

# FIRST AMENDMENT: SOCIAL MEDIA AND STUDENT RIGHTS

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This highly interactive program combines the vampire craze and social media to give high school students the opportunity to wrestle with a current issue by participating in a trial and jury deliberations. The program applies the precedent set in *Hazelwood v. Kuhlmeier*, the school newspaper censorship case, to a fictional scenario.

## About These Resources

Use the resources with either an [Oxford style debate](#) or a scripted jury trial.

- Analyze the [facts and case summary](#) for *Hazelwood v. Kuhlmeier*.
- The [fictional scenario](#) is based on the landmark Supreme Court case *Hazelwood v. Kuhlmeier*
- Detailed [procedures](#) (pdf) provide additional information about the program and how to facilitate it in a courtroom or classroom.
- A sample [agenda](#) (pdf) for use in the courtroom.
- Use the [talking points](#) to guide thoughtful and lively discussion during the program.
- The [script](#) (pdf) is used in a jury trial format.

## How to Use These Resources

### One Scenario – Two Format Options

The same scenario is used for the two formats offered – an Oxford style debate, and a scripted witness stand exchange. Both formats can be used in a classroom or a courtroom. If the event is staged in a courtroom, a federal judge presides and two attorneys serve as coaches. If the program is presented in a classroom, the teacher facilitates and students play all of the parts.

**Option 1:** In the Oxford style debate, the (1) [scenario](#), (2) [procedures](#), and (3) [agenda](#) stimulate lively courtroom interactions among the students, the host federal judge, and volunteer attorney coaches. Eight students, selected by their teacher(s) in advance, are attorneys on opposing sides of the issues. (4) They use suggested [talking points](#) with prepared judge's questions that they are provided in advance. The judge also asks spontaneous, follow-up questions to elicit their opinions. All other students serve as jurors who deliberate in a virtual jury room in the gallery of the courtroom.

**Option 2:** A [scripted witness stand simulation](#) involves 15 speaking parts. A federal judge and two student judges preside two adult attorneys make the unscripted opening statements. Student lawyers and witnesses do a scripted witness stand exchange. Two student lawyers present the unscripted closing arguments based on notes they take during the testimony. All other students are active jurors who deliberate in small groups. Each jury must reach a unanimous verdict. The winning team is determined by the majority of jury verdicts in its favor.

### Debate Materials for Teachers

The program materials are reviewed by the teachers before selecting the student attorneys. The student attorneys are the only students who receive the materials in advance. Student attorneys should be prepared to read the talking points comfortably so that everyone can easily hear and understand them, but they shouldn't memorize the points. The student jurors read the fictional scenario for the first time when they arrive in the courtroom.

### Fictional Scenario in Brief

Students forming a vampire club called The Fangtastics at school post vampire-related content on the student wall of their high school's official FaceLook fan page. When the principal decides not to recognize The Fangtastics as a legitimate school club because she believes it endorses dangerous cult activity, a student posts a critical satire about the decision on the student wall. The student administrator of the wall does not remove the satire or related student postings. The principal claims that all the students violated school policies by posting content that threatened a safe and efficient learning environment. The students claim that their First Amendment rights were violated and sue the principal and the school district in federal court.



## FACTS AND CASE SUMMARY

Facts and case summary for ***Hazelwood v. Kuhlmeier*, 484 U.S. 260 (1988)**

*The First Amendment rights of student journalists are not violated when school officials prevent the publication of certain articles in the school newspaper.*

### FACTS

Students enrolled in the Journalism II class at Hazelwood East High School were responsible for writing and editing the school's paper *The Spectrum*. Two of the articles submitted for publication in the final edition of the paper contained stories on divorce and teenage pregnancy. The divorce article featured a story about a girl who blamed her father's actions for her parents' divorce. The teenage pregnancy article featured stories in which pregnant students at Hazelwood East shared their experiences.

To ensure their privacy, the girls' names were changed in the article. The school principal felt that the subjects of these two articles were inappropriate. He concluded that journalistic fairness required that the father in the divorce article be informed of the story and be given an opportunity to comment. He also stated his concerns that simply changing the names of the girls in the teenage pregnancy article may not be sufficient to protect their anonymity and that this topic may not be suitable for the younger students. As a result, he prohibited these articles from being published in the paper.

Because there was no time to edit the paper if it were to go to press before the end of the school year, entire pages were eliminated. The student journalists then brought suit to the U.S. District Court for the Eastern District of Missouri, alleging that their First Amendment rights to freedom of speech had been violated.

The U.S. District Court concluded that they were not. The students appealed to the U.S. Court of Appeals for the Eighth Circuit, which reversed the ruling, stating that the students' rights had been violated. The school appealed to the U.S. Supreme Court, which granted certiorari.

### PROCEDURE

<b>Lower Court:</b>	Eighth Circuit
<b>Lower Court Ruling:</b>	<b>Held:</b> The decision of the principal to prohibit the publishing of certain student articles deemed to be inappropriate violates the student journalists' First Amendment free speech rights.
<b>Supreme Court Ruling:</b>	<b>Held:</b> Reversed the decision of the Eighth Circuit. The decision of the school principal to prohibit the publishing of certain articles deemed to be inappropriate does not violate the student journalists' First Amendment right of freedom of speech.
<b>Supreme Court Vote:</b>	5-3
<b>Argued:</b>	October 13, 1987
<b>Decided:</b>	January 13, 1988
<b>Majority Opinion:</b>	Justice White (joined by Chief Justice Rehnquist and Justices O'Connor and Scalia)
<b>Dissenting Opinion:</b>	Justice Brennan (joined by Justices Marshall and Blackmun dissenting)

### ISSUES

Does the decision of a principal to prohibit the publishing of certain articles, which he deems inappropriate, in the school newspaper violate the student journalists' First Amendment right of freedom of speech?

