for the plaintiff and two for the defense. Witnesses are also chosen in advance. Only the Judge and the students with speaking parts receive the script.
Address:	A Judge, two attorney coaches, and a probation officer. Two students are attorneys for the plaintiff. Two students are attorneys for the defense. All others are jurors who deliberate in groups of 12.
Scenario:	The scenario centers on a high school driver who may have been texting while driving on a federal parkway. The accident put a friend, from another state, in the hospital. It is an example of how a seemingly harmless action "that everybody does" can have long-term consequences.

In the Courtroom

2:45 p.m.	In Judge _____'s Courtroom, the two student attorneys are seated at the counsel tables with two real attorneys. The defendant also sits at the counsel table. Witnesses sit in the front row of the gallery. While waiting for the program to begin, the other students fill out the quiz <i>Sometimes There Are No Do-Overs</i> , a pre-test for the follow-up discussion after the mock trial. The focus is on decisions students make today that can have legal and/or lifelong consequences.
3:00 p.m.	Judge _____ takes the bench. The real attorneys make their opening statements.
3:05 p.m.	The student attorneys and student witnesses play their parts.
3:25 p.m.	Break for all students. The participant attorneys prepare their closing arguments with the real attorneys.
3:35 p.m.	Students return and student attorneys deliver their closing arguments. Plaintiff first. Defense second. No Plaintiff rebuttal.
3:45 p.m.	After the closing arguments, student jurors report to their deliberation rooms or areas of the courtroom. The first order of business is to select a foreperson who will mark the verdict form and announce the verdict in the courtroom.
4:00 p.m.	Student jurors come back to order and each jury foreperson announces a verdict. The Judge asks juries how they arrived at their respective verdicts. The Judge and attorneys lead a debriefing of the mock trial and jury deliberations.
4:15 p.m.	Probation officers comment on questions students raise, based on the discussion questions
4:45 p.m.	Informal conversation time with the Judge, attorneys, and probation officers.
5:00 p.m.	Program adjourns.

FICTIONAL SCENARIO

In the interest of time, this exercise focuses on negligence. Unlike a real civil suit, it does not deal with monetary damages.

On May 11, 2012, at approximately 1:30 a.m., four teens were traveling in a red 2011 Honda Accord heading southbound on Wells Gate National Parkway. Suddenly, the vehicle careened into the median and crashed into a light pole. The front-seat passenger, Sidney Young, who was visiting for the weekend from a nearby state, was the most seriously injured. The driver Riley Gardner and two other teens sustained bumps and bruises. No other vehicles were involved. Sidney Young was taken to Conner County Medical Center for evaluation and treatment of serious injuries to his right lower leg and foot. He also suffered less severe injuries to the head, chest, and right arm and hand. According to Sidney Young and another passenger, Riley Gardner was text-messaging on his cell phone while driving.

Sidney Young's parents consulted a law firm, which agreed to file a personal injury lawsuit on their son's behalf at no cost to the Youngs. The complaint, filed in the United States District Court on January 17, 2013, asserted that negligence by Riley Gardner and his mother was the actual and proximate cause of the harm suffered by Plaintiff Sidney Young. The lawsuit alleged that Defendant Riley Gardner breached the duty of care owed to Plaintiff by failing to operate the motor vehicle in a reasonably prudent manner.

In the lawsuit, the Youngs also claimed that negligent supervision by Riley Gardner's mother was a substantial factor in causing the harm that Sidney Young suffered, since she had provided her son Riley with the use of the family's Honda Accord and a cell phone. She was aware that her son texted while driving and that this activity could create an unreasonable risk of harm to other persons. According to the complaint, she could have exercised reasonable precautions to prevent that risk of harm to other persons. The complaint requested judgment against Riley Gardner and his mother in the amount of \$X-Dollars. (Financial damages aren't included in this exercise in order to keep the focus on the negligence issues.)

On February 1, 2013, a copy of the complaint was served on the Gardner family as they were eating dinner at home. The next day, Riley Gardner's mother consulted a lawyer about what she should do. Afraid of the high risks of trying to defend against a federal lawsuit without legal assistance, Ms. Gardner decided to retain the lawyer for a non-refundable fee, plus expenses and an additional non-refundable fee if the case failed to settle before trial.

