

2010
Illinois State Bar Association
High School Mock Trial Invitational

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The Illinois Judges Association,
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Amended Case Materials*



Logan Lovell v. Pat Sainsbury



**ILLINOIS STATE
BAR ASSOCIATION**

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2010 Illinois State Bar Association High School Mock Trial - Case synopsis

Plaintiff's Witnesses

Logan Lovell – driver of Prius

Officer Kerry Cambridge - issued tickets

Dr. Jehan Whitney – juvenile orthopedic physician – Lovell's doctor

Defense Witnesses

Pat Sainsbury – driver of van

Quincy Waitrose – van passenger

Raven Burberry - expert in auto crash reconstruction

Mary Lincoln High School offers the popular Illinois Judges Association program, *Seven Reasons To Leave The Party* on Friday, April 10, 2009, and the entire school population attends. On Saturday, April 11, 25 teens are invited to a party at the home of a high school student, Kim Jordan. The party goers were all told that Kim's parents will be home, and that the party is a simple "movie night." When guests arrive, they realize Kim's parents are not at home and there is evidence of alcohol being present, brought by guests in coolers.

Some of the students who attend the parentless party are members of the high school swim team, specifically Logan Lovell and Pat Sainsbury. The school has a zero tolerance policy regarding drugs, drinking, smoking and curfew violations, especially for those on school athletic or scholastic teams. Once the swim team student Logan Lovell sees the alcohol come out of a cooler brought to the party by an upper-classman, he/she leaves, taking two other students along.

A traffic accident occurs involving Lovell and Sainsbury. After calling an ambulance to the scene, police officers ask all the uninjured students to undergo breathalyzer tests, including the passengers. Driver Sainsbury blows a .05 (the legal limit for those 21 years of age or older is .08). Driver Lovell blows a .02. All others pass the test.

Lovell has filed suit against Sainsbury alleging that he/she was driving under the influence, was careless, failed to control his/her vehicle, was tailgating, caused a hazard by driving while using a cell phone, and caused permanent physical harm as well as pain and suffering, including possible loss of college swimming scholarship.

YOU ARE PROVING LIABILITY ONLY – NOT DAMAGES!

Stipulations:

1. Dr. Jehan Whitney, Raven Burberry are stipulated to be experts.
2. Dr. Whitney's witness affidavit is his/her medical report.
3. Officer Cambridge's affidavit will serve as the accident report.
The tickets that were written are not available as exhibits.
3. Lovell and Sainsbury are both 18 years of age and have their drivers' licenses.
4. Raven Burberry's witness affidavit is his/her formal accident evaluation report.
5. All witness affidavits are to be considered signed and notarized.
6. Admissibility of the breathalyzer test is not in dispute.
7. All parties are aware that O'Douls has the .4% alcohol content.
8. All parties are aware that the diagram was drawn by Officer Kerry Cambridge and represents the best recollections of all parties involved in the case.

Exhibits:

- A. Diagram of accident site.

STATE OF ILLINOIS)
)
COUNTY OF LINCOLN) ss

**IN THE CIRCUIT COURT OF THE 7TH JUDICIAL CIRCUIT,
LINCOLN COUNTY, ILLINOIS**

Logan Lovell,)
Plaintiff)
)
v.) No. L -00-9
)
Pat Sainsbury)
Defendant)

Complaint at Law

NOW COMES the Plaintiff, Logan Lovell, alleging the following for the Civil Complaint against the Defendant Pat Sainsbury.