### REASONING

The U.S. Supreme Court held that the principal's actions did not violate the students' free speech rights. The Court noted that the paper was sponsored by the school and, as such, the school had a legitimate interest in preventing the publication of articles that it deemed inappropriate and that might appear to have the imprimatur of the school. Specifically, the Court noted that the paper was not intended as a public forum in which everyone could share views; rather, it was a limited forum for journalism students to write articles pursuant to the requirements of their Journalism II class, and subject to appropriate editing by the school.

#### Key Points to Remember

- The First Amendment protects the right to freedom of speech.
- *The Spectrum* was written by students in the Journalism II course as part of the requirements of that course.
- The articles in question were about divorce and teenage pregnancy. The subjects of both of these stories were students at Hazelwood East High School.
- The divorce article featured a story in which a girl blamed her father's actions for her parents' divorce, but the author did not adhere to journalistic standards by informing the father of the story and giving him an opportunity to respond.
- Although their names were changed, the principal was concerned that students may be able to recognize the identity of the girls who were interviewed for the pregnancy article.

## RESOURCES

[First Amendment Center](#)

Haynes, Charles C., et al. *The First Amendment in Schools: A Guide from the First Amendment Center*. Virginia. ASCD (Association for Supervision and Curriculum Development) publications, 2003.

*Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988) ([Majority and dissenting opinions](#)).

Raskin, Jamin B. *We the Students: Supreme Court Cases for and About Students*, 2nd ed. Washington, D.C. Congressional Quarterly Press, 2003.

## FICTIONAL SCENARIO

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The Fictional Scenario is based on the landmark Supreme Court case *Hazelwood v. Kuhlmeier*. Use the fictional scenario with the [Oxford Style Debate](#) and the [scripted witness stand exchange](#) for the First Amendment and social media activity.

### **Students and Administrators Face Off on Their School's FaceLook Page**

After budget cuts force Principal Mary Skinner to eliminate Forks High School's drama program, some students form their own drama group. They call themselves the Fangtastics and specialize in vampire stories to capitalize on the current vampire craze in books, movies, and television.

The Fangtastics perform plays in the community and do community service, including sponsoring a record-setting blood drive, at which they wear vampire costumes to promote the cause. As a result, The Fangtastics are selected by a student committee to perform in the school's annual talent show. On the day of the show, the members appear at school in vampire costumes and makeup. During class, they stay in character and complain when they have to sit near classroom windows, since vampires are sensitive to light. During lunch, one of the members sips from a large glass jar filled with tomato juice labeled "Bloody Mary Skinners."

The performance at the talent show is enthusiastically received by the student audience. The group decides to apply for club status, which would allow them to use the school theater and appear in the yearbook as an official club. Principal Mary Skinner denies the request after receiving reports about the members' behavior on the day of the talent show. She suspects the group is becoming a cult and is concerned that the members will continue to disrupt the learning environment and even threaten the safety of the students, teachers, and administration.

Randy Cullen, the leader of the Fangtastics, protests the Principal's decision by posting a satirical poem on the school's FaceLook page, a social media site similar to MySpace and Facebook. The school created the site and assigned senior Alex Swan, who reports to the Principal, to monitor the content. The monitor's job is to ensure that all postings comply with the school policy prominently displayed on the page. The policy restricts postings to those that are "school related and in good taste." Alex is responsible for accepting students as "friends" so that they can post comments. Alex is told to accept only student postings and to alert the Principal if any of the material violates the policy.

Although Alex does not notify the Principal that a satirical poem is posted on the school's site, football player Chris Black makes the Principal aware of it. She immediately orders Alex to remove it. The Principal also requires the monitor to "defriend" all of the Fangtastics to bar them from posting more questionable material.

Randy's parents support him in his decision to sue the Principal for violating the First Amendment right to free speech. The Principal and the school respond to the complaint filed in federal court with their own assertion. They contend that the student's poem is not protected free speech and that censoring the poem and restricting the students' access to the FaceLook page are within the bounds of the Principal's authority to maintain a stable and productive learning environment.

## **Social Media and Student Rights: *Student Rights, Wrongs, and Responsibilities***

### ***Suggested Procedures***

#### **Learning Objectives That Support National Social Studies Standards**

- To give every participant – student attorneys and jurors – an opportunity to debate a teen relevant topic before a federal judge in a courtroom, coached by two attorneys.
- To introduce students to the concept of precedent by applying *Hazelwood v. Kuhlmeier* to a fictional high school social media scenario.

#### **Program Overview in a Nutshell**

After the large-group orientation by volunteer attorney coaches, and some small-group time working with the student attorneys, the courtroom arguments begin. Student attorneys argue scripted talking points – and their own opinions, if they wish to add them – in response to three scripted questions raised by the host judge. The student attorneys are pre-selected by their teachers. They are the only students who have access to the materials in advance. They must be able to read the points comfortably, but not memorize them. Student attorneys present their points on each side of the judge’s questions. Closing arguments are presented by either the fourth student attorney on each team, or the adult attorney coach, or by a combination of the student and adult attorney on each side.

All other students are jurors, who do not see the advance materials. They participate fully in the courtroom action during the virtual jury deliberations. The floor is opened to student jurors who voice their opinions and debate the issues – as if they were in a jury room. The judge does not raise questions and the jurors cannot interact with the student attorneys, adult attorneys, or judge – just each other – because they are in a virtual jury room right in the courtroom. This gives the student attorneys and adults a fascinating window into the jury room.

