## SECONDARY SCHOOL #4 (PRESCRIPTION DRUG ABUSE)

## IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

RITA JONES, :

.

Plaintiff,

Vs. : Case No.: 04-324

:

MR. & MRS. JOHN SMITH SR., AND
JOHN SMITH, JR. individuals,
and ONLINE PHARMACY, INC., a corporation

:

Defendant. :

## INTRODUCTION

There are two types of legal proceedings that make up the justice system in the United States. One involves **CRIMINAL CASES** in which the State is the **PLAINTIFF** and in which the **DEFENDANT** is a person charged with having committed a **CRIME**. The other type of case is what is known as a **CIVIL CASE** in which private persons are both the **PLAINTIFF** and the **DEFENDANT** and which is a legal proceeding to resolve a private dispute among people. Criminal cases always involve allegations of crime. Civil cases involve private disputes such as **CONTRACTS** or **TORTS** which are claims for injury to someone's person or property. This is a **CIVIL CASE** where the plaintiff is suing for personal injuries sustained in an automobile collision in which John Smith Jr. was driving after he took prescription drugs of his parents, Mr. and Mrs. John Smith Sr, and which were supplied by the Online Pharmacy, Inc., whose negligence plaintiff also contends caused her injuries.

BAILIFF: All rise. This Court is now in session.

JUDGE: Please be seated. Ladies and gentlemen of the jury, I first want to

thank you for serving on this jury. Your time is very much

appreciated, so be proud of your service.

This is a civil case that the plaintiff has brought against the

following:

Defendant John Smith, Jr. alleging that he was negligent in his operation of a motor vehicle causing a collision and personal injuries to Rita Jones while a passenger in his automobile; his

parents, Mr. and Mrs. John Smith, Sr., who plaintiff claims were negligent in not securing certain prescription drugs that they had obtained from Online Pharmacy, Inc., to wit; Vicodin and OxyContin, and the defendant Online Pharmacy, Inc. was negligent in prescribing large amounts of both drugs to Mr. and Mrs. John Smith, Sr.

The first part of the trial is what is called **VOIR DIRE**. Voir Dire means to speak the truth, and it is the time of the trial when the Judge has to determine whether or not each and every juror is free of prejudice and can make a fair and impartial **VERDICT** solely upon the evidence that they hear in the case, not what they have heard or read in the media. He may, therefore, ask potential jurors if they have read anything or know anything about this case.

Is each and every juror here sure that they are willing to take an oath that they will give an impartial verdict based solely on the evidence?

JURORS: Yes, Judge.

JUDGE: All right then, let me explain to the jury the different parts of a

trial. Because plaintiff is pursuing this case, it is up to her to proceed first, so you will first hear the **OPENING STATEMENT** of Rita Jones's **ATTORNEY**. You will then hear the **OPENING STATEMENT** of counsel for the Smiths, and then Online

Pharmacy, Inc. Then you will hear WITNESSES to be called by the plaintiff and then those called by the defendants, all of which witnesses will be subject to CROSS EXAMINATION by each opposing counsel. After you hear all of the evidence from the witnesses, you will then hear the CLOSING ARGUMENTS from the attorneys of both parties. After the CLOSING ARGUMENTS are made, the Judge will give you INSTRUCTIONS on the LAW

to help guide you in your **DELIBERATIONS**. Is counsel for Rita

Jones ready to proceed?

PLAINTIFF'S

ATTORNEY: Yes, Your Honor.

JUDGE: Are the defendants Smith ready to proceed?

SMITH DEFENSE

ATTORNEY: Yes, your honor.

JUDGE: Is the defendant Online Pharmacy ready to proceed?

ONLINE PHARMACY

DEFENSE ATTORNEY: Yes, your honor.

JUDGE: Counsel for Ms. Jones, you may proceed with your opening

statement.

PLAINTIFF'S ATTORNEY

Ladies and gentlemen of the jury, this is a simple case. Rita Jones and John Smith, Jr. are both 18 years old. Rita Jones was at a high school dance when John Smith offered to give her a ride home. Soon after he started up Hickory Road in Wheeling, Mr. Smith, Jr. seemed to lose consciousness and crashed his car into a concrete retaining wall. Mr. Smith, Jr. was tested for drugs, was charged with driving under the influence of prescription drugs—Vicodin and OxyContin, and was convicted in a criminal proceeding of driving under the influence causing harm to another—a felony in West Virginia.

