

2009
Widener University School of Law
Diversity Pipeline
Mock Trial Competition

State of Widener
vs.
Emma Meeney

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Sponsored by:

The American Bar Association Law Student Division's
Diversity Day Program

AND

The Widener University School of Law

STATEMENT OF THE CASE

This is the re-trial of a criminal action brought by the state of Widener against Emma Meeney, a senior at Duffman University, alleging that Meeney did commit involuntary manslaughter by engaging in a recklessly or grossly manner which caused the death of Vera Weeks. In addition, it is also alleged that Emma Meeney did personally engage in hazing that resulted in the death of Vera Weeks by employing a method of initiation or pre-initiation into a student organization, which is likely to cause serious bodily injury to any former, current, or prospective student of any school in this state. To wit, Emma Meeney did cause Vera Weeks to enter Widener Lake on October 21, 2008 which led to Vera Weeks drowning.

WITNESSES:

PROSECUTION

1. Dr. Jordan Cavanaugh
2. Beth Knowles

DEFENSE

1. Patty Grill
2. Emma Meeney

EXHIBITS:

1. Postmortem Report
2. Kappa Delta Omega Decathlon Schedule
3. Flyer for Kappa Delta Omega

TIME ALLOTMENT – NOTE – These are the MAXIMUM number of minutes one should spend on each part of the trial. You do NOT have to use the full time allotted, but one should not go over the number of minutes listed for each part of the trial.

Opening Statements

Prosecution: 10 minutes
Defense: 10 minutes

Prosecution Witness 1

Prosecution Direct Examination: 8 minutes
Defense Cross Examination: 7 minutes

Prosecution Witness 2

Prosecution Direct Examination: 8 minutes
Defense Cross Examination: 7 minutes

Defense Witness 1

Defense Direct Examination: 8 minutes
Prosecution Cross Examination: 7 minutes

Defense Witness 2

Defense Direct Examination: 8 minutes
Prosecution Cross Examination: 7 minutes

Closing Statements

Prosecution: 10 minutes
Defense: 10 minutes

No. CR-07-5211

STATE OF WIDENER

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IN THE DISTRICT COURT

v.

IN AND FOR

Emma Meeney, Defendant

CONCORD COUNTY

INDICTMENT

April 2008 Term

THE GRAND JURY CHARGES THAT:

COUNT ONE

(Involuntary Manslaughter)

1. On or about October 21, 2008 at approximately 9:45 p.m., in Shipley, Concord County, Widener, Emma Meeney did commit involuntary manslaughter by engaging in a recklessly or grossly negligent manner which caused the death of Vera Weeks, in violation of Penal Code § 2504, which is a Felony.

COUNT TWO

(Hazing)

1. On or about October 21, 2008 at approximately 9:45 p.m., in Shipley, Concord County, Widener, Emma Meeney did personally engage in hazing that resulted in the death of Vera Weeks by employing a method of initiation or pre-initiation into a student organization, which is likely to cause serious bodily injury to any former, current, or prospective student of any school in this state, in violation of Penal Code § 5354, which is a Misdemeanor.

GRAND JURY FOREPERSON

AMY SCHLICK, ADA
CONCORD COUNTY DISTRICT ATTORNEY

STIPULATIONS REGARDING EVIDENTIARY MATTERS

Procedural Matters

1. The Widener Rules of Evidence applies in the jurisdiction of Widener. (See Attachment)
2. Each witness who gave a deposition agreed under oath at the outset of his or her deposition to give a full and complete description of all material events that occurred and to correct the deposition for inaccuracies and completeness before signing the deposition.
3. All depositions were signed under oath.
4. The State and the Defendant must call the two witnesses listed as that party's witness list.
5. This competition does not permit a listed witness, while testifying, to "invent" an individual not mentioned in this problem or have testimony or evidence offered to the court or jury from that "invented" individual that would alter the facts of the case. Witnesses may make up things which will have no bearing on the outcome of the case. For example, if a dog is mentioned, the witness may give the dog a name.
6. No team may object on the grounds that the testimony is "beyond the record." If a witness testifies to information not found in this problem, teams shall use cross-examination as to inferences from material facts found in this problem.
7. For time saving purposes and simplicity, there will be no re-direct examination or rebuttals.
8. All exhibits in the file are deemed authentic and originals of the document. Foundation may still need to be laid as to the relevance of a document but no objection will be allowed as to the authenticity of the document or whether it truly and accurately depicts what it purports to be.
9. Teams may not argue case law or other authority not provided in the problem.