1. That on April 11, 2009, on or about 8:30 p.m., Plaintiff Logan Lovell was the driver of a Prius automobile travelling northbound on Jackson Road in Lincoln County, Illinois.
2. That at about the same time and place, Defendant Pat Sainsbury was driving a Volkswagen van proceeding northbound on Jackson Road in Lincoln County, Illinois, following Plaintiff Lovell's vehicle.
3. That at the time and place, there was a collision between Sainsbury's vehicle and Lovell's vehicle.
4. That at the time alleged, Defendant Sainsbury owed the duty of exercising due care and caution to other drivers lawfully using the public roadways of Illinois.
5. In breach of that duty, Defendant Sainsbury was then and there guilty of one or more of the following careless and negligent acts and/or omissions:
 - a. Failed to keep a proper lookout ahead;
 - b. Failed to decrease the speed of his/her vehicle to avoid colliding with Lovell's vehicle;
 - c. Failed to maintain control of his/her vehicle;
 - d. Failed to maintain an appropriate distance between Lovell's vehicle and his/her own;
 - e. Failed to exercise ordinary care in the operation of his/her vehicle;
 - f. Failed to stop his/her vehicle prior to coming into contact with Lovell's vehicle;
 - g. Blew a .05 on a breathalyzer test, over the legal limit for a driver under the age of

21 years.

6. As a direct and proximate result of one or more of the foregoing negligent acts and/or omissions, Plaintiff Logan Lovell sustained severe injuries to face and upper body, both internally and externally, which resulted in the need for prolonged physical therapy and caused great pain and suffering and will continue to cause pain and suffering and ongoing medical treatment. Plaintiff also missed work as a result of these injuries.

WHEREFORE, Plaintiff Logan Lovell prays that judgment be entered in his/her favor and against the Defendant Pat Sainsbury for a sum in excess of \$50,000.00, plus costs for personal injuries, pain and suffering, medical expenses, lost wages, and for such other relief as this Court deems just and equitable.

PLAINTIFF DEMANDS A TRIAL BY A JURY.

Respectfully submitted,

Logan Lovell, Plaintiff

By

A.J. Noble-Jones
One of His/Her Attorneys

STATE OF ILLINOIS)
) ss
COUNTY OF LINCOLN)

**IN THE CIRCUIT COURT OF THE 7TH JUDICIAL CIRCUIT,
LINCOLN COUNTY, ILLINOIS**

Logan Lovell,)
Plaintiff)
)
v.) No. L -00-9
)
Pat Sainsbury)
Defendant)

ANSWER AND AFFIRMATIVE DEFENSE

NOW COMES the Defendant, Pat Sainsbury, by his/her attorneys, and for his/her Answer to the Complaint and Affirmative Defense, states as follows:

1. Defendant admits the allegations of Paragraph 1.
2. Defendant admits the allegations of Paragraph 2.
3. Defendant admits the allegations of Paragraph 3.
4. Defendant admits the allegations of Paragraph 4, but denies that he/she breached said duty.
5. Defendant denies the allegations contained in Paragraph 5, including subparagraphs a through g.
6. Defendant denies the allegations contained in Paragraph 6.

WHEREFORE, Defendant requests the Court enter judgment in his/her favor and against Plaintiff and award him/her costs of this suit.

**AFFIRMATIVE DEFENSE
(Comparative Negligence)**

1. At the time and place alleged in the Complaint, Plaintiff, Logan Lovell, owed a duty to exercise due care and caution for the safety of his/her self and lawfully using the public roadways of Illinois.
2. At the time and place alleged in the Complaint, Plaintiff Logan Lovell was guilty of one or more of the following careless and negligent acts and/or omissions:
 - a. Failed to keep a proper lookout for vehicles in front and behind;
 - b. Failed to properly signal before turning off the roadway;

c. Failed to provide adequate notice through braking that Plaintiff Lovell intended to make a right handed turn;

d. Failed to maintain proper control of his/her vehicle;

e. Failed to exercise ordinary care in the operation of his/her motor vehicle.

3. As a direct and proximate result of one or more of the foregoing negligent acts and/or omissions on the part of the Plaintiff, he/she allegedly sustained personal and pecuniary injuries. WHEREFORE, Defendant prays that Plaintiff be barred from recovering damages pursuant to 735 Ill.Rev.Stat. 5/2-116. If the trier of facts find the comparative fault on the part of the Plaintiff is more than 50 percent of the proximate cause of the injury or damage for which recovery is sought in which case Defendant prays judgment be entered in his/her favor and against Plaintiff and further prays recovery of his/her costs herein. If the trier of fact finds that the contributory fault of the Plaintiff is not more than 50 percent of the proximate cause of the injury or damage for which recovery is sought, Defendant prays that any damages allowed be diminished in proportion to the amount of fault attributable to Plaintiff. Defendant demands trial by jury as to his/her affirmative defense.