At the time she got in the car with Mr. Smith, Jr., Ms. Jones did not know he had taken several prescription drugs. And the evidence will be that those drugs were obtained from bottles of Vicodin and OxyContin pills that were in an unlocked medicine chest in his home that had not been secured in any way by his parents. The evidence will also be that the drugs were sold by the defendant Online Pharmacy, Inc in two bottles, one with 100 Vicodin pills, and the other with 100 OxyContin pills, even though Mr. Smith, Sr. only had a prescription for 30 days worth of Vicodin, and Mrs. Smith, Sr. only had a prescription for 30 days worth of OxyContin. It is plaintiff's contention that she will show that the negligence of all these defendants contributed to the injury of Ms. Jones, which included severe injuries to her right leg, which has caused her to be unable to walk without the assistance of crutches or a cane, and caused as well serious scaring to her leg, which injuries are permanent—meaning they will be with her for the rest of her life.

SMITHS DEFENSE ATTORNEY:

Ladies and gentlemen of the Jury, it is true that John Smith, Jr. was driving when the accident occurred. It is true that blood tests after the accident showed that John Smith, Jr. had amounts of Vicodin and OxyContin in his blood stream, and that he was cited for and convicted of driving under the influence, but the plaintiff can't prove that drugs caused the accident, and we believe the evidence

will show that his parents were not negligent, the evidence will be that it is not unreasonable to leave prescription medications in an unlocked medicine cabinet above the sink in their bathroom when the only person to have access to the bathroom is their son. They had no reason to know their son would get into their drugs. And we believe that if John Smith, Jr. was negligent in driving under the influence of Vicodin or OxyContin, then Rita Jones is at fault as well for getting in the car with him in the first place, and should be denied recovery on the grounds of **CONTRIBUTORY NEGLIGENCE**. Thank you.

JUDGE: Counsel for Online Pharmacy?

ONLINE PHARMACY DEFENSE ATTORNEY:

Ladies and gentlemen of the jury. We don't know why we're here as a defendant. Online Pharmacy didn't sell drugs to John Smith, Jr. It lawfully sold Vicodin and OxyContin to Mr. and Mrs. Smith, Sr. who had a doctor's prescription for them. Our company is located in the Lowland Islands off the coast of Florida, which is not part of the United States, and the Lowland Islands allows Online to sell more than 30 days worth of pills to customers having a monthly prescription. Online is just trying to make it convenient to its customers from having to come back every month to get just a 30 day supply of drugs. By selling 100 pills, Online is able to keep the price of "health care" down. The evidence will show that Online was not negligent, and that the plaintiff's case should be dismissed.

JUDGE: Plaintiff, you may call your first witness.

JONES ATTORNEY: I would like to call Mr. John Smith, Sr. to the stand?

BAILIFF: John Smith, Sr.!

CLERK: Do you swear to tell the truth, the whole truth, and nothing but the

truth?

JOHN SMITH, SR.: I do.

JONES ATTORNEY:Mr. Smith, do you deny you had a 100 pill bottle of Vicodin and a 100 pill bottle of OxyContin in a medicine cabinet in the bathroom

of your home that was accessible by anyone in the household to get at any time?

JOHN SMITH, SR.: Well at the time my son took the pills there were only about 85 pills left in each bottle.

JONES ATTORNEY: My question, sir, is whether those bottles of prescription drugs were accessible to your son at all times.

JOHN SMITH, SR.: Well, yes, I mean, we didn't have them under lock and key, but you know, both my wife and I are in need of pain medication. So I mean, it's only our family you know. Who would be in our bathroom cabinet?

JONES ATTORNEY: And could you tell us whether or not your prescription was for 100 pills, Mr. Smith?

JOHN SMITH, SR: On no, it was just for 30 pills each month, which we were supposed to renew every month, but we got on the internet and found Online Pharmacy, Inc., where you can get a 100 day supply. You know, I'm a busy man. I don't have time to be going to the pharmacy every month; and while a 30 days supply of Vicodin costs \$30 and a 30 day supply of OxyContin costs \$120 per month at the local pharmacy; I can get 100 Vicodin for only \$95 and 100 OxyContin for \$380. So we can save 5% when we purchase in bulk from Online Pharmacy. That's why I think it's a great company—that and the fact that they also own a casino on Lowlands Island which my wife and I love to visit twice a year.