When the deliberations wind down (in 20-30 minutes) the judge asks for a show of hands to determine which side of the issues prevailed. The *moderator* counts the hands and declares the winner. The attorney coaches debrief with an explanation of the Supreme Court ruling in *Hazelwood v. Kuhlmeier*. They apply the precedent to the fictional scenario. The program ends with a Q/A session, informal social time, and (optional) lunch.

#### ***Logistics . . .***

##### **Orientation**

As the participants settle in the courtroom, they receive a one-page (front and back) scenario describing the FaceLook controversy at fictional Forks High School. The attorney coaches work with the student attorneys for a few minutes while the other students are seated. The attorney coaches present background about the precedent-setting case *Hazelwood v. Kuhlmeier* that will be applied to the fictional scenario. They take the students through the fictional vampire scenario and explain how the arguments and jury deliberations will be conducted in the courtroom. The orientation prepares the students for full participation. After the orientation, the group takes a break to give the student attorneys an opportunity to work with their attorney coaches for a few more minutes.

## **Roles**

**Program Moderator:** This person does not need to be a lawyer. He/she facilitates the program and keeps it moving. Notes for the *moderator* are in ***bold italics*** throughout the procedures.

**Judge:** In advance, the judge takes 30 minutes to review the program materials, agenda, and talking points. In the courtroom, the judge asks the scripted questions that the students are prepared to answer with their scripted arguments. Gauging each student's comfort level, the judge follows up with a spontaneous question or two for each student attorney.

**Student Attorneys:** Four students on each side of the issue (total of eight students) have been pre-selected by their teacher(s). They have reviewed the materials in advance. They should be able to read the scripted arguments easily, but should not memorize them. The arguments start with the easiest points to make, which are read by student attorney #1 on each side and get progressively more difficult for student attorneys #2 and #3, who also are reading scripted remarks. Student attorney #4 is not scripted. This role should be given to a student who can summarize the key points and make closing arguments based on his/her notes and thoughts during the debate. In this way, the program is designed for students of all abilities and aptitudes and willingness to participate on different levels.

**Attorney Coaches:** Two attorneys (one for each side) review the materials in advance, for about an hour. On the day of the program, they work with the students in the courtroom (1) while the other students are settling down, (2) during the break before the debate begins, and (3) at the counsel tables during the debate in front of the judge. After the closing arguments, the attorney coaches may help the student jurors form their arguments when the jurors work in two smaller groups for a few minutes before the deliberations start. When the deliberations start, the attorneys may no longer be involved.

**Jurors:** All other students are jurors. All students can be actively involved, regardless of abilities and aptitudes. The jurors sit in the audience/gallery. (1) **During the arguments**, all jurors have the opportunity to move from one side of the gallery to the other to sit behind the team whose statements they agree with, for the moment. (2) **After the arguments**, jurors sit on the side of the courtroom behind the team whose position they, finally, support. (3) **Once they have chosen sides**, the jurors gather together in the gallery behind the team they support and work with the adult attorney coaches for a few minutes to prepare arguments that support their side. (4) **When the moderator decides it is time, the attorneys return to their counsel tables and the deliberations in the gallery begin.** Jurors on each side raise opinions and questions that challenge the jurors on the other side of the gallery. (5) **At the end of the debate**, jurors vote for the side that persuaded them.

## ***More Logistics . . .***

### **Courtroom Arguments: Scripted and Unscripted Questions and Answers**

The judge asks scripted questions that are in the advance materials. The students respond with scripted answers in the advance materials. The judge follows up with each student attorney by asking an unscripted question or two. Students offer their own opinions in response to the spontaneous questions. There are no right or wrong answers.

## **Closing Arguments**

The judge calls for the closing arguments from each team, starting with the affirmative. In advance of the courtroom program, the courthouse coordinator decides, in consultation with others, how the closing arguments should be handled. Here are three options:

- **Option 1:** The last (fourth) student for each side makes closing arguments based on his/her thoughts and notes during the debate. This is an excellent challenge for some students.
- **Option 2:** The adult attorney coaches can handle the closing arguments alone. This would eliminate the need for a fourth student debater.
- **Option 3:** The adult attorney coaches can do most of the closing arguments but include a fourth student to assist.

## **Virtual Jury Deliberations**

After the closing arguments, the *moderator* opens the floor to the jurors for 20-30 minutes of preparation and virtual jury deliberations. Jurors are to address their arguments to each other – not the student attorneys, adult attorneys, or judge. This is the jurors’ chance to deliberate and fully participate. Student questions and comments for the judge and attorneys are held until the debriefing session.

## **Jury Voting**

At the conclusion of the deliberations, the judge asks the jurors to vote, by a show of hands, for the side of the question they support, based on all the arguments presented by each team of student attorneys. The *moderator* counts the votes and announces the results. The judge asks for volunteers to explain their votes.

## **Debriefing**

The attorney coaches explain the Supreme Court’s ruling in *Hazelwood v. Kuhlmeier* and how it applies to the fictional scenario. The judge starts the Q/A session about the debate, then opens the floor to any topic. The courtroom program concludes with social time and lunch.