Substantive Matters

1. Emma Meeney has entered a plea of not guilty and has requested a trial by jury.
2. The trial court has denied a motion to dismiss the indictment.

Witness Statement of Jordan Cavanaugh

My name is Dr. Jordan Cavanaugh and I am a medical examiner here in Widener. I received my bachelor of science in 1989 in chemistry. It usually takes about seven years to graduate from medical school but it took me ten. I failed immunology, molecular biology, genetics and neuroscience the first time I took them, and I graduated in the bottom 10% of my class. I received my M.D. from Widener Medical School in 1995. Although it took me three times, I finally passed my board certifications. After medical school I completed my internship at Widener hospital in 1998. I then went on to complete my residency which lasted a year. I am currently qualified in conducting medical exams and pathology.

I currently work at Widener Hospital as the medical examiner, where I have been employed for 15 years. A medical examiner is a licensed doctor and a licensed, certified pathologist. As part of my job description, I examine bodies and determine the case, time and manner of death. I also conduct autopsies, blood analysis and DNA evidence analysis. I have completed over a thousand autopsies. I have also been qualified as an expert in pathology and medical examination in approximately 15 criminal trials and 50 civil trials. It's true I have testified more for the plaintiff, but I have also testified for the defense in some trials, maybe 10.

I performed an autopsy on Vera Weeks on October 21st, 2008. Vera was pronounced dead at the location of Widener Lake. I did not find unusual marks of any kind on Vera's body, and there were no signs of natural disease. I did find that Vera had ingested a significant amount of alcohol prior to death. Ms. Weeks' blood alcohol content was approximately three times the legal limit, 0.24. After conducting a family history, I learned there was no history of any congenital diseases or disabilities. Ms. Weeks seemed to be, before this incident, an otherwise healthy and fit young woman. I found a few minor injuries to the nose, face, and left leg. In my medical opinion, these were not caused by Ms. Weeks' drowning. These bruises were inflicted prior to any swimming activity Ms. Weeks may have participated in. I also found a possible obstruction in her coronary artery. This obstruction more likely than not did not be caused by simply skinny dipping. This type of obstruction accumulates over time and

would not show up out of the blue in one night. Once the coronary artery becomes blocked, it lessens blood flow and blood can accumulate in the heart causing in some cases, fatal and/or sudden heart attacks.

It is difficult to ascertain whether the deceased suffered from fatigue prior to death. everyone's body make-up is different. Everyone has different muscle mass, different builds, different levels of stamina, etc. Fatigue is more evident when someone is alive as one can look at skin color, level of energy and other symptoms to determine fatigue. However, when someone is dead, those symptoms are not present. I did, however, find severe muscle strain in the deceased arm and leg muscles, even more prevalent here than in most cases. The cause may have been the swimming in Widener Lake. However, mental stress from her being a pre-med student could also have caused her to neglect her physical needs which may have caused some of her muscles to work overtime. I went through it when I was in medical school.

It is my opinion, based on a reasonable degree of medical certainty that the cause of death for Vera Weeks is asphyxiation caused by drowning.

On a more personal note, it is really a shame that this happened to another Duffman University student. I have a daughter enrolled there who was in an unfortunate accident last year. She was in a car accident when she was hit by a drunk driver. She is permanently paralyzed from the waist down. The driver was a member of Kappa Delta Omega who was never prosecuted because the family paid off the prosecutor and the judge to have the charges dismissed.

EXPERT WITNESS IN PATHOLOGY AND MEDICAL EXAMINATIONS

Evaluation Report Writing Testimony

Jordan Cavanaugh, M.D.