In their written response filed in court on February 23, 2013, Riley Gardner and his mother denied that they were in any way at fault or liable to Sidney Young. They stated that, at all relevant times, Riley Gardner exercised reasonable care for Sidney Young and the other passengers. The response claimed that the accident and any resulting injuries and damages sustained by Sidney Young resulted from independent, intervening, and/or superseding causes or acts, including the rainy weather, and slippery road conditions over which Riley Gardner had no control and for which he was not liable. Riley Gardner's mother denied responsibility for the harm suffered by Sidney Young, asserting that she had exercised reasonable care by advising her son on prior occasions about the dangers of texting while driving.

WITNESS STAND SCRIPT

Please Note: This script should be given only to students who have speaking parts. All others are jurors. The following optional script provides a framework for the questioning of five witnesses by counsel for the plaintiff and the defense. It can be revised as needed.

Characters

Judge

Plaintiff

Sidney Young

Plaintiff's Witnesses

Javier Perez (Plaintiff's Cousin)

Ms. Tracy Gardner (Defendant's Mother - Hostile Witness)

Defendant

Riley Gardner

Defendant's Witness

Alex Williams (Defendant's Neighbor)

Scripts

[Testimony of Sidney Young \(Plaintiff\)](#)

Counsel for Plaintiff: Your Honor, we call our first witness, Mr. Sidney Young.

Judge: Mr. Young, please come up to the witness stand and raise your right hand.

Clerk: Remain standing. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Young: Yes.

Counsel for Plaintiff: Please state your name and age for the record.

Young: My name is Sidney Young. I'm 18 years old now.

Counsel for Plaintiff: Tell us what happened on the evening of May 11, 2012.

Young: Well, it was a Friday and I had just come to town to spend the weekend with my cousin Javier. We went to a party after their soccer team had just won the regional championship, and everybody was pretty pumped. At one point, some guys decided to go get something to eat. Javier and I decided to go. I had hit it off with one of Javier's friends, Riley. He's cool — like the guys I hang with at my own school. I got in the front seat of Riley's car, and Javier and Riley's friend Alex got in the back.

Counsel for Plaintiff: What happened then?

Young: Well, Riley was cruising along when his cell phone rang. He looked at it and must have seen a text message because he said something like, "Taylor is driving me crazy." He then started texting — didn't slow down or anything, and it was raining and at night, which was definitely not cool — made me edgy. He later tossed the phone into my lap — or dropped it — right before the car crashed.

Counsel for Plaintiff: Tell us what you remember about the accident.

Young: It's kind of a fuzzy blur, but I remember we skidded, then slammed into a light pole in the parkway median. The paramedics had to pry me out of the car.

Counsel for Plaintiff: Describe your injuries from the accident.

Young: Well, I couldn't feel my right leg and foot, which were crushed in the accident. I couldn't even clench my right fist to bang on the car door to get out. At the ER, I was in so much pain I could barely answer the

doctors' questions. The doctors told me three ribs were broken. That must have been why every breath was killer. I couldn't move the toes on my right foot. They did surgery on me that night to put a metal rod and pins in my leg, which will have to be replaced later. The whole thing has been extremely painful.

Counsel for Plaintiff: Any long-term consequences from the accident?

Young: The worst thing is the pain in my back and legs. I can't sit through a class period — so college is out. I can't take a desk job, let alone go to a movie or a game. My hand goes numb now when I'm texting, working on a computer, or playing video games.

I had planned to be a commercial airline pilot, but all that is out the window now. I'm 18, and my entire life is messed up because of this. Riley let some girl get under his skin instead of paying attention to the road and he almost cost me my life. He might as well have, as banged up as I am.

Counsel for Plaintiff: Thank you, Sidney. Nothing further.

Judge: Does the defense have any questions for this witness?

Counsel for Defendants: We do, Your Honor. Mr. Young, have you ever used a cell phone while operating a vehicle?

Counsel for Plaintiff (standing, outraged): Objection! Irrelevant, Your Honor.

Counsel for Defendants: Question withdrawn. Mr. Young, it was raining hard the night of the accident, wasn't it?

Young: Yes, that's true.

Counsel for Defendants: Isn't it true that you passed two other cars that had spun out of control on Wells Gate National Parkway that night?

Young: Yes, which is why Riley should have been driving even more carefully.

Counsel for Defendants: You testified that Mr. Gardner tossed the phone, or dropped it, into your lap. Did he say anything to you when he did that?