Respectfully submitted,

Pat Sainsbury, Defendant

By:

Kelly Northrup,
One of his/her Attorneys

Jury Instructions:

70.01 Duty of Driver Using Highway: It is the duty of every driver of a vehicle using a public highway to exercise ordinary care at all times to avoid placing himself or others in danger and to exercise ordinary care at all times to avoid a collision.

10.01 Negligence -- Adult -- Definition: When I use the word "negligence" in these instructions, I mean the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not do, under circumstances similar to those shown by the evidence. The law does not say how a reasonably careful person would act under those circumstances. That is for you to decide.

11.01 Contributory Negligence -- Adult -- Definition: When I use the expression "contributory negligence," I mean negligence on the part of the plaintiff that proximately contributed to cause the injury or property damage.

B21.02 Burden of Proof on the Issues -- Negligence -- One Plaintiff and One Defendant -- Causes of Action Accruing On and After 11/25/86: The plaintiff has the burden of proving each of the following propositions:

First, that the defendant acted or failed to act in one of the ways claimed by the plaintiff as stated to you in these instructions and that in so acting, or failing to act, the defendant was negligent;
Second, that the plaintiff was injured and the plaintiff's property was damaged;
Third, that the negligence of the defendant was a proximate cause of the injury to the plaintiff and the damage to the plaintiff's property.

If you find from your consideration of all the evidence that any of these propositions has not been proved, then your verdict should be for the defendant. On the other hand, if you find from your consideration of all the evidence that each of these propositions has been proved, then you must consider the defendant's claim that the plaintiff was contributorily negligent.

As to that claim, the defendant has the burden of proving both of the following propositions:

A: That the plaintiff acted or failed to act in one of the ways claimed by the defendant as stated to you in these instructions and that in so acting, or failing to act, the plaintiff was negligent;

B: That the plaintiff's negligence was a proximate cause of his injury and the damage to his property.

If you find from your consideration of all the evidence that the plaintiff has proved all the propositions required of the plaintiff and that the defendant has not proved both of the propositions required of the defendant, then your verdict should be for the plaintiff and you will not reduce plaintiff's damages.

If you find from your consideration of all the evidence that the defendant has proved both of the propositions required of the defendant, and if you find that the plaintiff's contributory negligence was more than 50% of the total proximate cause of the injury or damage for which recovery is sought, then your verdict should be for the defendant.

If you find from your consideration of all the evidence that the plaintiff has proved all the propositions required of the plaintiff and that the defendant has proved both of the propositions required of the defendant, and if you find that the plaintiff's contributory negligence was 50% or less of the total proximate cause of the injury or damage for which recovery is sought, then your verdict should be for the plaintiff and you will reduce the plaintiff's damages in the manner stated to you in these instructions.

15.01 Proximate Cause – Definition: When I use the expression "proximate cause," I mean that any cause which, in natural or probable sequence, produced the injury complained of. It need not be the only cause, nor the last or nearest cause. It is sufficient if it concurs with some other cause acting at the same time, which in combination with it, causes the injury.

Illinois Statutes

625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

* * *

(625 ILCS 5/11-501.8)

Sec. 11-501.8. Suspension of driver's license; persons under age 21.

(a) A person who is less than 21 years of age and who drives or is in actual physical control of a motor vehicle upon the public highways of this State shall be deemed to have given consent to a chemical test or tests of blood, breath, or urine for the purpose of determining the alcohol content of the person's blood if arrested, as evidenced by the issuance of a Uniform Traffic Ticket for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance, if a police officer has probable cause to believe that the driver has consumed any amount of an alcoholic beverage based upon evidence of the driver's physical condition or other first hand knowledge of the police officer. The test or tests shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the aforesaid tests shall be administered. A urine test may be administered even after a blood or breath test or both has been administered.