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Board Certified in Pathology by the American Board of Pathologists

Board Certified in Medical Examination by the American Board of Medical Examiners

Diplomat, American Board of Medical Examiners

Diplomat in Anatomic and Clinical Pathology, American Board of Pathology

Education

- ❖ Fellowship in Medical Examination, Widener Hospital, 2000
- ❖ Residency in Anatomic and Clinical Pathology, Widener Medical College, 1999
- ❖ General Internship, Widener Medical College, 1998
- ❖ Doctor of Medicine, Widener Medical College, 1995
- ❖ Bachelor of Science, Biology, University of Widener, 1989

Professional Societies

- ❖ College of American Pathologists
- ❖ Widener Society of Clinical Pathologists
- ❖ American Society for Clinical Pathology
- ❖ Widener Medical Society
- ❖ American Medical Association

Forensic Experience

Experience in Forensic Psychiatry in Federal and State Court Cases

Criminal:

Death Penalty Cases, NC, LB, and Federal Courts, Appeals of Death Sentence

Second Degree Homicide

Assault

Sexual Abuse

Civil:

Wrongful Death

Medical Malpractice

Witness Statement of Beth Knowles

My name is Beth Knowles and I am a freshman at Widener University. I haven't declared a major yet, but I want to go into veterinary medicine. I was good friends with Vera Weeks, she lived next door to me in the dorms. From the day we moved in we were instant friends. We went to the gym together, ate lunch together every day and rushed for the same sorority, Kappa Delta Omega.

At Duffman University, the first week in October is called rush week. All the fraternities and sororities set up tables in the main court yard and provide information about their organization. They also hold a week long activity where you get to meet members of the sorority and you decide whether you want to join. By the end of the week, if the sorority likes you then they extend an offer for you Kappa Delta Omega is an elite sorority so it's a bit different from the other fraternities. At the end of the week they offer some students an invitation to participate in a decathlon. If you do well, you receive a bid to join. Vera and I both received a bid to join.

We were both really nervous and excited. Kappa Delta Omega is one of the most prestigious fraternities in the world! I knew if I could get into KDO that my life on campus would become a lot easier. No one forced us to join and joining a sorority is not required by the university. We thought it would be fun, and the fact that KDO's have a great campus life was definitely a plus. I mean, life on campus isn't extremely difficult, no one is mean or cruel or anything. It's hard to get into the sorority and I still hang out with my friends who decided not to rush. I even have a friend who was given a bid and invited to participate in the decathlon but she decided not to.

The decathlon is a five day event where we compete in ten different events. It's pretty intensive. Every morning they send a member to wake us up at 5am. They only give us 5 minutes to get ready so sometimes we barely have time to put on our shoes. I've seen some people show up still in their pajamas. Vera was a pre-med major so she stayed up pretty late studying. She had a hard time waking up that early. Sometimes she'd report 1 minute late so they punished her by making her run barefoot and the ground was always wet and cold. It was not pleasant. The sisters who came to wake us up ordered the punishment. That morning it was Patty Grill. The running was not an

event. It was our daily warm up. The events included a tennis match, fencing match, 5 mile run, dance contest, math test, debate, stuff like that.

That semester's events were different from day to day. On Monday there was a tennis match in the afternoon and a 2-on-2 basketball game after dinner. Then on Tuesday there was the math test and dance off where we prepared a dance and then competed to see who the best was, kinda like that show "So You Think You Can Dance." On Wednesday was the fencing match and debate. On Thursday was the five-mile run and charity race. The charity race was where we had 1 day to raise the most amount of money for the Children with Cancer Foundation. And on Friday was the soccer game and talent match. The talent match was like the dance off but we had to prepare a talent other than dance, like singing, violin, stuff like that. We had about a week to prepare for everything, and we had to go to class. Sisters always made sure we were in our scheduled classes. Skipping wasn't an option. The events were during our lunch break and after dinner. Like I said, it was a pretty intense week.

Emma Meeney organized everything. She's the president of KDO. In fact, she was the one that ordered the members to punish us if we were late.

The final night of the decathlon was October 21, 2008. We all met at Chugg-A-Lot Bar downtown. It was a time for the members to get to know us more. But it was also a time for the rushers to relax a little. Vera said she didn't want to go because she felt tired. During the 5 day decathlon Vera was waking up at 5am, going to class from 8am to 3pm, participating in events from 3pm to 8pm, then studying until 1am. By the end of the week Vera looked a bit pale and she looked sad. She didn't go to Chugg-A-Lot with the rest of us. When Emma noticed she wasn't there she ordered Patty Grill to get her and bring her to the bar. They showed up about 15 minutes later.

Once they finally got there Emma congratulated all the pledges and said we would receive a gold invitation in our mailbox the next day if we were invited to join the sorority. Then she ordered that we do 10 shots as a closing ceremony for the decathlon. Vera was only able to do 4 or 5 of them before she got sick and refused to do any more. Emma was not going to let that fly. She said that the only way Vera was getting out of doing the rest of them was if she skinny dipped in Widener Lake. Vera protested at first,

but then Emma told her that if she did it she would definitely get into the sorority, so she gave in and we all walked down to the lake.