JONES ATTORNEY: No further questions.

ONLINE PHARMACY DEFENSE ATTORNEY:

No questions, Judge.

SMITHS DEFENSE

ATTORNEY: Mr. Smith, did you give permission to your son to take any of you

or your wife's pain medication, or have any knowledge that your

son had taken any?

JOHN SMITH, SR., Oh no, Johnny is a good boy. He only got one "D" in his last

grading period. We had no reason to believe he would take any of our drugs. And of course, we didn't know he took any, because there's not a noticeable difference when only 2 pills were missing from each 85 pill bottle!

SMITHS DEFENSE

ATTORNEY: No further questions.

JUDGE: You may step down Mr. Smith, Sr., please call your next witness!

JONES ATTORNEY: We call Officer Crumpkey.

BAILIFF: Officer Crumpkey! Please approach the Clerk.

CLERK: Do you swear to tell the truth, the whole truth, and nothing but the

truth?

OFFICER

CRUMPKEY: I do.

JONES ATTORNEY: Officer Crumpkey, what is your occupation.

OFFICER

CRUMPKEY: Police officer for the City of Wheeling for the last ten years. I've

also served as a Police Officer in New York City, specializing in

youth gangs, youth drugs, and other youthful offenses.

JONES ATTORNEY: Officer Crumpkey, did you investigate the automobile accident in

which Ms. Jones was involved?

OFFICER

CRUMPKEY: Yes I did.

JONES ATTORNEY: What can you tell us of that investigation?

OFFICER

CRUMPKEY: Arrived on the scene on Hickory Road in Wheeling at 2200 hours,

October 10, 2007, at which time I observed an automobile crashed into the retaining wall along the side of the road, with two youths in the car. The driver was Mr. John Smith, Jr., aged 18, and the passenger was Rita Jones, also 18. Mr. Smith, Jr. was staring straight ahead, as if he were unconscious with his eyes open, and Ms. Jones was able to talk, but she could not move her legs or the lower part of her body and we had to get her out of the car using the "jaws of life," since most of the damage to the car was on the

passenger's side. An ambulance came within ten minutes, and Mr. Smith, Jr. and Ms. Jones were rushed to Central Hospital.

JONES ATTORNEY: Were any blood tests on Mr. Smith, Jr. or Ms. Jones performed after the accident?

OFFICER

CRUMPKEY: Yes, both youths were tested. Ms. Jones was negative for drugs

and alcohol use. Mr. Smith, Jr. was negative for alcohol use, but had both Vicodin and OxyContin in his blood stream. He escaped the crash without serious injury, so it was determined that it was

the drugs that had made him appear to be in that semi-

unconsciousness state.

SMITHS DEFENSE

ATTORNEY: I object, speculation your honor! He is not a doctor!

JUDGE: I'll sustain the objection to the extent that I will advise the jury that

whether or not the accident occurred as a result of the negligence of the defendants in this case is up to you, and you will not consider Officer Crumpkey's conclusion in making that

determination

JONES ATTORNEY: No further questions?

JUDGE: Counsel for the Smiths?

SMITHS DEFENSE

ATTORNEY: No questions, Judge.

JUDGE: Counsel for Online?

ONLINE DEFENSE

COUNSEL: No questions.

JUDGE: You may be excused, Officer Crumpkey. Next witness, counsel.

JONES ATTORNEY: We call Doctor Willowby

BAILIFF: Doctor Willowby, please approach the Clerk.

CLERK: Do you swear to tell the truth, the whole truth, and nothing but the

truth?

WILLOWBY: I do.

JONES ATTORNEY: Can you tell the jury your occupation?

WILLOBY: I am the physician in charge of emergency room care at Central

Hospital in Wheeling, and am Board Certified in toxicology, and have been practicing medicine in general, and toxicology in

particular, for more than twenty years.

JONES ATTORNEY: What Sir, is a toxicologist?

WILLOBY: A toxicologist is a specialist who studies and tests substances toxic

to the human body, such as poisons, but also drugs like alcohol, and drugs—even prescription drugs, which can be toxic to the

human body, if not carefully regulated.

JONES ATTORNEY: Did you do the blood tests on Ms. Jones and Mr. Smith, Jr. that

were mentioned by Officer Crumpkey?