Young: Not that I remember.

Counsel for Defendants: Thank you, Mr. Young. No further questions.

Judge: Redirect?

Counsel for Plaintiff: Yes, very briefly. Mr. Young, within how many seconds of the collision was Mr. Gardner texting?

Young: I don't know. It was right before — like, just a few seconds.

Counsel for Plaintiff: Did you ever tell Mr. Gardner to stop texting?

Young: I did, but he played it off. I didn't want to press the point because I didn't want to distract him even more when we were already in a bad driving situation.

~~**Counsel for Plaintiff:** Nothing further for the Plaintiff.~~

[Testimony of Ms. Tracy Gardner \(Witness for the Plaintiff - Hostile\)](#)

[Testimony of Riley Gardner \(Defendant\)](#)

[Testimony of Alex Williams \(Witness for the Defendant\)](#)

WITNESS STAND SCRIPT

Please Note: This script should be given only to students who have speaking parts. All others are jurors. The following optional script provides a framework for the questioning of five witnesses by counsel for the plaintiff and the defense. It can be revised as needed.

Characters

Judge

Plaintiff

Sidney Young

Plaintiff's Witnesses

Javier Perez (Plaintiff's Cousin)

Ms. Tracy Gardner (Defendant's Mother - Hostile Witness)

Defendant

Riley Gardner

Defendant's Witness

Alex Williams (Defendant's Neighbor)

Scripts

[Testimony of Sidney Young \(Plaintiff\)](#)

[Testimony of Javier Perez \(Witness for the Plaintiff\)](#)

Judge: Mr. Young, you may step down. . . . Next witness, counsel?

Counsel for Plaintiff: Next, we would like to call Mr. Javier Perez.

Judge: Mr. Perez, would you come up?

Clerk: Remain standing and raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Perez: I do.

Counsel for Plaintiff: Please state your name and age for the record.

Perez: Javier Perez. I'm 17.

Counsel for Plaintiff: Could you tell us what happened on the evening of May 11, 2012?

Perez: My cousin Sid was visiting from out of state for the weekend. We ended up over at Austin Crosher's . . . hanging out and playing pool. Around 10:30, we decided to go cruising for burgers. We piled into Riley's car. Riley was driving, and Sid rode shotgun. Alex and I were in the back seat.

Counsel for Plaintiff: What happened next?

Perez: Well, as soon as we got out of the driveway, Riley got a text message from Taylor Bowling, and they were going back and forth. We were on the Parkway, a four-lane divided highway. The next thing I know, we're skidding. Riley must have slammed on the brakes and lost control of the car.

Counsel for Plaintiff: Then what happened?

Perez: The front passenger door must have hit the light pole in the median first, because the car was wrapped around it. Alex and I were able to get out and so was Riley, but Sid's door was all bent out of shape. He was pinned inside and couldn't move. Somebody driving by must have called 9-1-1, because in a few minutes the ambulance arrived. The paramedics got Sid out and took him to the hospital. The rest of us pretty much walked away with bruises, but Sid was in really bad shape.

Counsel for Plaintiff: Thank you, Mr. Perez. No further questions.

Judge: Any questions on cross-examination?

Counsel for Defendants: Yes, Your Honor. Mr. Perez, what is your relationship to the Plaintiff in this case?

Perez: I'm his first cousin. Our mothers are sisters.

Counsel for Defendants: Tell us, isn't it true that just before the accident in this case, you saw two cars that had skidded off the road on the Parkway?

Perez: Yes, that's true. All the more reason Riley should have paying more attention — with both hands on the wheel — keeping the car under control.

Counsel for Defendants: Thank you, Mr. Perez. No further questions.

Judge: Redirect?

Counsel for Plaintiff: No, Your Honor.

Judge: Mr. Perez, you may step down. Next witness, counsel?

[Testimony of Ms. Tracy Gardner \(Witness for the Plaintiff - Hostile\)](#)

[Testimony of Riley Gardner \(Defendant\)](#)

[Testimony of Alex Williams \(Witness for the Defendant\)](#)

WITNESS STAND SCRIPT

Please Note: This script should be given only to students who have speaking parts. All others are jurors. The following optional script provides a framework for the questioning of five witnesses by counsel for the plaintiff and the defense. It can be revised as needed.