**Social Media and Student Rights:  
*Student Rights, Wrongs, and Responsibilities***

***Suggested Agenda***

- 9:00 – 9:15 a.m.**  
*(15 minutes)*
- Arrival in Courtroom and Settling In**  
Before arriving, students have been selected to be the eight student attorneys. Once in the courtroom, they work with their adult attorney coaches at the counsel tables while the other students settle into the courtroom and read the fictional scenario for the first time. The moderator makes housekeeping announcements and reviews the agenda.
- 9:15 – 9:45 a.m.**  
*(30 minutes)*
- Attorney Coaches Present**
1. Introduce themselves and their career paths.
  2. Provide background on Hazelwood v. Kuhlmeier and the concept of precedent.
  3. Introduce the fictional FaceLook scenario.
  4. Explain the format for the arguments and virtual jury deliberations.
- 9:45 – 10:00 a.m.**  
*(15 minutes)*
- Break**  
Attorney coaches meet, again, with the student attorneys while the rest of the students continue to read the scenario and take a break.
- 10:00 a.m.**
- The Host Judge Takes the Bench and Welcomes Everyone***
- 10:00 – 11:30 a.m.**  
*(90 minutes)*
- Attorney Arguments and Jury Deliberations**  
Talking Points  
Closing Arguments  
Virtual Jury Deliberations (20-30 minutes)  
Jury Votes and the Judge Asks for Explanations of the Decision
- 11:30 – 11:50 a.m.**  
*(20 minutes)*
- Attorney Coaches Explain/Apply Hazelwood v. Kuhlmeier Ruling**  
After the attorney coaches debrief the precedent-setting case and how it applies to the fictional case, the judge starts the Q/A session taking questions about the arguments, then opens the discussion to any topic.
- 11:50 a.m. – Noon**  
*(10 minutes)*
- Social Time with the Host Judge and Attorney Coaches**
- Noon – 1:00 p.m.**  
*(60 minutes)*
- Lunch and Adjourn**

## TALKING POINTS

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Applying *Hazelwood v. Kuhlmeier* to the fictional case of *The Vamps v. Principal Skinner*. This activity is based on a modified [Oxford style debate](#).

When school officials disallow the posting of certain student content on the school's FaceLook fan page are the student writers' free speech rights violated?

### *The Vamps v. Principal Skinner*

Disrupting the Learning Environment. Are students' free speech rights violated when schools decide that specific speech may disrupt the learning environment?

#### **Affirmative: Yes**

Although school administrators must be given leeway to run a school efficiently, there is no evidence that the posting of the vampire satire and comments on the student wall would disrupt the learning environment. It cannot be assumed that the vampire postings would have been disruptive. The postings were presented as literary satire and the students' comments were thoughtful, academic analyses of the tension between the First Amendment and school policies. Just because the postings dealt with controversial topics is not sufficient reason for school authorities to censor them. If school administrators are preparing students to be responsible citizens, then students must be able to investigate and post comments on the Bill of Rights and other academic topics using social media. Because the school ban was clearly based on the content of the postings, it violated the students' First Amendment right to freedom of speech.

#### **Negative: No**

There are limits to free speech within a public school. While the government cannot prohibit speech based upon content under most circumstances, public school authorities must be given more leeway to restrict speech in order to run a school efficiently and maintain a learning environment. Among other factors, school authorities must consider whether particular speech will disrupt the learning environment. The postings on the student wall undermined Principal Skinner's authority and promoted a vampire cult. The postings were critical of Ms. Skinner's decision to deny recognition to a student vampire club as a legitimate school organization that can meet on campus, receive student body funds, and post its activities on the student wall. Ms. Skinner felt personally threatened by the postings of a group that she described as "centered on vampirism, a cult that promotes barbaric killing." As a principal responsible for her students, Ms. Skinner was legitimately concerned about the safe and efficient operation of the school. In light of this, she was obligated to prohibit the vampire-related student speech on the school's FaceLook fan page.

Unlimited Public Forum. Are school FaceLook pages on the Internet an unlimited public forum that schools do not have the authority to control?

Essentially, the school established an unlimited public forum when it launched its FaceLook page on the worldwide web which, by definition, is a free and unlimited forum. School officials do not have the authority to restrict content on the Internet, just as they do not have the authority to control content in other public media. FaceLook is called social media because it is just that – social. It is designed to facilitate connection and communication without censorship. In an unlimited forum, such as the web, views live and die in the marketplace of ideas, much as they should in a robust learning environment. Schools should function as unlimited public forums where ideas are explored – not suppressed. In addition, when the faculty named a student to be the FaceLook administrator for content on the student wall, the school delegated posting decisions to the students. The school cannot prohibit student postings just because the administration might misinterpret the content and find it controversial or offensive.

The state, including public school administrators, has always had authority to limit speech in certain situations. When school authorities control access to the activity, they may limit the content of speech to what they consider appropriate. Here, the principal stopped what she called "cult-promoting speech" on the school's official FaceLook fan page. The page was, obviously, a limited forum because it carried the school's logo, mascot, and official policies. Access to the student wall was limited in three ways: (1) Only students enrolled at Forks High could post; (2) In accordance with the school policy guide, only content that did not threaten the safe and efficient operation of the school could be posted; and (3) the faculty appointed a student as its representative to monitor and control content and immediately delete postings that were not in compliance with school policies. The FaceLook policies did not give students the freedom to post whatever they liked. The students abused the privilege of access to the wall, betrayed the trust of the faculty, reflected negatively on the student body, and threatened a safe and efficient learning environment. Their behavior underscored that the FaceLook fan page, as the school's official communication vehicle, was a limited public forum that the school could and should control.

Speech Content. Do schools violate students' free speech rights when they disallow specific content on the school's

By establishing a student wall on the school's fan page and

The school retains ultimate responsibility for all content on its

putting a student in charge of it, the school waived control of the content and responsibility for it. The student wall is clearly identified on FaceLook as a forum for student thought and opinion, not official school policies. If the school decides that certain postings do not reflect school policies and positions, it can post a disclaimer on the student wall making clear that the administration is not responsible for, nor does it necessarily agree with, the content of student postings. Schools clearly violate students' free speech rights when they disallow certain content on their FaceLook fan page.

official FaceLook fan page. The page communicates the school's image, values, reputation, and position in the community. The purpose of the page, as stated on the site, is to be the official communication vehicle of the school. Therefore, any postings – regardless of the author – can be attributed to the school, and school officials can be held accountable for them. The school retains the right and the duty to control the content of its FaceLook fan page to ensure that the school is not portrayed as promoting or endorsing inappropriate messages and activities. The administration must never lose sight of its responsibility to maintain a safe and efficient learning environment.