* * *

(c) A person requested to submit to a test as provided above shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of more than 0.00, may result in the loss of that person's privilege to operate a motor vehicle and may result in the disqualification of the person's privilege to operate a commercial motor vehicle, as provided in Section 6-514 of this Code, if the person is a CDL (conditional driving license? holder. The loss of driving privileges shall be imposed in accordance with Section 6-208.2 of this Code.

(d) If the person refuses testing or submits to a test that discloses an alcohol concentration of more than 0.00, the law enforcement officer shall immediately submit a sworn report to the Secretary of State on a form prescribed by the Secretary of State, certifying that the test or tests were requested under subsection (a) and the person refused to submit to a test or tests or submitted to testing which disclosed an alcohol concentration of more than 0.00. The law enforcement officer shall submit the same sworn report when a person under the age of 21 submits to testing under Section 11-501.1 of this Code and the testing discloses an alcohol concentration of more than 0.00 and less than 0.08.

WITNESS AFFIDAVITS

**Two witnesses allowed per side.
Witnesses are bound by their statements.
No hostile witnesses allowed.**

**IN THIS CASE YOU ARE TO PROVE LIABILITY ONLY –
NOT DAMAGES.**

Plaintiff's Witnesses

Logan Lovell – driver of Prius

Officer Kerry Cambridge - issued tickets

Dr. Jehan Whitney – juvenile orthopedic physician – Lovell's doctor

Defense Witnesses

Pat Sainsbury – driver of van

Quincy Waitrose – van passenger

Raven Burberry - expert in auto crash reconstruction – employed by Sainsbury's insurance provider

WITNESS AFFIDAVITS



Plaintiff: Logan Lovell (driver of Toyota Prius)

1. My name is Logan Lovell. I'm 18 years old and a student at Mary Lincoln High School. I've been asked to tell my size and weight. I am about five foot five and a half and I weighed 123 lbs last time I checked. I also have a part time job at a local discount store. I work some nights and most weekends.
2. On the evening of April 11, I went to a party at Kim Jordan's home. I thought Kim's parents were going to be there, but they weren't. When I saw evidence of alcohol, I decided to leave the party, not only because of the zero tolerance rules at school.... Our school had just had a presentation on the 7 Reasons To Leave The Party and when I noticed that some of the kids at the party had brought coolers and were drinking beer, I knew I had to get out of there. That 7 Reasons presentation confirmed everything my parents and older brothers and sisters had been telling me about being a responsible person. I'm a member of the high school swim team. That absolute zero tolerance policy means drinking and drugs. Grades too. It's a strict school. I believed what I heard and signed the contract provided by the 7 Reasons speaker. Besides all that, I hadn't been feeling all that well. My throat hurt and I'd been sucking on cough drops all day. In fact, I was sucking on one when the accident happened.
3. At the time of the accident I was on academic probation and wasn't allowed to swim with the team. My grade point average slipped because I was having trouble in math and French classes, as well as history. I've been working hard to get my grades up so I can swim with the team again and maybe eventually end up with a swimming scholarship to the local college. The last thing I needed was another strike against me. Now I'm sitting here recovering from a broken nose and collar bone and if the collar bone doesn't heal right I may never have the chance to get back on the swim team or be eligible for a swimming scholarship. And, my parents had restricted my work hours to just Friday evenings and weekends, but that was fine with my boss.
4. When I noticed the beer at the party, I told two of my close friends that I had to leave and they offered to come with me. We didn't make a big fuss, we just left and on the way to the car, which was parked about a block away from the party house, we called Pat Sainsbury to see if he/she wanted to come to my house instead of running the risk of being caught at the party. Pat's on the swim team too. We had to leave a message on Pat's cell phone because there was no answer.
5. Also before getting in my car, which is really my parents' car, I called home to let Mom and Dad know that I'd be coming home early and I asked permission to bring some friends with me. They said yes and didn't ask any questions and I didn't tell them the reason I'd left the party.
6. On our way to our house, we stopped at a convenience store and got some chips and some soda. We also each ate an ice cream bar. It felt good on my throat. We also stopped at a video rental store and picked up two videos. We left the party at about 8:00 p.m. and the stops only took a few minutes each. I didn't see the time, but I think the accident happened at about 8:30 or so.
7. It was dark, but it was clear. No rain or anything like that. I'm a careful driver. I check my rearview mirrors regularly and after leaving the video store, our last stop before heading home, I noticed that a dark colored van was sort of following us and getting too close for comfort. I couldn't see who was driving the van, and the vehicle didn't look familiar to me. I mentioned to the others in the car that it looked like someone was trying to scare us by getting too close.