It was really cold by the time we got down there, I wouldn't be surprised if the temperature was around freezing. Vera didn't actually take her own clothes off, she kind of just stood there with a blank look on her face while Emma undressed her. Her eyes were watery and her body was shivering. After she was completely naked Emma told Vera to swim, so she jumped into the lake. It was really dark and I couldn't see much, but I could see Emma's face. She had a weird smile on her face. Someone told her to get Vera out of the water but she didn't say anything. She didn't even move, she just kept watching the water. After about 10 or 15 minutes when we didn't hear Vera we started calling out her name. Everyone started to get nervous. Emma started spazzing. She kept yelling "remember that you're a Kappa Delta Omega member and Kappa's always stick together." That's all she was worried about... her precious sorority.

I guess someone must've called campus safety. Everything that happened after that was just a mess. Police, medics and all these people were suddenly there. Then I saw the police drag Vera's body out of the lake. We could tell she was dead. I couldn't watch as they put her in the body bag. I dropped out of the sorority after this happened. They killed my best friend by making her go skinny dipping. I couldn't live with myself if I continued to associate with people like that.

Witness Statement of Patty Grill

My name is Patty Grill and I am a senior at Duffman University. I major in Early Childhood Education. I love kids and can't wait to be a teacher. I pledged Kappa Delta Omega my freshman year and have been active in the sorority ever since. It's a great organization that promotes sisterhood, leadership and community service. And we have a lot of fun while doing it. Emma Meeney is our president. She is awesome, definitely the coolest on campus. She arranges all the fun stuff and makes sure everyone is Kappa material. Her family is amazing too. They're very wealthy. When I was having financial trouble her father offered to pay my tuition to attend Duffman. Emma actually talked him into it. Like I said, she's awesome. I owe her so much, I would do anything for her.

She even has taken on organizing everything for KDO. She's been so involved since we pledged together. I loved pledging. I knew I wanted to pledge KDO from the beginning so at the beginning of rush week my freshman I went directly to their table and signed up and that's when I got the schedule of events. I mean, if you didn't want to participate in the events they were totally cool about it, no one held a gun to your head or anything. Once we became a sister we participated because we wanted to. Participation is really important though. They're designed to make sure a pledge is Kappa material. If a pledge didn't participate they couldn't become a member. It was as simple as that.

Vera Weeks was a really weird girl who wanted to pledge and join the sorority. She obviously wasn't Kappa Delta Omega material. We're an elite sorority who demand the most from the sisters. Only the smartest and most athletic make it in. Vera just wasn't. She was clumsy and fat. She couldn't even handle her alcohol. I mean once you're in college suck it up. If you can't handle it get out of the way for those who can. Especially the last night of the decathlon. We organize that night for everyone to unwind and have some fun. Emma noticed Vera wasn't there so she asked me to get her. Somehow she made it that far so we didn't want her to miss it. When I got to her room I knocked, but it took her a while to answer the door. She was sleeping... at 8 pm!!!! That's what I mean when I said she was weird. Who sleeps at 8pm? She told me she was tired and didn't want to come, but when I told her that if she didn't she wouldn't get in if she didn't come she quickly changed her mind. When she finally got out of bed I noticed

she was pretty sluggish. I told her maybe it would be a good idea to pledge next semester because she didn't look too well. She just got dressed and went to the bar anyway.

Because Vera was late she had to funnel a beer. It's not hard to do, it's actually pretty fun. I held the funnel while Emma poured the beer into it. When Vera became sick she refused to drink anymore. We didn't want to force her to drink, so Emma suggested she do something funny that didn't involve alcohol. I had taped the whole thing, thinking one day we could look back on this and laugh. Anyway, we went to the lake and Vera went skinny dipping. No one forced her, she wanted to. Sure it was cold, but she didn't have to be in the water for long. Just jump in and jump out. When we lost sight of her I told Emma we should get her out. Emma immediately yelled to call campus safety. It's a total shame what happened, but it's definitely not Emma's fault.