**\*Notes to the Moderator:** Ask all audience members (jurors) to sit in the gallery behind the side they favor.

During the debate, ask the student jurors to stand and identify themselves every time they speak and make sure that no students or opinions dominate the discussion. Only audience members (jurors) in the gallery may participate in this segment of the program.

They are to direct their arguments and questions only to jurors/audience members on the other side of the issue. No questions/comments for the Judge and attorneys are allowed during the floor debate. This is time for the jurors to try to persuade each other. The student attorneys may not defend their positions during the open floor debate.

**Social Media and Student Rights:**  
Student Rights, Wrongs, and Responsibilities

***Randy Cullen v. Principal Mary Skinner***  
***Witness Stand Script***

Adapted from a Script Written by Charles Cree, Training Specialist, District of Minnesota

**Characters – 15 Speaking Roles**

**Teacher-selected participants** serve as judges, attorneys, witnesses, a courtroom deputy, and a deputy marshal. All roles may be male or female (M/F). **A practicing attorney for each side** delivers the opening statement. Student attorney #4 for each side delivers unscripted closing arguments based on notes taken during the trial. **It is recommended** that four volunteers enter the courtroom posing as members of the Fangtasticks – wearing vampire fangs and sunglasses. Capes are optional. They sit in the front row of the gallery behind the Plaintiff’s counsel table.

**Judges**

*(On the bench with the host Judge)*

**3 (Three) Judges M/F**

Host Judge \_\_\_\_\_

Scripted Judge #1 Student \_\_\_\_\_

Scripted Judge #2 Student \_\_\_\_\_

Scripted Judge #3 Student \_\_\_\_\_

**Courtroom Personnel**

**1 (One) Deputy U.S. Marshal** \_\_\_\_\_

*(Stands to the side of the bench and gives a stern look and points to people who are out of order or disruptive.)*

**1 (One) Courtroom Deputy** \_\_\_\_\_

*(Sits in front of the bench and stands to administer the oath to each witness)*

**Attorney Team for Plaintiff – Fangtastic Randy Cullen**

*(At counsel table farther from jury)*

**4 (Four) Attorneys M/F** for the Plaintiff (Student Randy)

**Practicing Atty Makes the Unscripted Opening Statement** \_\_\_\_\_

Scripted Atty #1 Student \_\_\_\_\_

Scripted Atty #2 Student \_\_\_\_\_

Scripted Atty #3 Student \_\_\_\_\_

Unscripted Closing Arguments Atty #4 \_\_\_\_\_

**Attorney Team for Defendant – Principal Mary Skinner**

*(At counsel table closer to jury box)*

**4 (Four) Attorneys M/F** for the Defendant (Principal Mary Skinner)

**Practicing Atty Makes the Unscripted Opening Statement** \_\_\_\_\_

Scripted Atty #1 \_\_\_\_\_

Scripted Atty #2 \_\_\_\_\_

Scripted Atty #3 \_\_\_\_\_

Unscripted Closing Arguments Atty #4 \_\_\_\_\_

**Witnesses**

*(At counsel table farther from jury box)*

**3 (Three) Witnesses M/F for the Plaintiff (Student)**

Randy Cullen, Fangtastics Leader, **M/F** Plaintiff \_\_\_\_\_

*(At counsel table*

)

Alex Swan, FaceLook Monitor, **M/F** Plaintiff's Witness \_\_\_\_\_

*(In the gallery behind the plaintiff until called to the stand)*

**2 (Two) Witness for the Defense (Principal)**

Chris Black, Football Kicker, **M/F** Defense Witness \_\_\_\_\_

*(In the gallery behind the defendant until called to the stand)*

Principal Mary Skinner, **F** Defendant \_\_\_\_\_

*(At counsel table)*

## Opening Statements by Practicing Attorneys

(3 minutes each side)

- Crtrm Deputy:** All rise, the United States District Court for the District of Oz is now in session, the Honorable Judges presiding.
- Host Judge:** Plaintiff's Counsel will now present your opening statement. Counsel will not give your argument at this time, but will confine yourself to giving a preview of what The Plaintiff's case might be.
- Plaint. Real Atty:** Thank you, Your Honor. Members of the jury . . .
- Host Judge:** Defense Counsel will now present your opening statement. Counsel will not give your argument at this time, but will confine yourself to giving a preview of what The Defendant's case might be.
- Def. Real Atty:** Thank you, Your Honor. Members of the jury . . .

### **TESTIMONY OF RANDY CULLEN** **(Plaintiff – Leader of the Fangtastics)**

- Plaint. Atty #1** Your Honor, I would like to call my first witness, Mr./Ms. Randy Cullen.
- Judge #1** Mr./Ms. Cullen, please come forward to the witness stand and remain standing for the oath.
- Crtrm Dep:** Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?
- Cullen:** I do.
- Judge #1** Please be seated. Please state your full name, spelling your last name.
- Cullen:** Randy Cullen. C-U-L-L-E-N.
- Judge #1:** You may inquire.
- Plaint Atty #1:** Please state your age for the record and where you currently attend school.
- Cullen:** I'm 18 years old. I am a senior at Forks High School.
- Plaint Atty #1:** Please tell the Court what you know about a group called the

Fangtastics that was formed last year at Forks High School.

Cullen: Up until last year, my friends and I were part of the drama program at Forks High School. That was the year the school board decided to cut the program. They decided they couldn't keep both the drama program and the football program going. One had to go and so drama lost out.