Characters

Judge

Plaintiff

Sidney Young

Plaintiff's Witnesses

Javier Perez (Plaintiff's Cousin)

Ms. Tracy Gardner (Defendant's Mother - Hostile Witness)

Defendant

Riley Gardner

Defendant's Witness

Alex Williams (Defendant's Neighbor)

Scripts

[Testimony of Sidney Young \(Plaintiff\)](#)

[Testimony of Javier Perez \(Witness for the Plaintiff\)](#)

[Testimony of Ms. Tracy Gardner \(Witness for the Plaintiff - Hostile\)](#)

Counsel for Plaintiff: Next we would call Ms. Tracy Gardner.

Judge: Ms. Gardner, please come to the stand and raise your right hand.

Clerk: Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Tracy Gardner: I do.

Counsel for Plaintiff: Please state your name and age for the record.

Tracy Gardner: My name is Tracy Gardner. I'm 46.

Counsel for Plaintiff: What is your relationship to Riley Gardner?

Tracy Gardner: I'm his mother.

Counsel for Plaintiff: Are you also a party in this lawsuit?

Tracy Gardner: Yes, I'm being sued along with my son.

Counsel for Plaintiff: Are you testifying voluntarily for the Plaintiff today?

Tracy Gardner: No, your law firm served me with a subpoena requiring me to testify.

Counsel for Plaintiff: Your Honor, we would ask permission to treat Ms. Gardner as a hostile witness?

Judge: Granted.

Counsel for Plaintiff: Did your son Riley own a Honda Accord on May 11, 2012?

Tracy Gardner: No, it was my car. But because he maintains the 3.5 grade point average that I require and obeys my curfews, I sometimes let him use it in the afternoon or on weekend nights.

Counsel for Plaintiff: Did he own a cell phone at the time?

Tracy Gardner: Well, I pay the phone bill — it's a family plan — but he has exclusive use of the phone, if

that's what you mean.

Counsel for Plaintiff: Did you ever ride in the car while your son was driving?

Tracy Gardner: Yes, quite often.

Counsel for Plaintiff: Did you ever witness him using the cell phone to send text messages while driving the vehicle?

Tracy Gardner: Sometimes, but usually it was when we were stopped in traffic.

Counsel for Plaintiff: Did you ever advise your son that doing so was dangerous?

Tracy Gardner: Maybe a couple of times, but he was usually pretty careful.

Counsel for Plaintiff: Did you ever take steps to prevent his dangerous behavior?

Tracy Gardner: That wasn't necessary. My son has had to grow up quickly since his father was killed in a car accident. He takes driving very seriously. He knows the consequences of being reckless. He's very responsible.

Counsel for Plaintiff: Was it responsible of him to text message while driving, despite your multiple warnings?

Tracy Gardner: I guess not, but, as I said, I've seen him do it safely.

Counsel for Plaintiff: No more questions.

Judge: Defense counsel, any questions for this witness?

Counsel for Defendants: Yes, Your Honor. Ms. Gardner, are you always able to control your son's behavior?

Tracy Gardner: No parent can guarantee that, especially when their kids are 17 or 18 years old. But Riley has worked hard to earn my trust since his father's death, and I have full confidence in him.

Counsel for Defendants: No further questions.

Judge: Redirect?

Counsel for Plaintiff: Ms. Gardner, isn't it true that you could have taken away Riley's cell phone or his car keys to underscore the importance of your warnings and to prevent him from trying to text while driving?

Tracy Gardner: Not really. Our family uses the cell phone to stay in touch throughout the day — things come up — and Riley needs the car for his after-school job. He comes home from school and helps his sisters with their homework. When I get to the house, we always have dinner together as a family, then Riley drives to his part-time job. He's back by his curfew at 10:30 p.m. on school nights. I already have him on a pretty tight leash. He just started dating this year.

Counsel for Plaintiff: But isn't it true that you could have taken away the phone and car keys?

Tracy Gardner: Well, I suppose I could have, but. . . .

Counsel for Plaintiff (interrupting): Thank you. No further questions.

Judge: You may step down, Ms. Gardner. Counsel, any other witnesses?

Counsel for Plaintiff: No, Your Honor. The Plaintiff rests.

Judge (to Defense Counsel): You may call your first witness.