Statement of Emma Meeney

My name is Emma Meeney and I am a senior at Duffman University, majoring in Business. I rushed Kappa Delta Omega my freshman year and am currently the president of the organization. Our goal as Kappa's is to honor excellence in all aspects – mind, body and spirit. Sisters must excel in athletics, academics and personal well being. We think it's really important to take responsibility for yourself, that's why we have such a strict rule for being on time. Girls who don't believe in the same mission are free to pledge with another sorority. We do what we have to do to make our members into stronger members of the community. All pledges must take part in all the activities and make their classes. For Kappa's it's all about time management.

Those who are lucky enough to make it into the sorority are like family, which is why we're called sisters, not just members. The president's role is to organize events and oversee prospective member rush, more specifically the decathlon. I judge the pledges and make recommendations on who is given a bid, or an offer to join the sorority and make sure all sisters live up to our mission statement. Also, I am the sorority's representative to the Greek Counsel on campus. The decathlon is a tradition in the sorority. We have been doing it since Kappa Delta Omega's inception at Duffman University.

Vera Weeks was a really sweet girl who really had a shot at becoming a sister. It's really a shame what happened to her. She seemed tired at times during the decathlon. After the debate I heard her telling another pledge "They're killing me. I can't go on." I told her that if she withdrew she would lose her spot. The same would go for any girl trying to pledge KDO. She made it to the end of the decathlon though. I could tell that she really wanted to make it. On October 21, 2008 we were all at Chugg-A-Lot bar and I was about to announce the names of the girls who were getting bids. Vera was on the list, but I noticed she wasn't there. It's a really exciting night for new sisters and I thought it would be a pity if she were to miss it. I asked Patty Grill to find Vera to make sure she was okay. About 15 minutes later Patty came back to the bar with Vera. Patty seemed kind of angry when she got back. She told me that instead of being at the bar with her pledge sisters, Vera was sleeping. Instead of announcing the new sisters Patty insisted

that I punish Vera for being late. We don't usually give exceptions for lateness, and Patty thought Vera should have to adhere to the rule like all the other pledges.

Patty came up with the idea of making Vera funnel a beer. That's when you pour a beer into a funnel and chug the entire beer at once. Vera did it with no problem. We were all celebrating the end of the decathlon. It's a tradition for the current sisters to buy the pledges shots, so that's what we did. Vera didn't want to finish hers and this seemed to make Patty even madder at her. Patty thought it would be fun to have Vera swim across Widener Lake. She saw something on the news about the Polar Bear Club and thought that would be cute. So we went out there.

It was really cold that night. I had a heavy jacket, but was also wearing a skirt, so I didn't think it would be a big deal for Vera to swim in the lake. It was supposed to be a fun thing, the Polar Bear Club always seems to have a good time. I thought it would be a good idea for Vera to have dry clothes to put on after she got off so I made sure she took them off before she went in. We chanted to give her some support. We were all proud of her for making it through the rush and once she got out of the lake, we would welcome her into Kappa Delta Omega. Well, we would have. Vera never made it out of lake. It was really dark, and once we couldn't see her we started yelling for her to come back. After a few minutes I got really worried. I yelled for someone to call campus security. Everything after that was a blur.

I never thought there would be a problem. She always handled her liquor really well and voluntarily went into the lake. If for one minute I thought she couldn't swim or something I never would have let her do it.

INSTRUCTIONS

You have been presented a packet with a fictitious criminal law problem. In a criminal matter, after a person is arrested, the police will forward the case to the district attorney's or attorney general's office. Attorneys for the district attorney or attorney general are known as prosecutors.

Role of Prosecutors

At trial, prosecutors must prove that the person arrested is guilty of the crime charged. A prosecutor does this by proving the elements of the law. Here is an example:

Burglary: A person is guilty of burglary when he breaks and enters into a dwelling at night for the purpose of committing a crime.

The elements for the crime of burglary are as follows:

1. Breaks a dwelling
2. Enters a dwelling
3. At night
4. To commit a crime

Which means to prove that a person is guilty of burglary, a prosecutor must be able to prove all four parts.

Evidence

Prosecutors prove their case through evidence. There are two types of evidence: testimonial and exhibits.

Testimonial Evidence

The first type of evidence comes from witnesses. Prosecutors ask witnesses questions that will prove the elements.

Prosecutor: Mr. Smith, I'm going to direct your attention to January 7, 2009. What happened that day that brings you here to court?

Mr. Smith: I was sleeping at home. At around 11:00pm I heard noises downstairs.

Prosecutor: What did you do?