8. I tried slowing down to let the van pass, but they slowed down too. By the time we approached the street where I needed to turn to go home, I was more than a little nervous, it sure felt like that van was following me, and following too closely. There's a police station at our corner, on Jackson Road, and the thought occurred to me that I shouldn't lead whoever was following me to my home so I turned into the police station parking lot. I had my left turn signal on, because I intended to turn left to go to my house, but I changed my mind and turned right. There is a left turn lane at that intersection, and I may have sort of drifted to the left before I turned right, but it's illegal to pass someone on the right, isn't it? I slowed down sort of fast to make the turn. That's when the van hit us in the rear, pushing our car into a light post. I think I was going about 25 miles per hour when we got hit. I remember leaving the road, hearing a crash and then pretty much everything gets confused, even though I never lost consciousness. I remember talking to the police officer investigating the accident. I said, "I am sure sorry that I tried to turn too fast but I was afraid of the car following me."

9. I know I hit a post; the left front of the Prius is really crushed in, but there was very little damage to the rear of the vehicle, only a small ding and scratch. Airbags in front and on the driver side deployed and hit me pretty hard, but it was hitting that post that really did the damage.

10. I do remember seeing people from the van spill out of the vehicle, all screaming and yelling. I recognized Pat Sainsbury as the driver. Pat got more tickets than I got, which means the police determined that the accident was Pat's fault. That's why Pat should have to pay. Pat can still swim and I can't. Pat may get a scholarship and I probably won't. I had to go through therapy for months, and Pat walked away without any aches or pains.

11. I also remember the police giving everyone in the van breath tests to see if alcohol had been involved. Pat got a DUI and also citations for failure to control the van and some other things. I think that's entirely fair. I heard from some of the other students that the smell of beer in the van was pretty strong. Someone said that they were messing around in the back seat and beer spilled, but no one had been drinking it. It was still open liquor in a moving vehicle! And we'd just had a presentation at school about 7 Reasons to Leave the Party. In the ambulance, they must have given me a blood alcohol test too. They told me I blew a .02. I think that's incredible because I hadn't had a drink. No alcohol at all. I had been sucking on a cough drop right before the crash, that's the only thing I can think of that might have caused that reading.

12. I'm insured on my parents' insurance. I had permission to drive their Prius and now our rates will probably go up, all because Pat Sainsbury was trying to freak us out and may have been drinking...and he/she sure wasn't driving safely. I got a ticket later in the mail, and I'm afraid of the insurance rate increase. I don't want my parents to suffer financially because Pat Sainsbury was irresponsible. We want Sainsbury's insurance to pay for the car repair, and all my medical bills, as well as my pain and suffering, and maybe, if I lose a college scholarship we can recover something for that too.

13. My nose was broken and will probably heal crooked, which the doctor said may lead to major sinus problems in the future. And healing a broken collar bone is a major pain. I had to hold still for weeks and sleep in a recliner. I couldn't dress myself; I couldn't put on or tie my own shoes for weeks. Taking a shower was even complicated. And I couldn't drive, which I sometimes need to do to get to and from work and school. And those inconveniences were nothing compared to the

pain and discomfort. You should hear the noise my collarbone made when I tried to move right after the accident. It was awful. And now I have this huge bump over where the break was. Looks really creepy, especially when I'm in my swimsuit. This is bad enough, but I could have been killed. We all could have been killed!