WILLOBY: Yes, I did.

JONES ATTORNEY: And as part of your duties as head of emergency room care at

Central Hospital, did you participate in the observation and/or treatment of the injuries to Ms. Jones that she sustained in the

automobile accident?

WILLOBY: Yes, I did. In fact, I called in an orthopedic surgeon, and assisted

in the emergency surgery on her right leg, which was severely mangled in the accident. It was one of the worst compound

fractures I have ever witnessed.

JONES ATTORNEY: Let me ask you first about Ms. Jones injuries. Do you have an

opinion Doctor, to a reasonable degree of medical probability, as to whether or not Ms. Jones will ever be able to walk normally again

without the assistance of crutches or a cane?

**SMITHS DEFENSE** 

ATTORNEY: Objection!

JONES ATTORNEY: Your honor, Dr. Willoby is an expert witness and may give opinion testimony!

JUDGE: Well, although you didn't properly qualify Dr. Willoby as an expert

witness, I know of Dr. Willoby's credentials, and I think his years of practice and his certification are enough to qualify him as an expert to render opinions in this matter, so the objection is

overruled.

JONES ATTORNEY: Thank you Judge. Dr. Willoby, you may continue.

WILLOBY: The compound fracture extended through her knee, and required a

full reconstruction of her knee joint, as well as fusion of bones in both the thigh area, and ankle area below. She will have a stiff leg without any significant flexion in it for the rest of her life. She also will have severe scarring to her leg on a permanent basis.

JONES ATTORNEY: Now, doctor, can you tell me whether or not the amount of Vicodin

and OxyContin ingested by Mr. Smith, Jr. was enough to cause him to become unconscious just before the crash that occurred in this

case?

WILLOBY: Well, yes. Sometimes young people take pain medication thinking

it's going to cause a high, but if you take too much, it actually acts as a central nervous system depressant, and can make you like a walking zombie—almost like sleep walking in a semi-conscious state. You might appear to be awake, can even have your eyes open, but without any conscious thoughts. It appeared from the tests that Mr. Smith, Jr. must have taken at least two pills of Vicodin and two pills of OxyContin just prior to the accident, which would very likely have depressed his central nervous system

and affected his ability to drive. He is lucky to be alive.

JONES ATTORNEY: No further questions.

JUDGE: Any cross-examination?

SMITHS DEFENSE

ATTORNEY: Yes, your honor. Now, Dr. Willoby, you were not at the scene of

the accident?

WILLOBY: That's true.

**SMITHS DEFENSE** 

ATTORNEY: And so you can't tell us exactly how the accident occurred?

WILLOBY: That's true.

**SMITHS DEFENSE** 

ATTORNEY: For all you know, another car could have run Mr. Smith, Jr.'s car

off the road, and he may have become semi-conscious after the

accident.

WILLOBY: Well, counsel, anything is possible, but that is highly unlikely.

**SMITHS DEFENSE** 

ATTORNEY: Why so unlikely, Doctor?

WILLOBY: Well, because with the level of prescription drugs in your client's

system, it is amazing that he was able to drive at all before the

collision!

**SMITHS DEFENSE** 

ATTORNEY: No further questions.

JUDGE: Counsel for plaintiff, will there be any further witnesses?

JONES ATTORNEY: Yes, Judge. Just one more. Ms. Rita Jones.

JUDGE: Bailiff, call Ms. Jones,

BAILIFF: May we have someone help Ms. Jones to the witness chair?

CLERK: Do you swear to tell the truth, the whole truth, and nothing but the

truth?

RITA JONES: I do.

**JONES** 

ATTORNEY: Ms. Jones, can you tell the jury how it was that you got into the

car of Mr. Smith, Jr. the night of this collision?

RITA JONES: Yes, we were at a dance with a lot of other young adults, but

because it was an under 21 club, there was no alcohol. My friends

and I just went to dance. I knew Mr. Smith from school. We went to the same high school. He was dancing, and seemed in a good mood all night, but not in any way high, and when a group of my friends said they were going to go hang out at all night diner, I was tired, and Mr. Smith, Jr. said he would take me home and then join up with the rest of our group. He came in late and said something about being at a "pharm" party. I thought it was a keg party on a farm (F A R M) — little did I realize that a P H A R M party is collecting pills from the family medicine cabinets to take. At that point he still seemed fine to me, except that just before we left, he said he had to get a bottle of water so he could take "a little hit" for the road.