Mr. Smith: I went downstairs and saw a man in my house stealing my TV.

Prosecutor: How did the man come into your house?

Mr. Smith: He broke the window and climbed in.

Here you have proven all elements for the crime of burglary. The defendant may have defenses for the crime. Meaning, he is excused from punishment. The defendant may argue that he is Mr. Smith's son and had permission to take the TV. If this is not true, you may lose your case if the jury believes the son. To prevent this, anticipate defenses and address them in your questioning.

Attorney: Did you know the man that was taking your TV?

Mr. Smith: Yes, he was my son.

Attorney: Did you give your son permission to take your TV?

Mr. Smith: No.

Exhibits

Pictures, documents, maps, can also provide evidence.

All exhibits must be marked. Exhibits are marked P-1, P-2, P-3 (for prosecution exhibits) or D-1, D-2, D-2 (for defense exhibits). At a trial, there may be several exhibit, marking exhibits will keep track of what document is being introduced so that a Judge or jury may easily refer to it during deliberations.

To enter an exhibit into evidence, it must be relevant. You prove relevance by laying a foundation. A foundation is laid showing that this exhibit is related to this crime and this defendant. After a foundation has been laid, you may enter it into evidence. You may only read the contents of a document or show the jury a picture/map after it has been admitted into evidence.

Here are the steps to admitting exhibit evidence:

Prosecutor: Your Honor, I have here a document I would like to mark prosecution exhibit 1 (or you can simply say P-1) for identification purposes. I'm showing Defense counsel (or Prosecution). May I approach the witness.

Judge: Yes you may.

Prosecutor: Mr. Smith, I'm showing you what has been marked P-1 for identification purposes, what is it?

Mr. Smith: It's a letter that the defendant wrote to me.

Defense: Objection. No foundation has been laid as to how this witness knows that the letter was written by my client.

Prosecutor: I will gladly lay more foundation, your Honor.

Judge: Please do so.

Prosecutor: Have you ever seen the defendant's handwriting?

Mr. Smith: Yes, he's my son. I've seen his handwriting on birthday cards he sent me, letters he wrote to me, and homework assignments.

Judge: Objection is overruled.

Foundation has been laid as to the relevance to this defendant.

Prosecutor: Your Honor, I would now like to admit P-1 into evidence.

Judge: Any objections?

Defense: No, your Honor.

Judge: P-1 is admitted into evidence.

Now that the letter is admitted into evidence, you may read from it.

Prosecutor: Mr. Smith can you read what P-1 says.

Mr. Smith: Dear Dad, I'm mad that you didn't give me a Wii for Christmas. I'm going to steal your TV. until you buy me a Wii. Signed Joe.

Defense

While prosecution must prove the elements of a crime, defense does not have to prove anything. If the prosecution cannot prove their case, the defendant is found not guilty. Often times, the defense will present evidence to dispute the prosecution's evidence or to prove a defense.

Relevance

All evidence (testimonial or exhibit) **MUST** be relevant to the crime charged. If the defendant is charged with burglary, a prosecutor may not bring in evidence of the defendant's drug use. The defendant's drug use has nothing to do with burglary. Similarly, a prosecutor may not introduce evidence that the defendant had committed burglary 5 times before. Although a defendant's criminal history may seem relevant, it is not reliable because it does not prove that the defendant is guilty **THIS** time. In fact, this would be prejudicial to the defendant because a jury will be led to believe that the defendant did it once before so it must be him this time. However, in the American criminal justice system, you are innocent until proven guilty so a prosecutor must only present evidence that pertains to this particular burglary.

Asking a witness to state her name, occupation, and address is relevant. Although it may not be relevant to the burglary charge, it is relevant because it provides a foundation for this witness. It tells the Judge or jury why this witness has knowledge of the information she is about to give and why she should be believed.

INSTRUCTION FOR OBJECTIONS

The Widener Rules of Evidence provides rules of what is and is not allowable in the court of Widener. An opponent may violate the Widener Rules of Evidence by attempting to introduce evidence that is not allowable. Evidence may be introduced in the form of testimony (asking a witness a question) or exhibits (pictures, maps, documents, etc.).

When you feel your opponent is violating the Widener Rules of Evidence, stand up and say “objection.” You must say objection before the “evidence” comes out. Meaning, if your opponent asks a witness whether the Defendant is a good person (prohibited under Rule ----), you must say “objection” before the witness answers the question. Similarly, if your opponent attempts to admit a document into evidence, you must say “objection” before the Judge admits the document.