14. I was out of swimming 6 weeks and I'm still sitting on the side of the pool and not competing. Physical therapy was and is awful, but it helped me regain some mobility and it's still helping. I'm still sore, but I'm told I'm healing well. Not being able to drive was a hassle and a drag. If I could sue for loss of fun, I'd be doing that too.

15. I know from the *Seven Reasons to Leave the Party* that if Pat Sainsbury is convicted he/she will have a record and it may affect him/her future in lots of different ways. I know I don't trust him/her anymore...Pat made bad decisions and now he/she might be losing his/her driving privileges. I'm sort of beating myself up these days. If I'd been a better friend and made Pat leave the party with me, then this all wouldn't have happened. I guess I just cared too much about keeping my own record clean and didn't think enough about others. I've apologized about this to Pat but Pat didn't want to talk to me about it. Again, I had nothing to drink. Either the cough drop made the machine go crazy, or the machine was just plain wrong. I did get a ticket after the accident. It came in the mail. It was for improper lane usage, but not for a DUI.

Officer Kerry Cambridge (issued ticket)

1. My name is Kerry Cambridge; I'm a city police officer in the community of Lincoln's Grove where the accident took place. I've been an officer for 12 years and have trained in accident investigations at the Illinois Police Academy. The unusual thing about the accident in question is that it happened right in front of the Lincoln's Grove Police Station on the corner of Second and Jackson Roads.

2. I was returning from my dinner break at 8:30 p.m. on the evening of April 11 and was still on the front steps of the police station talking with my superior officer who was entering the building after me. I was near the street and heard the accident happen and turned around to see a red Prius off the road in front of the station.

3. The Prius had obviously been tailed by an old Volkswagen van, which was driving much too close for safety. The Prius's air bags deployed and people from the van immediately jumped out and ran to the Prius to see if they could render assistance. Most of the kids were screaming and yelling. One of the kids, Quincy Waitrose, kept yelling, "That jerk Logan Lovell just swerved right in front of us." I heard no squeal of tires, nor horns blowing. I just hear a crash.

4. My supervisor and I called for emergency assistance and the EMT's arrived in minutes. The only person that suffered any injury was the driver of the Prius, student Logan Lovell. When we reached the Prius, we could see that the driver was pretty messed up. Bloody nose, which I figured was probably broken, and a broken collar bone. The driver seemed crumpled behind the steering wheel, clutching at his/her shoulder. It was pretty obvious when we asked if he/she could move that there was considerable pain involved. It ended up that there were bruised ribs too. The kid looked terrible, but I could tell from his/her reactions that alcohol probably had not been involved in Lovell's decision making or driving abilities. I knew Lovell was going to be pretty uncomfortable for quite some time with the broken collar bone. Mine's been broken and it's not easy. I later found that Lovell did have a blood alcohol level of .02.

5. That kid in the Prius, Logan Lovell, suffered an injury that required immediate professional medical attention. He/She had to be carried from the scene by stretcher to the ambulance. The kid was bleeding from the nose and maybe somewhere else on his/her head, and was moaning. I did talk to Lovell very briefly, and he/she said, "I am sorry I tried to turn too fast, but I was sideswiped by the car following me too closely."

6. The Prius had been in like new condition, but the accident damaged not only the outside but the inside suffered too. The kids had opened cans of soda and it was everywhere, along with some chips and popcorn, and what looked and smelled like granola.

7. I suspected the driver of the 1992 Volkswagen van, Pat Sainsbury, may have been drinking sometime that evening because I smelled alcohol and that's probable cause. Sainsbury had an odor of alcohol on his/her breath, and seemed to be having some balance issues. As a police officer, it's my duty to warn any under age person taking a breath test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of more than 0.00, may result in the loss of that person's privilege to operate a motor vehicle and may result in the disqualification of the person's privilege to operate a motor vehicle. I told this to Pat Sainsbury and Pat indicated that he/she understood. Any Illinois driver, just by holding a license, is presumed to have given

permission to undergo these kinds of tests, and especially if there has been an accident where a ticket has been issued, and I issued a couple of tickets. One to each driver. Sainsbury failed to stop, and Lovell made a turn from an improper lane. Because Lovell had been taken to the hospital, I processed the paperwork and the ticket was mailed later.