JONES ATTORNEY: Did you ask him what a "little hit" for the road was?

RITA JONES: No, I mean, I really didn't think anything of it. He seemed o.k. to

me at the time.

JONES ATTORNEY: Then what happened?

RITA JONES: We got into the car, and started up Hickory Road, and then we

went around the turn, and I noticed the car wasn't turning---it just kept going straight, and I looked at Mr. Smith, Jr. and he seemed to be staring straight ahead, but like he was in a trance, not conscious of the road, his driving, anything. And that is the last thing I remember before the police arrived, and they were trying to

dislodge me from the car.

JONES ATTONEY: Ms. Jones, can you tell the jury how the injury has affected your

life?

RITA JONES: It has affected it in every way imaginable. I can't dance, I can't play sports, I can't run, or jog, or do anything a normal person can

do with two strong legs. Instead, I have to use crutches or at least a cane, all the time. It is very inconvenient, very humiliating, and I am emotionally distraught to know that this is how it's going to be for my entire life! And that isn't even considering the fact that my right leg is covered with unsightly scars, that makes me never want to go out in public except with long pants on, to hide my scars! Since the accident, I would be too embarrassed to ever go swimming or to the beach, anywhere where someone may see my

bare leg.

JONES ATORNEY: No further questions.

SMITH ATTONEY: Ms. Jones, I think you said that Mr. Smith, Jr. did not seem in any

way under the influence of drugs when he started driving?

RITA JONES: Yes, that's true.

**SMITHS DEFENSE** 

ATTORNEY: But when he came back from getting a glass of water, and just

before you two left the dance, he told you that he had taken a "hit

for the road."

RITA JONES: Yes.

SMITHS DEFENSE

ATTORNEY: Haven't you ever heard of the term "taking a hit," in reference to

taking a drink of alcohol, or taking a drug?

RITA JONES: Well, yes, I guess I have.

SMITHS DEFENSE

ATTORNEY: So isn't it fair to say, Ms. Jones, that you were negligent by not

asking him what he meant, and taking precautions yourself before getting into his car when based on what you know, he may have

been referring to alcohol or drugs?

RITA JONES: Well, I mean, I didn't think about it. I just, you know, didn't think

about it. I guess I should have, but at the time, I just didn't.

SMITHS ATTORNEY: No further questions.

JUDGE: Any further witnesses?

JONES ATTORNEY: None your honor?

JUDGE: Mr. Smith, Jr., do you have any witnesses?

SMITHS DEFENSE

ATTORNEY: No your honor.

JUDGE: Counsel for Online, do you have any witnesses?

ONLINE DEFENSE

ATTORNEY: No, your honor.

JUDGE: Then we will have closing arguments. Counsel for Ms. Jones, you

may proceed:

JONES COUNSEL: Ladies and gentlemen of the jury, like I said in my opening statement, this is a simple case. We have proved through Officer Crumpky and Dr. Willoby that this accident occurred because John Smith, Jr. unlawfully took prescription drugs and then negligently operated his vehicle in such a way as to cause a collision and serious damages to my client, Rita Jones. The court will instruct you that the fact that Mr. Smith, Jr. was found guilty of driving under the influence of these prescription drugs is itself evidence of negligence. In addition, the evidence has shown that his parents were negligent in making those drugs accessible to their son in the first place and the defendant Online Pharmacy, Inc. was negligent in providing a large supply of the prescription pills to the parents of John Smith, Jr. which made it all the easier for John Smith, Jr. to steal, and which made it harder for his parents to monitor. The Judge will also instruct you that just because it is not against the law on Lowland Island to provide a several months supply of prescription medication to a resident of the United States, even though their prescription is only for a month's supply of 30, that does not mean they cannot be found negligent for having provided 100 pills instead of 30.

> And I don't have to tell you again how seriously Ms. Jones was injured in this collision. You heard her testimony. Ms. Jones is not looking for sympathy, but she is asking this jury for fair-play—for compensation for her injuries which are horrible, and which are permanent—permanent—they will be with her for the rest of her life. I ask that the jury consider the evidence and award damages against all defendants in such amount as will fully and fairly compensate Ms. Jones. Thank you.