RESPONDING TO OBJECTIONS

When an opponent has objected, the Judge will ask the opponent to state the grounds for the objection. What this means is that the objecting attorney must state the rule that renders the objection.

The Judge will then ask you to explain why you should be allowed to use this evidence. You should also refer to a rule to justify your argument.

WIDENER RULES OF EVIDENCE

Rule 401. Definition of “Relevant Evidence”

“Relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness’ own testimony.

Rule 701. Opinion Testimony by Lay Witnesses

If a witness is not testifying as an expert, the witness’s testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue, and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Rule 801. Definitions

(a) Statement. A “statement” is an oral or written assertion.

(b) Declarant. A “declarant” is a person who makes a statement.

(c) Hearsay. “Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) Admission by a Party-Opponent. The statement is offered against a party and is the party's own statement, in either an individual or a representative capacity.

Rule 802. Hearsay Rule

Hearsay is not admissible except for certain circumstances listed in rule 803.

Rule 803. Hearsay Exceptions

(1) Present Sense Impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited Utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then Existing Mental, Emotional, or Physical Condition. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

FINAL JURY INSTRUCTIONS

REASONABLE DOUBT

The law uses the term, “proof beyond a reasonable doubt,” to tell you how convincing the evidence of guilt must be to permit a verdict of guilty. The law recognizes that, in dealing with human affairs, there are very few things in this world that we know with absolute certainty. Therefore, the law does not require the People to prove a defendant guilty beyond all possible doubt. On the other hand, it is not sufficient to prove that the defendant is probably guilty. In a criminal case, the proof of guilt must be stronger than that. It must be beyond a reasonable doubt.

A reasonable doubt is an honest doubt of the defendant’s guilt for which a reason exists based upon the nature and quality of the evidence. It is a doubt that a reasonable person, acting in a matter of this importance, would be likely to entertain because of the evidence that was presented or because of the lack of convincing evidence.

Proof of guilt beyond a reasonable doubt is proof that leaves you so firmly convinced of the defendant’s guilt that you have no reasonable doubt that the existence of any element of the crime.

Whatever your verdict may be, it must not rest upon baseless speculations. Nor may it be influenced in any way by bias, prejudice, or sympathy.

If you are not convinced beyond a reasonable doubt that the defendant is guilty of a charged crime, you must find the defendant not guilty of that crime. If you are convinced beyond a reasonable doubt that the defendant is guilty of a charge crime, you must find the defendant guilty of that crime.

PRESUMPTION OF INNOCENCE

Throughout these proceedings, the defendant is presumed to be innocent. As a result, you must find the defendant not guilty, unless, on the evidence presented at this trial, you conclude that the People have proven the defendant guilty beyond a reasonable doubt.

BURDEN OF PROOF

The defendant is not required to prove that he/she is not guilty. In fact, the defendant is not required to prove or disprove anything. Rather, the People have the burden of proving the defendant guilty beyond a reasonable doubt. That means, before you can find the defendant guilty of a crime, the People must prove beyond a reasonable doubt every element of the crime including that the defendant is the person who committed the crime.

CREDIBILITY OF WITNESSES

As judges of the facts, you alone determine the truthfulness and accuracy of the testimony of each witness. You must decide whether a witness told the truth and was accurate, or instead, testified falsely or was mistaken. You must also decide what importance to give to the testimony you accept as truthful and accurate.

INTEREST/LACK OF INTEREST

You may consider whether a witness has any interest in the outcome of the case, or instead, whether the witness has no such interest.

A defendant who testifies is a person who has an interest in the outcome of the case.

You are not required to reject the testimony of an interested witness, or to accept the testimony of a witness who has no interest in the outcome of the case.

You may, however, consider whether an interest in the outcome, or the lack of such interest, affected the truthfulness of the witness's testimony.

MOTIVE

You may consider whether a witness had, or did not have, a motive to lie.

If a witness had a motive to lie, you may consider whether and to what extent, if any, that motive affected the truthfulness of that witness's testimony.

CONSISTENCY

You may consider whether a witness's testimony is consistent with the testimony of other witnesses or with other evidence in the case.