We formed our own drama group and started putting on plays. The year before the school performed the *Fantasticks*, so we decided to call ourselves the Fangtastics. We specialize in vampire stories. We perform at events in the community and at school – like the recent Talent Show. We also contribute to the community. We just organized a blood drive that was really successful!

Plaint Atty #1: Tell the Court what happened the day of the talent show.

Cullen: The play was a hit. Everyone laughed and clapped. We received three curtain calls.

Plaint Atty #1: It sounds like a successful event, so how did the trouble start?

Cullen: Well, I came up with the idea of dressing up like vampires the morning of the Talent Show. We put on makeup and costumes and acted like vampires all morning. We wouldn't sit near the windows in our classes and we drank bottles of blood, I mean, tomato juice in the lunchroom that day.

Plaint Atty #1: Is there anyone in the courtroom who is dressed the way you were dressed that day?

Cullen: Yes. All the members of the group. They're sitting there in the front row. (*Points to the group in the front row.*)

Plaint Atty #1: What got you into trouble?

Cullen: Well, the trouble, actually, came after the Talent Show when we posted a satirical poem criticizing Principal Skinner's decision to reject our application to be recognized as an official school club. She turned us down and accused us of being a cult. And she had the poem taken off the school's web page. Essentially, she violated our First Amendment rights to freedom of speech and freedom of association.

Plaint Atty #1: Tell me more about the poem that the Principal had taken off the site.

Cullen: I wrote a satirical poem about the Principal's reaction to when my sister

posted it on the school's FaceLook page.

Plaint Atty #1           What is FaceLook?

Cullen:                    It's like MySpace or Facebook. Students from the school post pictures from school events, essays, and jokes. Most of the stuff is about sports and dances. Things like that.

Plaint Atty #1:         *(Attorney picks up the poem that has been marked with an Exhibit #1 sticker.)* Your Honor, may I approach the Witness?

Judge #1:                Yes, you may.

Plaint Atty #1         *(Attorney walks to the witness stand with the poem)* Showing you what's been marked for Identification as Exhibit #1, do you recognize this?  
*(Hands the poem to Edward.)*

Cullen: Yes.             That's the poem my sister posted. I wrote it. I saw it on the school's FaceLook page.

Plaint Atty #1         Your Honor, we offer Exhibit #1 into evidence.

Judge #1:                Any objections?

Def Atty #1:            No objection.

Judge #1:                Exhibit #1 is received into evidence.

Plaint Atty #1:         *(If possible, show FaceLook page on Elmo.)* Mr./Ms. Cullen, please read it for

Cullen:                    Sure.  
*If the school smears the Fangtastics with mud  
We don't have to put up with that crud  
And Principal Skinner  
Won't be the winner  
If her house is drenched in\_\_\_\_\_.*

*Note: Last line could end "... a flood." It also could end "... blood."*

Plaint Atty #1:         And what happened to your poem?

Cullen:                    It was just a joke, but Principal Skinner called me in and told me the Fangtastics are a dangerous cult. She said she took the poem as a personal

threat. She had it pulled off the web page and banned all the members of the group from the website.

That's censorship and a violation of my First Amendment rights. Schools shouldn't be able to limit the freedom of speech and association of their students. That's when I asked my father to help me file this lawsuit. That's why we're here.

Plaint Atty #1: And what is it you are asking this Court to do?  
Cullen: All I want are my First Amendment rights, freedom of speech and freedom of association.

Plaint Atty #1: Thank you, Mr./Ms. Cullen. Nothing further.

Judge #1: Does Defense Counsel have any questions for this witness?

Def Atty #1: Yes, Your Honor.

Judge #3: You may inquire.

Def Atty #1: Did it ever occur to you that your antics in the classrooms and the cafeteria might disrupt the learning environment at school that day?

Cullen: No. I thought people would laugh – and that's what they did.

Def Atty #1: (*Attorney takes out policy.*) Your Honor, may I approach the witness?

Judge #3: Yes, you may.

Def Atty #1: Mr./Ms. Cullen, I'm showing you what's been marked Exhibit #2, a warning on the FaceLook web page. You recognize that, don't you?

Cullen: Yes.

Def Atty #1: You've seen this policy on the use of the web page many times correct?

Cullen: Yes.

Def Atty #2: Your Honor, we offer Exhibit #2 into evidence.

Judge #3: Any objections?

Plaint Atty #3: No objection.

Judge #3: Received.

Def Atty #2: Mr./Ms. Cullen, please read out loud the part I have highlighted.

Cullen: “All material posted on the school FaceLook page must be related to school activity, respectful and free of offensive language.”

Def Atty #2: The Fangtastics were not a recognized school club, right?

Cullen: So the Principal said, but everyone else recognized us. They couldn’t miss us. We’re as active – and legitimate – as any other club at school. And we are one of the largest clubs, too.

Def Atty #2: However, the Principal never recognized your group as an official school club.

Cullen: Unfortunately, that’s right.

Def Atty #2: So Mr./Ms. Cullen, your group’s actions were not related to a school activity, right?

Cullen: Well, we performed at the Talent Show.

Def Atty #2: Let’s turn to your poem. Your poem ends with a blank for a missing word. The missing word is blood, isn’t it?

Cullen: Could be. Or it could be “drenched in a flood.” Depends on the reader. Everyone knows she lives near the Grand Forks river and it floods every year.

Def Atty #2: Your poem is disrespectful to the Principal, isn’t it?

Cullen: I don’t think it’s disrespectful to make a harmless joke.

Def Atty #2: It certainly contains offensive language, doesn’t it?

Cullen: I guess it depends on what you call offensive.

Def Atty #3: Thank you Mr./Ms. Cullen. No further questions.

Judge #3: Redirect?