[Testimony of Riley Gardner \(Defendant\)](#)

[Testimony of Alex Williams \(Witness for the Defendant\)](#)

WITNESS STAND SCRIPT

Please Note: This script should be given only to students who have speaking parts. All others are jurors. The following optional script provides a framework for the questioning of five witnesses by counsel for the plaintiff and the defense. It can be revised as needed.

Characters

Judge	
Plaintiff Sidney Young	Defendant Riley Gardner
Plaintiff's Witnesses Javier Perez (Plaintiff's Cousin) Ms. Tracy Gardner (Defendant's Mother - Hostile Witness)	Defendant's Witness Alex Williams (Defendant's Neighbor)

Scripts

[Testimony of Sidney Young \(Plaintiff\)](#)

[Testimony of Javier Perez \(Witness for the Plaintiff\)](#)

[Testimony of Ms. Tracy Gardner \(Witness for the Plaintiff - Hostile\)](#)

[Testimony of Riley Gardner \(Defendant\)](#)

Counsel for Defendants: We call Mr. Riley Gardner.

Judge: Mr. Gardner, please come up to the witness stand.

Clerk: Raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Riley Gardner: Yes, sir.

Counsel for Defendants: Please state your name and age for the record.

Riley Gardner: My name is Riley Gardner. I'm 18.

Counsel for Defendants: Could you tell us about yourself and your family?

Riley Gardner: I'm a high school senior now. I live with my mom and three younger sisters. I watch my sisters after school until Mom gets home from work, then I go to my job and get back by 10 p.m. I do homework, then go to bed. My dad died in a car accident about six years ago, so it's just the five of us at home.

Counsel for Defendants: Tell us what happened on the evening of May 11, 2012.

Riley Gardner: Well, our soccer team had just won regionals. Mom let me have the car, so my next-door neighbor Alex Williams and I picked up my friend Javier and his cousin Sid, and we all went to a party. I promised to meet Taylor Bowling — another friend of mine — for coffee later at The Wireless Café. I figured she'd be doing homework there, like usual, and wouldn't care when I showed up.

Counsel for Defendants: What happened at the party?

Riley Gardner: We played pool and hung out and, at one point, a couple of us decided to go get something to eat at Chandelier's. Javier, his cousin Sid, and my friend Alex were in my car, and we were on the Parkway when my cell rang with a text message from Taylor. It said, "ADN . . . CB NOW."

Counsel for Defendants: And what did you understand that to mean?

Riley Gardner: That meant "Any day now . . . ! Call back now!" All-caps means the message is serious — it's like yelling. She was driving me crazy. She knew I needed some space to be with my friends and that we were going to meet up later.

Counsel for Defendants: What did you do then?

Riley Gardner: I text messaged her back: "soon." But a minute later, my cell rings again and she's texting, "NOW!" — in all-caps. I'd had it. It was late, and raining, so I just hit reply, then tossed the phone to Sid and asked him to type "n-t-w-d," which means "no texting while driving." I wanted Taylor to get the picture that I'd be in touch with her as soon as I could.

Counsel for Defendants: What happened after that?

Riley Gardner: Next thing I know, the car is skidding out of control and hits a pole. I'm very sorry about Sid getting hurt, and I know he and his parents and Javier will always blame me for everything, but I don't think it really was my fault. That's why they call them accidents. The road was slippery — and actually, we saw several cars that had skidded out of control that night.

Counsel for Defendants: Thank you. Nothing further, Your Honor.

Judge (to Counsel for Plaintiff): Counsel?

Counsel for Plaintiff: Mr. Gardner, how many times in your life would you estimate that you have sent text messages while operating a motor vehicle?

Riley Gardner: I have no idea.

Counsel for Plaintiff: Would it be fair to say that you've sent at least 100 text messages while operating a motor vehicle?

Riley Gardner: I don't keep count, but yeah, that's probably true. I've got a lot going on. It's not a big deal, 'cause I can text without looking down at the cell.

Counsel for Plaintiff: Isn't it true, Mr. Gardner, that texting requires glances at the keyboard and screen — even for the most proficient users?

Riley Gardner: Well, yeah, but I can glance down and back real quick.

Counsel for Plaintiff: Did your mother ever see you texting while driving?

Riley Gardner: Maybe a few times.

Counsel for Plaintiff: Did she approve of it?

Riley Gardner: She just said that I should focus on the road.