If there were inconsistencies by or among witnesses, you may consider whether they were significant inconsistencies related to important facts, or instead were the kind of minor inconsistencies that one might expect from multiple witnesses to the same event.

VERDICT OF THE JURY

We the Jury find as to the crime alleged against Emma Meeney as follow:

1. As to the crime of

_____ GUILTY

_____ NOT GUILTY

2. As to the crime of

_____ GUILTY

_____ NOT GUILTY

Date _____

Jury Foreperson

SCORING CRITERIA

Opening Statement

- Provided a case overview
- The theme/theory of the case was identified
- Mentioned the key witnesses
- Provided a clear and concise description of their team's side of the case
- Stated the relief requested
- Discussed the burden of proof
- Presentation was non argumentative

Direct Examinations

- Properly phrased questions
- Used proper courtroom procedure
- Handled objections appropriately and effectively and did not overuse objections
- Demonstrated an understanding of the Rules of Evidence
- Handled physical evidence appropriately and effectively

Cross Examinations

- Properly phrased questions
- Effective questioning
- Properly impeached witnesses
- Handled objections appropriately and effectively
- Did not overuse objections
- Used various techniques, as necessary, to handle a non-responsive witness
- Demonstrated an understanding of the Rules of Evidence
- Handled physical evidence appropriately and effectively

Closing Statement

- Theme/theory continued in closing argument
- Summarized the evidence
- Emphasized the supporting points of their own case and damaged the opponent's case
- Concentrated on the important, not the trivial
- Applied the applicable law
- Discussed burden of proof
- Responded to judge's questions with poise
- Overall, the closing statement was persuasive

**Office of the
Medical Examiner**

Dr. Jordan Cavanaugh, MD
Medical Examiner

Concord County

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POSTMORTEM REPORT

Concord County Case No. 12-08-3726

Vera Weeks, 19 year old white female
846 Main Street
Polishook, WR 08903
Date of Death: 21 OCT 2008
Date of Examination: 21 OCT 2008

Findings:

1. Fine sand particles were present in the lower respiratory passages. Therefore death was due to drowning.
2. There were a few minor injuries to the nose, face, and left leg. These could not have been sustained while in the water.
3. Possible obstruction in the coronary arteries.
4. There was a presence of alcohol in the body.

Summary:

This overweight nineteen year old woman was witnessed to have entered Widener Lake but never emerged. She was apparently dead at the scene although not pronounced until removal to Widener Hospital. Postmortem examination demonstrated no significant injuries.

Cause of Death: Asphyxiation, secondary to drowning.

VW/jc: pmr
10/21/08

Jordan Cavanaugh, MD
Medical Examiner

Exhibit 1

KAPPA DELTA OMEGA

excellence in body, spirit, and mind

MONDAY

TENNIS MATCH

2-ON-2 BASKETBALL

TUESDAY

MATH MATCH

DANCE OFF

WEDNESDAY

FENCING MATCH DEBATE

THURSDAY

FIVE MILE RUN

CHARITY RACE

FRIDAY

SOCCER GAME

TALENT MATCH

OCTOBER 2008

Exhibit 2

KAPPA DELTA OMEGA
excellence in body, spirit, and mind

DON'T BE A LOSER

JOIN

KAPPA DELTA OMEGA

WE'LL WORK YOU TO DEATH

TO BE

THE ELITE OF THE ELITE

Exhibit 3

SUMMARY OF VIDEOTAPE

On October 21, 2008, a customer at the Chugg-A-Lot Bar had a video camera and was taping a birthday party for a friend. While taping this party, this customer taped part of Vera Weeks' punishment. The tape shows Ms. Weeks standing by the bar downing a large amount of alcohol. After a few drinks, one can see and hear her yell "I love Kappa Delta Omega!" With a smile on her face. All the other sorority members are then seen cheering and chanting her name in what appears to be of support. The videotape then cuts back to the party for about 15 minutes. When the camera turns again towards Ms. Weeks, she is seen with her head down on the bar. While her sorority sisters are trying to force her to drink more. The video shows Ms. Weeks refusing anymore alcohol. It was at this point that all the members of the sorority left the Chugg-A-Lot Bar.

Unfortunately, between the time of the incident at trial, the tape was destroyed through the fault of no one. As for the one who made the tape, he is out of the country on business and is unavailable for an indeterminate period of time. Both parties had watched the video before it was destroyed and both parties stipulate to its authenticity.

Exhibit 4