# Scripted Hearing Opening

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| ***Hazelwood* Meets *Mahanoy***  Student Clashes with School Over First Amendment Issues |

*The Presiding Judge and student judges are announced as they enter the courtroom. The Presiding Judge and student judges for Issue #1 take the bench. The Presiding Judge welcomes the group. The student judges for Issue #2 sit in the jury box.*

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| **Presiding Judge:** | Are counsel for the student ready? |
| **Counsel for Plaintiff Peters:** | *(Student Attorney #1 stands at counsel table and speaks)*  Yes, Your Honor. |
| **Presiding Judge:** | Are counsel for the school ready? |
| **Counsel for Defendant Brookside:** | *(Student Attorney #1 stands at counsel table and speaks)*  Yes, Your Honor. |
| **Presiding Judge:** | Please go ahead and introduce yourselves.  We’ll start with the attorneys for the student. |
| **Counsel for Plaintiff Peters:** | *(Student Attorney #1 goes to the podium and speaks)*  Good (*morning or afternoon*) and may it please the Court. My name is (*first and last names*). I am from (*city and state*).  My colleague and I are counsel for student Lane Peters. I will be handling Issue #1 asking if Brookside High School violated Peters’ First Amendment rights when it blocked Peters’ commentary piece from appearing on the school website.  My colleague will be handling Issue #2. He/she will come to the podium, then our attorney coaches also will introduce themselves.  *(Student Attorney #1 sits down at counsel table. Student Attorney #2 goes to the podium and speaks)*  I am (*first and last names*) from (*city and state*) and I will be handling Issue #2: Did Brookside High School violate Lane Peters’ First Amendment rights when it suspended Peters for posting commentary about the school on outside social media?  *(Student Attorney #2 sits down at counsel table. Attorney coaches go to the podium and introduce themselves, then sit down.)* |
| **Presiding Judge:** | Attorneys for the school, please introduce yourselves. |
| **Counsel for Defendant Brookside:** | *(Student Attorney #1 goes to the podium and speaks)*  May it please the Court. My name is (*first and last names*). I am from (*city and state*). My colleague and I represent Brookside High School.  I will be handling Issue #1 asking if Brookside High School violated Lane Peters’ First Amendment rights when it declined to publish Peters’ commentary piece on the school website.  My colleague will be handling Issue #2. At this time, my colleague will come to the podium to make an introduction. Our attorney coaches also will introduce themselves. (*sits down*)  *(Student Attorney #1 sits down at counsel table. Student Attorney #2 goes to the podium and speaks)*  I am (*first and last names*) from (*your city and state*). I will be arguing Issue #2: Did Brookside High School violate Lane Peters’ First Amendment rights when it suspended Peters for posting commentary about the school on outside social media?  *(Student Attorney #2 sits down at counsel table. Attorney coaches go to the podium and introduce themselves, then sit down)* |
| **Presiding Judge:** | Thank you, counsel. We have two issues before us today.  *(Continue to Scripted Hearing Talking Points)* |

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| **Note to Student Attorneys:** |
| * When talking to the Presiding Judge and student judges, address them as “Your Honors.” * The first time each attorney addresses the bench, say: “*May it please the Court*.” * Always stand and use the microphone when speaking to the Presiding Judge and student judges. |

# Scripted Hearing Talking Points

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| ***Hazelwood* Meets *Mahanoy***  Student Clashes with School Over First Amendment Issues |

*Instructions for Presiding Judge:*

* *The first student attorney for each side addresses Issue #1 – Lane Peters, then the School.*
* *The second student attorney for each side addresses Issue #2 – Lane Peters, then the School.*
* *After each student attorney’s oral argument, the Presiding Judge asks the first few questions.*
* *A question or two for each student attorney may come from the sticky notes.*
* *The Presiding Judge then allows student judges on the bench to ask questions.*
* *The Presiding Judge has the option of asking the last question before moving on.*

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| **Presiding Judge:** We will start with Issue #1.  Did Brookside High School violate Lane Peters’ First Amendment rights when it did not publish Peters’ commentary piece on the school website?  Because the student brought this action, their attorney will go first. | **Presiding Judge:** Now we will hear from counsel for the school officials on Issue #1.  Did Brookside High School violate Lane Peters’ First Amendment rights when it did not publish Peters’ commentary piece on the school website? |
| **Plaintiff Peters’ Attorney #1** | **Defendant Brookside’s Attorney #1** |
| **YES**   * Students don’t lose their constitutional rights to free expression at the schoolhouse gate. * The fear or anticipation of disruption is not a valid reason to restrict speech on campus. * Free speech on campus is not confined to teacher-supervised discussions in classrooms. * The best way to handle controversial speech is more speech, not less speech. | **NO**   * School officials are obligated to maintain an orderly learning environment. They have some discretion to restrict speech in order to serve this goal. * The learning environment had already been disrupted by the use of Swarm when the hallway argument drew a crowd and may have made it difficult for some students to get to class on time. It was necessary for the police to be called. * A school website, publication, or performance is effectively part of the school’s curriculum, whether or not it occurs in a classroom, so it is not a public forum under the First Amendment. * A school has the authority to set standards for the student speech it distributes through its website. School-set standards may be higher than those in the real world. A school may refuse to distribute student speech that does not meet its standards. |
| **Presiding Judge:** We turn our attention now to Issue #2, starting with the student. The next panel of judges will now join me on the bench. The first panel of judges will be seated in the jury box.  Did Brookside High School violate Lane Peters’ First Amendment rights when it suspended Peters for posting commentary about the school on outside social media? | **Presiding Judge:** Issue #2 for the school is the same:  Did Brookside High School violate Lane Peters’ First Amendment rights when it suspended Peters for posting commentary about the school on outside social media? |
| **Plaintiff Peters’ Attorney #2** | **Defendant Brookside’s Attorney #2** |
| **YES**   * Off-campus speech has greater First Amendment protections for students than on-campus speech. * Off-campus speech is primarily within the authority of a student’s parent or guardian, not the student’s school. * Courts should be skeptical of regulating off-campus speech. Off-campus speech occurs 24 hours a day—most of which is outside of school hours. * Exercising free speech is not the equivalent of possessing contraband, and it is inappropriate to discipline the two at the same level of severity. | **NO**   * Maintaining an orderly learning environment can involve regulating some off-campus speech, particularly when it is school related and might disrupt the students’ experience at school. * Disallowing disrespectful memes featuring school administrators is within a school’s authority because negative memes can undermine the school’s legitimate responsibility for an orderly learning environment. * The school took action here because off-campus speech on Swarm had already prevented some students from getting to class on time during school hours. * A school has authority to determine appropriate discipline as part of its daily operations. |

**Presiding Judge:** The case is submitted. The court will be in recess while the jury deliberates.

*The Presiding Judge and all student judges leave the bench and recess to chambers to discuss the case. All other participants remain in the courtroom for jury deliberations guided by the program facilitator. Student attorneys and their coaches observe, but do not participate in the jury deliberations.*