Counsel for Plaintiff: Mr. Gardner, you've just admitted that you've probably sent more than 100 text messages while driving. I would remind you that you are under oath. Do you expect us to believe that, right before the accident in question, you asked Sidney Young, whom you'd just met, to intervene in an argument with your girlfriend and text message her "n-t-w-d" — "no texting while driving"?

Counsel for Defendants (standing, outraged): Objection, Your Honor!

Counsel for Plaintiff: I withdraw the question. Nothing further.

Judge: Any redirect?

Counsel for Defendants: Yes, Your Honor. Mr. Gardner, were you sending a text message at the time the vehicle collided with the light pole?

Riley Gardner: No, I was not. By then, I had already tossed Sid the phone.

Counsel for Defendants: Thank you. No more questions.

Judge: Mr. Gardner, you may step down the Defense. Counsel, your next witness?

[Judge, Mr. Gardner, you may step down the Defense. Counsel, your next witness?](#)

WITNESS STAND SCRIPT

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Characters

Judge

Plaintiff

Sidney Young

Plaintiff's Witnesses

Javier Perez (Plaintiff's Cousin)

Ms. Tracy Gardner (Defendant's Mother - Hostile Witness)

Defendant

Riley Gardner

Defendant's Witness

Alex Williams (Defendant's Neighbor)

Scripts

[Testimony of Sidney Young \(Plaintiff\)](#)

[Testimony of Javier Perez \(Witness for the Plaintiff\)](#)

[Testimony of Ms. Tracy Gardner \(Witness for the Plaintiff - Hostile\)](#)

[Testimony of Riley Gardner \(Defendant\)](#)

[Testimony of Alex Williams \(Witness for the Defendant\)](#)

Counsel for Defendants: The defense would call Alex Williams to the stand.

Clerk: Raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Williams: Yes.

Counsel for Defendants: Please state your name and age for the record.

Williams: Alex Williams. 17.

Counsel for Defendants: Where were you on the evening of May 11, 2011?

Williams: I was playing pool at Austin Crosher's with Riley, Javier and his cousin Sid. Around 10:30 or so, we headed over to Chandelier's in Riley's car to get something to eat. Sid was up front with Riley. Javier and I were in the back seat.

Counsel for Defendants: Then what happened?

Williams: Riley was texting something to Taylor Bowling. He was dating her, and I guess she was getting clingy — calling and texting him a lot. She and I used to be friends and she tends to smother guys. The roads were slick and when Riley saw a couple of cars on the side of the road, he threw his phone to Sid and asked him to text Taylor for him. Riley is actually a really safe driver. We go a lot of places together.

Counsel for Defendants: What happened next?

Williams: Well, everything seemed to go into slow motion. We skidded toward the median, then there was a terrible sound when we crashed. I'll never forget the horrific noise. The next thing I know Sid is yelling about his hand and his leg. Javier, Riley, and I managed to get out of the car, then we all tried to get Sidney out.

Sidney looked pretty messed up.

Counsel for Defendants: Thank you. No further questions.

Judge: Cross?

Counsel for Plaintiff: Is it fair to say that, because you were in the back seat, you couldn't see everything that actually happened in the accident?

Williams: Well, things did happen pretty fast. But I know the crash wasn't because Riley was texting, because he handed off the phone to Sid before that.

Counsel for Plaintiff: How long have you known Riley Gardner?

Williams: Since first grade. We're next-door neighbors.

Counsel for Plaintiff: Is it fair to say that you are good enough friends that you would do just about anything to help him?

Williams: Absolutely. We're tight. We always say we've got each other's back.

Counsel for Plaintiff: Would you be willing to lie under oath to protect him?

Counsel for Defendants (standing up, outraged): Objection, Your Honor!

Judge: Overruled. The witness will answer the question.

Williams: No, I wouldn't do that.

Counsel for Plaintiff: We have nothing further, Your Honor.

Judge: Any redirect?

Counsel for Defendants: No, Your Honor. The defense rests.

Judge: Okay. The witness may step down. Ladies and gentlemen of the jury, we're going to take a short break, and when we return, we will hear the parties' closing arguments. I will then provide you with some instructions on the relevant law and how you should conduct your deliberations. The court stands in recess.

JURY INSTRUCTIONS

In deciding what the facts are, you may have to decide what testimony you do and do not believe, in full or in part. You may consider the memory of a witness, any motives a witness may have for testifying a certain way, and the general reasonableness of the testimony.