Plaint Atty #2: Yes, very briefly. Mr./Ms. Cullen, on the day of the Talent Show, did any of the teachers reprimand you for your costumes or behavior?  
Cullen: Not at all. In fact, they laughed along with everyone else.  
Plaint Atty #2: No further questions.

Judge #3: Very well. Thank you, Mr./Ms. Cullen. You may step down.

Judge #3: Counsel, any other witnesses?

**TESTIMONY OF ALEX SWAN**  
**(Plaintiff's Witness – Student Monitor of the Forks High FaceLook Page)**

Plaint Atty #2: Your Honor, I would like to call my next witness, Mr./Ms. Alex Swan.

Judge #2: Mr./Ms. Swan, please come forward to the witness stand and remain standing for the oath.

Crtrm Deputy #1: Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Swan: I do.

Judge #2: Please be seated. Please state your full name, spelling your last name.

Swan: Alex Swan. S-W-A-N.

Judge #2: You may inquire.

Plaint Atty #2: Please state your age for the record and where you attend school.  
Swan: I'm sixteen. I attend Forks High School.

Plaint Atty #2: Could you please tell us what you have to do with the school's FaceLook page?

Swan: I'm the student monitor.

Plaint Atty #2: How did you come to serve as the monitor?

Swan: Principal Skinner appointed me. It was my first year at Forks High School. She thought an activity like this would help me get to know more of the students.

Plaint Atty #2: And what exactly does the student monitor do?

Swan: I check the FaceLook page every day during study hall to make sure that nobody has put anything on the FaceLook page that they shouldn't.

Plaint Atty #2: How do you know if something shouldn't be on the page?  
Swan: Like it says on the web page, everything has to be about the school. It has to be respectful and none of the words can be offensive.

Plaint Atty #2: *(Atty takes Exhibit #1)* Your Honor, may I show this exhibit to the witness?

Judge #2: Go ahead.

Plaint Atty #2: Showing you Exhibit #1, do you recognize this poem?

Swan: Yes. I saw it on the school's FaceLook page.

Plaint Atty #2: What did you do as school monitor when you saw it on the FaceLook page?

Swan: I didn't do anything.

Plaint Atty #2: Why not?

Swan: Because I thought it was about a school club.

Plaint Atty #2: Why didn't you find the poem offensive?

Swan: I guess because it was, obviously, a big joke.

Plaint Atty #2: What was Principal Skinner's reaction to your decision to leave it on the web page?

Swan: She was mad. I always thought Principal Skinner had a better sense of humor than that.

Plaint Atty #2: Thank you Mr./Ms. Swan. No further questions.

Judge #2: Does the Defense Counsel have any questions for this witness?

Def Atty #3: Yes, Your Honor.

Def Atty #3: Mr./Ms. Swan, as you said, you are new at Forks High, is that right?

Swan: Yes, I moved here about six weeks ago.

Def Atty #3: Would it be accurate to say that you want to be popular at your new school?

Swan: Well, everyone wants to have friends.

Def Atty #3: Is it true that you applied for membership in the Fangtastics but you haven't heard yet if you've been accepted?

Swan: Well, yes, but that doesn't have anything to do with anything.

Def Atty #3: Thank you, Mr./Ms. Swan. That's all.

Judge: You may step down, Mr./Ms. Swan.

Judge #2: Re-direct?

Plaint Atty #2: None, Your Honor.

Judge #2: Very well. Thank you, Mr./Ms. Swan. You may step down.

Judge #2: You may call your next witness.

### **TESTIMONY OF CHRIS BLACK**

**(Defendant's Witness – Kicker for Football Team. Reported Fangtastics)**

Def Atty #2: Your Honor, I would like to call my first witness, Mr./Ms. Chris Black.

Judge #1: Mr./Ms. Black, please come forward to the witness stand and remain standing for the oath.

Ctrrm Deputy #1: Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Black: I do.

Judge #1: Please be seated. Please state your full name, spelling your last name.

Black: Chris Black. B-L-A-C-K.

Judge #1: You may inquire.

Def Atty #2: For the record, please state your age and where you attend school.

Black: I'm eighteen years old and I'm the kicker of the football team at Forks High School. Go Wolfpack!!!! (*Howls*)

Judge #1: Mr./Ms. Black, we're happy for your football team but please just answer the questions.

Black: Sure. Cool, Your Honor. No problem.

Def Atty #2: Were you in school on March 3<sup>rd</sup> of last year, the day of the Talent Show?

Black: I was.

Def Atty #2: What, if anything, unusual happened that day?

Black: Unusual – yeah. The so-called ‘Fangtastics’ (*making quotation marks with his hands*) took over the school. They interfered with our classes and slowed down the lunch line drinking their “Bloody Mary Skinners” (*quotation marks with hands*)

Def Atty #2: What did you do?

Black: In the best interests of my team and the school, I felt obligated to report to Principal Skinner that I suspected Cullen.

Def Atty #2: Why did you report Mr./Ms. Cullen for what happened on the day of the Talent Show?

Black: They disrupted classes. My guys have to maintain their grades to play on the team. Nobody was studying.

Def Atty #2: Did you have any other concerns when you decided to report the poem?

Black: The guy threatened Ms. Skinner. That poem ends in “blood” and I thought Ms. Skinner needed to know about it.

Def Atty #2: No further questions, Your Honor.

Judge #2: Does Counsel for the Plaintiff have any questions for this witness?

Plaint Atty #2: Yes, Your Honor.

Plaint Atty #2: Do you have any reasons not to like Randy Cullen?

Black: He and his cult of Fangtastics are strange.

Plaint Atty #2: Isn’t it true that Randy Cullen lobbied the School Board to transfer money from the football budget to save the drama program?

Black: That’ll never happen as long Principal Skinner’s in charge.

