

# TEACHING TOOLS: NYS UNIFIED COURT SYSTEM HIGH SCHOOL LEVEL

Mock Trial:

United States v. Captain Quog & Fresh Oil Corporation\*

## LEARNING CONTEXT

**Purpose:**

This mock trial experience is designed to encourage high school students to work with younger students and teach them about the justice system. The mock trial provides students an opportunity to demonstrate reasoning, analytical, critical thinking and organizational skills. It also provides an insight into the economic factors that play a role in virtually every decision.

**Grade Level:**

Grades 9, 10, 11, and 12

**Learning Standard:**

Social Studies Standards 1 and 5

**Core Curriculum (excerpts from the Social Studies Resource Guide with Core Curriculum):**

Students will learn how decisions are made in our jury trial system and the economic implications of many of these decisions (Methodology of Global History and Geography). Additionally, students will monitor the application of basic constitutional principles. Students should understand those basic principles and the cultural heritage that support our democracy so that they can become informed, committed participants in our democracy. Students will recognize how individuals and groups throughout history have challenged and influenced public policy and constitutional change (United States History and Government). Through participatory activities, students will learn to define, analyze, monitor and discuss issues and policies (Grade 12 Social Studies: Participation in Government). Students will learn rational decision making skills and see the role that economics plays in all aspects of our society (Grade 12 Social Studies: Economics and Economic Decision Making).

**Concepts/Themes:**

- Understanding how the courts insure justice, fairness, and due process for all people who seek to utilize or otherwise become involved in the court system.
- Analyzing the sources of the nation's values as embodied in federal and state constitutions, statutes and case law; appreciating the principles, ideals and core values of our democracy (human dignity, liberty, justice, and equality).

\*Developed with the assistance of Aaron Banks, Law & Public Service Magnet Program, Yonkers School District, Charles E. Gorton High School

### Prior Knowledge:

Students should understand that the courts provide a forum for the peaceful resolution of disputes between people, or between citizens and government -- that the courts are called upon daily to decide cases related to family, business, health, school, work, public safety, and environmental matters. Students should be familiar with the basic purpose of our justice system, the role of the courts in that system, and the purpose of a trial. Students should understand civic values, such as justice, due process, equality, fairness, and majority rule with respect for minority rights, as expressed in the constitutions and laws of the United States.

The teacher may wish to conduct all or part of “The Jury Experience” exercises with the students before beginning this set of activities.

Students should be at a stage where they are able to develop problem-identification and problem-solving skills. They should be able to gather, process, and present information in verbal and written forms.

### PROCEDURE

Students will conduct a mock trial based on a “stipulated” fact pattern, meaning that both sides agree as to the basic fact pattern.

The teacher must plan ahead to the extent that the high school students will need to visit a younger classroom and teach those students about serving as jurors for the mock trial. If access to a younger classroom is not possible, the mock trial may be conducted without a jury—the jury selection exercise would simply be omitted, and the teacher would have to foster a self-evaluation discussion among the mock trial participants.

### Special Message to Teachers

The activities within each Teaching Tool are designed to build on each other to, first, develop students’ knowledge of basic law-related concepts; then, show students how the concepts are utilized or implemented in the court system; and, finally, demonstrate how students should apply the concepts in their everyday lives. However, the various activities that comprise each tool may also be used as stand-alone exercises. For example, you may choose to incorporate only Day 1 or Day 3 into your course work. Or, you may choose to use Day 1 in connection with one unit and then use Day 2 in a later unit.

**There is more than one way to utilize the Teaching Tools – the proper use is the use that is beneficial to your classroom.**

## Day 1 – Assignments

Students should spend a class period familiarizing themselves with the facts and the roles of the various attorneys and witnesses who will be involved in the mock trial. The following constitutes the stipulated fact scenario and witness statements:

### Fact Scenario

On March 1, 2000, an oil tanker owned by Fresh Oil Corporation was carrying 20 million gallons of crude oil when it hit a submerged iceberg in the Alaskan port of Icetown, while moving oil from Alaska to California. The ship's bottom split and 10 million gallons of oil spilled into the harbor, destroying Icetown Bay and its neighboring shorelines. The disaster devastated the local environment, as well as the regional fishing villages because of the vast amounts of fish and birds killed by the resulting oil slick.