8. After standard field sobriety testing, which included me asking Sainsbury to walk a straight line, touch his/her nose with eyes closed, answer some pretty basic questions, and blow into the breathalyzer, we found that Pat Sainsbury, blew a .05 which is below the .08 legal limit for an adult, but for under age drivers, and Sainsbury was 18, there's really no acceptable level. It was at this point that I read Sainsbury his/her *Miranda* rights and made the official arrest. Sainsbury seemed unsteady on his/her feet as well, but was articulate enough. I heard later that Lovell blew a .02 in the ambulance. The ticket I issued was for improper lane usage, not for a DUI, but now I question not giving Lovell a ticket for that too. There's a zero tolerance for blood alcohol for under age drivers.

9. Sainsbury is blaming breath freshening strips, but I don't think those could increase the BAT (blood alcohol test) to that level, no way. There's nothing that supports that in our training. The van suffered no visible damage, but that could be because it was showing its age before the accident.

10. Because Sainsbury had obviously been driving too fast, had failed to control the vehicle, had failed to brake to avoid the accident, and had been drinking, I issued citations. The one thing Sainsbury did right was wear a seatbelt. Every kid involved in this accident had the sense to wear their seatbelts, which probably helped avoid any more serious injuries. It was obvious from the smell inside the van that something had been going on in there. There were two empty beer cans and the place smelled of beer, though on closer inspection the beer cans were dry. A towel had obviously been used to try to sop up some of the beer. I wish I'd been able to issue citations to everyone in that van, as I believe they all contributed to the accident at least in some small way. The van looked like a real party had been going on in there. It was also obvious that Sainsbury had been using his/her cell phone while driving. I found a phone that was flipped open and it looked like Sainsbury had been in the middle of texting someone while driving.

11. It didn't help that the van was a much larger and heavier vehicle than the Prius. Plus the van had seven people riding in it, all of whom piled from the van and started yelling, screaming and after seeing the damage to the Prius and to Lovell started to also complain that they felt ill. By that time, half the police station staff was outside rendering assistance and trying to calm everyone down, call parents, and process everything.

12. After interviewing Sainsbury and the other students, all were released to the custody of their parents. Sainsbury told me, "I looked down at the text for just a second and the car in front of me turned." One of the other passengers said, "The car turned left and then right, and Lovell has a reputation for wild driving." These kids had all come from a party at the Jordan's home, which we also drove by at about 11:30 p.m. after all the paperwork had been done and the scene of the accident had cleared. By the time we arrived at the Jordan residence it was obvious that no one was at home and no evidence that a party had taken place. Due to the statement by others in the Prius, we were aware that the Jordan's hadn't served any alcohol to the kids. Whatever alcohol had been at the party had arrived in coolers with some of the older guests.

13. Pat Sainsbury has a clean driving record, except for this instance. For a first DUI conviction, Sainsbury could get a maximum fine of \$1000, possible imprisonment for up to one year, and a minimum of one-year loss of full driving privileges. And, since Sainsbury is under 21, if convicted of DUI, he/she can be ordered to participate in a program that includes visits to morgues to observe DUI accident victims or visits to facilities that treat DUI victims. If Sainsbury gets the DUI conviction, he/she will also, as an 18-year-old, forfeit his/her driver's license. That would be my recommendation.

14. I think this experience has done a lot to help every student at Mary Lincoln High School realize the dangers of driving after drinking, and using cell phones while driving.

15. An arresting officer may request a breath, blood or urine test, whichever he or she chooses. It's my duty to tell the arrested person that (1) you are considered to have consented to the test; (2) if they refuse to take the test, or take it and have a blood alcohol level of 0.08 or more, their license will be suspended; and (3) they may have the test of their choice at their expense in addition to the one given by the police. And, for kids under 21, I need to advise that any blood alcohol level is unacceptable.