Plaint Atty #2: Thank you, Mr./Ms. Black. No further questions.

Judge #2: Redirect?

Def Atty #2: No, Your Honor.

Judge #2: Thank you, Mr./Ms. Black. You may step down.

Judge #2: Counsel, any other witnesses?

Def Atty #2: One more, Your Honor.

**TESTIMONY OF PRINCIPAL MARY SKINNER**  
**(Defendant – Principal of Forks High School)**

Judge #3: You may proceed when you're ready, Counsel.

Def Atty #3: The Defense calls Principal Ms. Mary Skinner.

Judge #3: Ms. Skinner, please come forward to the witness stand and remain standing for the oath.

Crtrm Dep #1: Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Skinner: I do.

Judge #3: Please be seated. Please state your full name, spelling your last name.

Skinner: Mary Skinner. S-K-I-N-N-E-R.

Def Atty #3: Ms. Skinner, what is your occupation?

Skinner: I am the Principal at Forks High School.

Def Atty #3: Are you familiar with a group of students at Forks called the Fangtastics?

Skinner: Very familiar.

Def Atty #3: How did you come to know of the group?

Skinner: The group was first brought to my attention the morning of the Talent Show by Chris Black, one of my other students. As he described the group, I knew they were a cult.

Def Atty #3: What did you do then?

Skinner: I considered cancelling the group's appearance in the Talent Show, but my concern was that pulling the performance would create a further

disturbance. So I let the performance go on.

Def Atty #1: What about the group's behavior led you to describe it as a cult?

Skinner: I have been trained to recognize indicators of cult associations and antisocial Behavior

Def Atty #1: Was there anything else that added to your sense of alarm?

Skinner: Yes. Chris Black came to my office and showed me the FaceLook page. There, I found the poem Mr./Ms. Cullen read to the Court. I naturally ordered Mr./Ms. Swan to remove the poem and immediately cancelled the posting privileges of all Fangtastics.

Def Atty #1: Thank you, Principal Skinner. No further questions.

Judge #3: Does Counsel for the Plaintiff have any questions for this witness?

Plaint Atty #1: Yes, Your Honor.

Plaint Atty #1: Ms. Skinner, you indicated that you first became concerned about the Plaintiff and his/her associations after Chris Black brought your attention to the poem on the web page.

Skinner: That's correct.

Plaint Atty #1: After speaking with Mr./Ms. Black, did you speak to any of the teachers on your staff to confirm these allegations?

Skinner: I did.

Plaint Atty #1: And did the teachers express the same degree of concern that you expressed today?

Skinner: No. They did not.

Plaint Atty #1: Isn't it true that Mr./Ms. Cullen and the other students in the drama program campaigned to win votes on the School Board for their proposal to reduce the football team's funding, specifically, in order to keep the drama program going?

Skinner: There was such a campaign and such a proposal.

Plaint Atty #1: You opposed that proposal didn't you?

Skinner: Yes, I did.

Plaint Atty #1: You've got quite a football tradition at Forks don't you?

Skinner: The Forks Wolfpack has won three state championships. I'm the team's biggest fan. Their winning record makes it easier for our students to attract scholarships and it gives visibility to our academic excellence.

Plaint Atty #1: Is it possible that your decision in this matter was influenced by the football team's success in raising badly needed revenues and attract scholarships that reflect well on the school's academic ratings?

Skinner: My focus was – and will always be – on my responsibility to safeguard the security of the students under my charge.

Plaint Atty #1: You testified that when you decided to remove Mr./Ms. Cullen's poem from the web page, you asked Mr./Ms. Swan to remove it. Can't *you* remove material from the web page yourself?

Skinner: No. I don't have an account.

Plaint Atty #1: To your knowledge, do any of the members of your faculty or staff have FaceLook accounts?

Skinner: Not that I know of.

Plaint Atty #1: Do you have any control over the content of this site?

Skinner: Well, yes. I appointed Mr./Ms. Swan and she reports to me.

Plaint Atty #1: So, you're saying a student is the only one who can access this page, therefore, would it be correct to call it a student-run page?

Skinner: Absolutely not. The web page was started by the school. It carries the school logo and mission statement. As with all public communication about the school, the administration has absolute editorial control.

Plaint Atty #1: But, the school cannot alter the page without Mr./Ms. Swan?

Skinner: Mr./Ms. Swan has a very important role. We like to give good students leadership opportunities.

Plaint Atty #1: Moving on, do you think it was a good decision on your part to allow a school-run website to be monitored by one, sole student – Mr./Ms. Swan?

Skinner: I'm a busy person. I can't run the school and stay abreast of the everchanging FaceLook technology.

I want to make one very important point that seems to be lost in this line of questioning. (Her voice shakes and gets louder.) I don't favor or discriminate against any of my students. I support them whether they throw a football or write a poem. But I also must maintain order.

Def Atty #2: Thank you, Principal Skinner. No further questions.

Judge #2: Thank you, Principal Skinner. You may step down.

Judge #2: Counsel, you may call your next witness.

Def Atty #2: I have no further witnesses, Your Honor.

Judge #2: Ladies and gentleman 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. **The Court stands in recess for 5 minutes.**

### ***Five-Minute Break***

Attorney #4 on each side has been taking notes throughout the proceedings for his/her closing arguments. The break gives each Attorney #4 time to organize a brief presentation to the jury.

## **Closing Arguments**

(2 minutes each side)

**Host Judge:** Counsel for the Plaintiff may make your closing arguments at this time.

**Plaint Atty #4:** Thank you, Your Honor. Members of the jury . . .

**Host Judge:** Counsel for the Defendant may make your closing arguments at this time.

**Def Atty #4:** Thank you, Your Honor. Members of the jury . . .

**The Host Judge gives the jury instructions.**