The Environmental Protection Agency (EPA) conducted an investigation into the spill and determined that the ship's captain, Captain Quog, was not at his post while he was on duty and was responsible for the spill. Accordingly, the EPA is suing Fresh Oil Corporation and Captain Quog and is seeking to recover the cost of the cleanup of the oil spill (compensatory damages), \$200 million. In order to punish Fresh Oil Corporation and Captain Quog for the spill, the EPA is also seeking \$600 million in punitive damages (additional damages above the compensatory damages that are specifically meant to discourage the person from acting a certain way in the future). The EPA has stated that it will give half of any punitive damages recovered to the villages along Icetown Bay to help reinvigorate the economy.

The costs of cleanup may be obtained if the EPA can demonstrate that the spill occurred as the result of the captain's negligence (an unintentional improper act or failure to act that results in harm) and caused damage to the environment. The corporation may be held liable for these costs if it is found that an employee was negligent or if the corporation did not properly supervise the negligent employee. The punitive damages may be obtained if the EPA can demonstrate that the defendants acted with reckless disregard (acting improperly even though you know that it will likely result in harm) for the environment or for the lives, health and welfare of others. The corporation may be held liable for these costs if it is found that one of its employees had a pattern of acting with reckless disregard and the corporation knew about such actions.

The trial will involve two prosecutors from the EPA -- one that is concerned with establishing the improper behavior of Fresh Oil Corporation and Captain Quog (the liability phase) and the other, who is focused on the amount of money sought in the case (the damages phase). The trial also will involve two defense attorneys – one that is defending Fresh Oil Corporation and Captain Quog against the allegations of negligence and reckless disregard (liability) and the other, who is focused on demonstrating that the federal government paid too much in cleanup costs, cleaned up more than what was actually damaged by this spill, and that the cleanup could have been accomplished much less expensively (damages). The trial will also involve several witnesses: Captain Quog; John Smith, President of Fresh Oil Corporation; Coast Guard Officer Kelly Jones; Crewman Derrick Shipman; Dr. Joe Green, an environmental expert hired by Fresh Oil; and Maria Brown, the owner of a bankrupt Icetown fishing business. The EPA has already gathered statements from these witnesses, and these statements will form

the basis of the information the EPA seeks to elicit at trial, as well as the basis of the information the defense attorneys will rely on to help the defendants.

## Witness Statements

### Captain Quog:

I really do not know what went wrong. The ship seemed to be tilting to the right no matter what I did to steer it, so I went below to get help. I know the ship protocol says that the Captain should never leave the wheel unattended, but I felt I had no choice. As soon as I went below, there was a huge crash and the ship came to a sudden halt. I immediately returned to the wheel, but it was too late. I have never left the wheel of the ship before, but I thought it was an emergency situation.

### John Smith, President of Fresh Oil Corporation:

Accidents happen, and we stand by Captain Quog as a fine captain. He had fifteen years worth of experience in the oil tanker business before we hired him, and he has successfully completed several training exercises while working for us. The ship protocol calls for the captain to be at the wheel at all times while the captain is on duty, but the ship protocol also allows the captain to exercise his discretion in an apparent emergency situation. Captain Quog thought he detected an emergency situation, so we do not think he violated the ship protocol by leaving the wheel. There was no indication that the captain ever acted improperly before or during this incident.

### Kelly Jones, Coast Guard Officer:

We were just across the Bay when we received the ship's distress signal and arrived only minutes after the crash. Captain Quog was not at the wheel. Another crewman brought the captain up from below deck, and the captain seemed groggy, as if he had been sleeping. The captain was confused as to what had happened to cause the crash and admitted that he had not been at the wheel when it happened. At the time of the accident, the captain did not explain why he had not been at the wheel. In fact, I have seen this ship speeding through Icetown Bay several times, with no one at the wheel. Once, I saw the President of Fresh Oil in town, and I told him that his captains should be more careful in our waters.

### Derrick Shipman, Crewman:

Shortly after I heard and felt the crash, I saw Captain Quog below deck asking what had happened. I escorted him up to the wheel, and the Coast Guard was already at the scene, so I never had a chance to talk to Captain Quog about the crash. I do know that the captain frequently uses the autopilot so that he does not have to stand at the wheel, but I think he at least stays above deck when he does that.