Counsel for the Smiths? JUDGE:

**SMITHS DEFENSE** ATTORNEY

Ladies and Gentlemen of the jury. Mr. Smith, Jr. may have been found guilty on the criminal charge of driving under the influence, but that doesn't mean that it was the drugs that caused him to crash into the retaining wall on Hickory Road. Dr. Willoby said it was possible that he became unconscious after hitting the retaining

wall. And as for Mr. and Mrs. Smith, Sr., they didn't do anything that millions of other Americans do. Who keeps prescription drugs locked up from the rest of their family? It's not negligent to have faith in your children! Although we sympathize with her injuries, this may have very well been an unavoidable accident! We ask that you return a verdict for the defendants and against the plaintiff.

JUDGE

Counsel for Online Pharmacy, Inc.?

ONLINE DEFENSE

ATTORNEY:

No one has said Online has broken any law. Online is a hero! Trying to keep the costs of health care low! You can save 5% if you buy 100 Vicodin instead of 30. What American can resist a bargain like that? That's not negligence, that's good business! Online didn't contribute in any way to this unfortunate accident. Accordingly, your verdict should be for Online Pharmacy and against the plaintiff.

It is now time for you, the jury, to deliberate on this matter and

JUDGE:

determine which party has proven their case by a PREPONDERANCE OF THE EVIDENCE. (JUDGE -PLEASE EXPLAIN) If you find that the plaintiff's case if more convincing that the defendant's case, then you should find for the plaintiff. If you find that the evidence is equal, or that the defendant's case is more convincing than the plaintiff's then you should find for the defendant. The court instructs you that evidence of conviction of a crime of driving under the influence may be considered as what we call prima facie evidence of negligence, although the burden is upon the plaintiff to prove negligence by a preponderance of the evidence. In addition, the court instructs you that just because something is not illegal does not mean that it may not be found to be negligent. If you find for Plaintiff as against any of the defendants, you will award such damages as will fully and fairly compensate her for all her losses sustained as a result of this injury. When you enter the jury room, you shall first pick a **FOREPERSON** and when you have reached a **VERDICT** you may press the buzzer on the wall and return to the Courtroom at which time the **FOREPERSON** will read the verdict in open Court. Bailiff, please give the jury five minutes to deliberate.

BAILIFF: Yes, Judge.

## AFTER THE JURY DELIBERATES AND COMES BACK TO THEIR SEATS:

JUDGE:	Will the foreperson of the jury please stand. Have you reached a verdict?
FOREPERSON:	We have, Your Honor.
JUDGE:	Will the defendant please stand. You may read the verdict.
FOREPERSON:	As to the verdict, Your Honor, we find the following:
1. Did the negligent the present case?	nce of John Smith Jr. cause or contribute to cause plaintiff any injury in
Yes No	_
2. Did the negligent any injury in the pr	ace of Mr. & Mrs. John Smith, Sr. cause or contribute to cause plaintiff resent case?
Yes No	_
3. Did the negligent injury in the present	nce of Online Pharmacy Inc. cause or contribute to cause plaintiff any nt case?
Yes No	_
4. Did the negligent the present case?	nce of plaintiff Rita Jones cause or contribute to cause her injuries in
Yes No	- -
• •	to the first three questions is NO, please have the foreperson sign I no further, as you have entered a verdict for the defendants against

6. If your answer to any of the first three questions was YES, then state the amount of damages awarded to plaintiff Rita Jones for any injuries sustained in the accident. Evidence introduced at trial indicated that medical bills alone were \$64,000.

JUDGE: So say you all?

JURY: Yes.

JUDGE: (Judge will explain about verdict questions – unanimous in

real court but we did majority for TIME purposes) (BANG GAVEL) This court is adjourned. Once again, jurors, I want to thank you on behalf of the American Justice system and the state of West Virginia for serving on this case. (In a real case, the jurors

leave the courtroom)

(Judge will talk about verdict – damages)

NOW, we hope you have enjoyed learning about the civil justice

system, you may now ask questions!

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Script written by Patrick S. Cassidy, President The WALS Foundation – 2007 The WALS Foundation Mock Trial Program

<sup>7.</sup> If your answer to question 4 was yes, please state the percentage of fault (from 1 to 100%) attributable to plaintiff as a result of her contributory negligence?\*

<sup>\*</sup> The reason for this: If percentage of fault is 50% or over, no damages will be paid.