Here are the legal standards that apply in this case. The Plaintiff, Sidney Young, has the burden of proving each fact by a preponderance of the evidence — meaning that it is more likely true than not true. If the evidence is equally balanced on any issue, it has not been proved. In that instance, jurors must decide it in favor of the Defendants, Riley Gardner and his mother Ms. Tracy Gardner.

Negligence is the failure to use ordinary or reasonable care to prevent harm to oneself or others. A person is negligent if he or she does something that a reasonably careful person would not do in that situation or fails to do something that a reasonably careful person would do in that situation. You must decide how a reasonably careful person would have acted in a situation.

For the Plaintiff to establish that he was harmed by Riley Gardner's negligence, the Plaintiff must prove (1) that Mr. Gardner's conduct was negligent and (2) that the negligence was a substantial factor in causing harm to Plaintiff.

For the Plaintiff to establish that he was harmed by Tracy Gardner's negligent supervision of her son Riley, Plaintiff must prove: (1) that Ms. Gardner observed dangerous behavior by Riley that led to the Plaintiff's injuries or else was aware that Riley had habits or tendencies that created an unreasonable risk of harm to other persons; (2) that Ms. Gardner had the opportunity and ability to control Riley's conduct; (3) that Ms. Gardner negligently failed to exercise reasonable care to prevent that conduct or to take reasonable precautions to prevent harm to others; and (4) that Ms. Gardner's negligence was a substantial factor in causing harm to the Plaintiff.

In a typical civil suit of this kind, if you decide that the Plaintiff should win on any claim, then you must decide whether he has been damaged and, if so, the amount of those damages. Damages may include any past and future medical expenses, any economic loss, and any physical/mental pain and suffering. In light of the time constraints for this exercise, I am instructing you not to consider damages.

DISCUSSION QUESTIONS

Truth and Consequences: Answer the following questions with true or false. Use the discussion questions to stimulate critical thinking.

1. Because I'm 18, any federal crime I'm convicted of won't have an impact on the rest of my life.

True ☐ False ☐

2. My parents know that my friends and I are going to drink and they want to keep us off the road, so they buy the beer and take us to a federal park near the beach where we party. Law enforcement won't get involved if we have parental supervision.

True ☐ False ☐

3. Probation in the federal system is just a matter of meeting with my probation officer and maybe doing drug testing for a few weeks.

True ☐ False ☐

4. *Assume that there is a federal law that makes cell phone use while driving illegal:* I use my cell phone almost every time I get in the car. It's the only place that I have any privacy. Everyone does it. If I get stopped, I'll get off because I'll just say that I didn't know about the law.

True ☐ False ☐

5. I've been driving for two years — since I was 16. I've never been caught speeding and I've never had an accident. But I do have a stack of parking tickets in my glove compartment that I've never paid. If I ever get stopped, say, on a federal parkway, the worst that could happen is that my insurance rates would go up. No big legal deal.

True ☐ False ☐

6. Sure, when I go to a bar, I use the fake I.D. I bought on the Internet. I've heard that the site could be part of a national ring, but I'm not going to get caught. Besides, if I do, I'll just get kicked out of the bar.

True ☐ False ☐

7. I don't drink or do drugs, but I go to parties where other guys do. Last Saturday, my best friend's uncle bought us a keg from across state lines for our party. If I'm not actually doing the distributing or using, law enforcement can't touch me.

True ☐ False ☐

8. Let's say I'm camping with friends in a federal park. My friends are passing a joint and we get stopped. The best thing to do is for no one to claim ownership, then the feds can't get us.

True ☐ False ☐

9. Putting graffiti on the courthouse is my First Amendment right. If I ever did get caught, I would just have to clean it off.

True ☐ False ☐

10. I order steroids off the Internet that come to me in the mail. I use them to improve my athletic performance. I need every edge I can get to win a college scholarship. These are pharmaceuticals. They're not illegal drugs that I'm getting from some street dealer, so the feds can't touch me.

True ☐ False ☐

11. FaceBook and MySpace are harmless ways to stay in touch with my friends. I like to take pictures at parties. One time we staged a World Wrestling Smack Down among the guys. The parents overreacted and took it wrong. They thought we were really fighting because we named the video "Fight Club." No harm can come from that.

True ☐ False ☐