### Dr. Joe Green, Environmental Expert hired by Fresh Oil:

I have seen worse oil spills. This spill could have been cleaned up very quickly, but the EPA was too busy accusing Captain Quog of doing something wrong. The cleanup was so costly because of this delay and because of the fact that the EPA tried to tie in the cleanup of areas previously contaminated by other spills. Accordingly, the cleanup has dragged on unnecessarily for years, and Fresh Oil should not pay for these additional cleanup expenses. With respect to the EPA pledge to give punitive damages to Icetown villages, the EPA is just

trying to boost the Icetown economy, which has never been booming -- it's simply a fact that fishing villages suffer hard times. The EPA should not be allowed to take advantage of Fresh Oil.

Maria Brown, former fishing business owner:

The Fresh Oil oil spill wiped out my family fishing business and the businesses of several other people that I know. We have never seen an oil spill so bad in this area. There have been other minor spills from fishing boats that the EPA has investigated. However, they never ordered a cleanup before this massive spill. Fresh Oil is a billion dollar corporation that has destroyed our lives and now does not want to take responsibility for its carelessness.

The students should select or be assigned the role that each wants to play, dividing into more than one set of attorneys/witnesses, if necessary. Students should fill the following roles:

- EPA prosecutor #1 – focusing on negligence/reckless disregard
- EPA prosecutor #2 – focusing on damages
- Defense attorney #1 – focusing on negligence/reckless disregard
- Defense attorney #2 – focusing on damages
- Captain Quog – liability witness for defense
- President Smith – liability witness for defense
- Coast Guard Officer Jones – liability witness for prosecution
- Crewman Derrick Shipman – liability witness for prosecution
- Dr. Joe Green – damages witness for defense
- Maria Brown – damages witness for prosecution

As a homework assignment, the student attorneys should start thinking about questions they will ask the witnesses based on the information in the witness statements. They should also start formulating brief opening and closing remarks to explain and summarize the case. Toward that end, students should be encouraged to develop a theory of the case to help them elaborate on the statements; for example, they could focus on the timing of the incident, the lapse of time between the crash and the crewman seeing the captain below deck -- was the captain truly seeking help for a moment, or had he been napping in his cabin? Or, they could focus on Captain Quog's record at the wheel -- was he exemplary, as the President of Fresh Oil seems to think, or careless, as the Coast Guard Officer indicates. Similarly, the witnesses should be prepared to elaborate with their answers.

## Day 2 – Jury Selection

The high school students should have the opportunity to visit a younger classroom to conduct a jury selection exercise. The high school participants should be reminded that the jury has no knowledge of the facts or witness statements, so it will be up to them to present all facts to the jury during the trial. Similarly, at the jury selection phase, the potential jurors will not know details about the trial and they may not even understand the jury selection process.

In preparation, the high school students should know enough about the jury selection process to explain it to their potential jurors. If the high school students have created a “History of the Jury System” handbook, they may wish to distribute it and review it with the younger students.

The high school students may explain that the case is about an oil spill that resulted from a ship colliding with an iceberg, but no more details should be given about the case. The high school students should be split into several groups before the exercise and, perhaps as a homework assignment, should have pre-formulated questions to ask the potential jurors. The jurors may be asked the questions as a group, with the younger students volunteering to answer the questions.

The questions should help the high school students reach an opinion as to how the jurors might feel about the case. Some examples follow:

- Do you own stock in any oil companies?
- Do you and your family use oil, and for what? To cook, drive cars, etc.?
- Do you belong to any environmental organizations?
- Do you fish?
- Do you own or drive a boat?

As a homework or evaluation exercise, the high school students may be asked to explain whether they think the majority of the younger students answering questions would be for or against Captain Quog and Fresh Oil and why. For instance, the high school students might note that many of the potential jurors drive boats, so they may be sympathetic to a boat company and boat captain. Or, many of the jurors like to fish, so they would want the EPA to win.

## Day 3 – The Mock Trial

The high school students should return to the classroom of jurors and present the trial as follows (60 minutes). Note that if there are two sets of high school trial teams, then the younger class should be divided in half and trials conducted simultaneously in two separate rooms, with one teacher supervising each.

### Opening:

Opening Statement Prosecutor #1 (Should cover both liability and damages)	2 minutes
Opening Statement Defense #1	2 minutes

(Should cover both liability and damages)

Liability Phase:

Coast Guard Officer Jones Direct by Prosecutor #1	3 minutes
Coast Guard Officer Jones Cross by Defense #1	3 minutes
Crewman Derrick Shipman Direct by Prosecutor #1	3 minutes
Crewman Derrick Shipman Cross by Defense #1	3 minutes
Captain Quog Direct by Defense #1	3 minutes
Captain Quog Cross by Prosecutor #1	3 minutes
President Smith Direct by Defense #1	3 minutes
President Smith Cross by Prosecutor #1	3 minutes

Damages Phase:

Maria Brown Direct by Prosecutor #2	3 minutes
Maria Brown Cross by Defense #2	3 minutes
Dr. Joe Green Direct by Defense #2	3 minutes
Dr. Joe Green Cross by Prosecutor #2	3 minutes

Closing:

Closing Statement Prosecutor #2 (Should cover both liability and damages)	2 minutes
Closing Statement Defense #2 (Should cover both liability and damages)	2 minutes

The classroom of jurors should then be “charged” with the “law” (1 minute) – that the costs of cleanup may be obtained if the EPA can demonstrate that the spill occurred as the result of negligence (an unintentional improper act or failure to act that results in harm) and actually caused damage to the environment. The corporation may be held liable for these costs if it is found that one of its employees was negligent or that the corporation did not properly supervise the negligent employee; the punitive damages (additional damages above the compensatory damages that are specifically meant to discourage the person from acting a certain way in the future) may be obtained if the EPA can demonstrate that the defendants acted with reckless disregard (acting improperly even though you know that it will likely result in harm) for the environment or for the lives, health and welfare of others. The corporation may be held liable for these costs if it is found that one of its employees had a pattern of acting with reckless disregard and the corporation knew about such actions.

The teachers (of the high school and younger students) should then foster a jury deliberation and determination (15 minutes) regarding the issues of liability and damages by asking questions to determine whether the attorneys and witnesses were able to convey the facts to the jurors. For example, for the liability phase, the teachers could ask which witnesses the jurors believed and why. For the damages phase, the teachers could ask whether the jurors think that the testimony of Maria Brown is enough to substantiate the bill for the cleanup costs or if they believe Dr. Green’s testimony that the bill is too high, instead. Should Fresh Oil pay? For the entire \$200 million cleanup or just part? Should Fresh Oil be assessed with all \$600 million punitive damages or just part? What is the reasoning behind these decisions -- fairness, sympathy for the locals versus dislike of large corporations, the mere fact that the corporation can afford to pay?

The entire trial and jury deliberations may be videotaped for debriefing purposes.

#### Day 4 – Debriefing and Discussion

Back in their own classroom, the teacher should foster a discussion among the high school students about what happened during the trial and during jury deliberation. The students should discuss how easy or difficult it is to enter facts into evidence through a question and answer process (the Socratic method), whether they think that the jurors ended up understanding the case and the positions of the attorneys, and whether there were any surprises during jury deliberations.

The teacher of the “jurors” may also want to take some time to evaluate the process, and, if so, the two classrooms may join for this final activity.

### INSTRUCTIONAL/EDUCATIONAL MODIFICATIONS

The teaching tool is designed to be a cooperative, cross-age learning activity. High school students can conduct the activities with 4<sup>th</sup>, 5<sup>th</sup> or 6<sup>th</sup> grade students. This will allow the high school students to develop their communication skills, and allow students of both age groups to develop their knowledge of the justice process.

### ASSESSMENT PLAN

Students will be evaluated by direct observation and in the context of formal and informal group activities. The teachers should monitor group dynamics and provide assistance to individuals, where appropriate.

The New York State Law, Youth and Citizenship high school mock trial rating sheet, found at [www.nysba.org/lyc/perform.html](http://www.nysba.org/lyc/perform.html) may be used as a model for a trial rating sheet.

### RESOURCES

- Copies of the stipulated fact pattern and witness statements
- Transportation to and from the younger classroom, if necessary