16. As this is Sainsbury's first offense, I hope the judge will consider some community service work that would help improve judgment skills. I think it also helps for kids to have to pay for the damage they caused.

17. I'm familiar with the 7 Reasons to Leave The Party program these kids all saw. It's a wonderful program and very effective, when the kids listen and they usually do. Illinois judges go to schools and really challenge the kids to think. They know...the program stresses that: "By the time these "party-goers" hit the courthouse, it is too late. The 7 Reasons program is the judges' attempt at preventative law. It concedes that the people who have the most influence on teens are not judges but their peers. The goal is to give the majority who do not drink or do drugs the inspiration they need to convince their peers not to go down this road, thereby saving their friends from having a criminal record, losing their driver's license or even saving their friend's life. The presentation is blunt, visual and interactive."¹

18. For the most part, these kids made good choices. They left the party and no one was killed. Having said that, I'm not at all convinced that the explanations Pat Sainsbury is giving are valid. Our equipment is pretty accurate. I'd bet my patrol car that Sainsbury had more than one gulp of beer, which would have affected response time and judgment. Kids are still kids. They sometimes make good decisions and they sometimes make bad ones. In this group of kids, Sainsbury was the one carrying the most responsibility for this accident. Had there been no alcohol involved, I'm convinced that the accident could have been avoided. I've been a police officer for 12 years. I can spot someone under the influence of alcohol pretty accurately. I've seen hundreds of them and I count Sainsbury as one who was definitely under the influence.

¹Language excerpted from <http://ija.org/7%20InvitationSchools.pdf> Used with permission from the Illinois Judges Association.

Dr. Jehan Whitney (examined Lovell)

1. My name is Dr. Jehan Whitney and I am a juvenile orthopedic specialist. I am a graduate of Southern Illinois University School of Medicine and have practiced in the juvenile orthopedic field for 10 years. I also have a degree in physical therapy, as well as being a physician. I've seen well over 3000 patients who have suffered broken collar bones like the injury Logan Lovell suffered in the automobile accident on April 11. In fact, I've suffered a broken collar bone myself so I have personal experience and can relate well to the pain and the discomfort of the necessary physical therapy that this particular injury requires.

2. Because a person's collar bone doesn't completely harden until age 20 or so, collar bones can break during a fall or direct blow during a sporting event. By the age of 18, collar bones are strong enough to withstand some pretty rough treatment, but a car accident can, and did, cause a severe break in this bone.

3. I was called to the emergency room at the Lincoln County Hospital and Trauma Center to examine Logan Lovell on the evening of the crash. It was around 10:00 p.m. when I saw Lovell, only about an hour and a half after the accident. The EMT's had done a good job of stabilizing the area of the shoulder so no additional damage had been done following the initial impact. Lovell told me that the accident occurred because the van following had been following too closely. Just before the accident occurred the passenger in Lovell's car shouted, "Watch out, they're going to hit us."

4. I examined the shoulder and ordered a series of x-rays to confirm my belief that the collar bone had been broken. Lovell was lucky, there is no evidence of nerve damage and no blood vessels were damaged, though there was serious bruising. In the weeks and months following the accident, I saw Logan Lovell and have been monitoring his/her progress as his/her physician.

5. Most collar bone injuries heal well without surgery, but the patient must comply with medical directions and limit activity to ensure the healing process can progress. In Lovell's case, I fitted him/her with a sling and after two weeks, when healing seemed to be progressing a bit too slowly, I fitted him/her with a figure eight strap to help maintain the correct shoulder position to facilitate healing. The bone could not be "set" and put into an immobile cast, due to the location of the break.

6. Slow healing can be caused by many factors, but in Logan's case, I'm confident it's just the way his/her bones react and bond. It has nothing to do with abusing the restrictions that have been placed on activities. Logan's nose also healed slowly. I added a course of vitamins and EST, or electronic stimulation therapy, to advance the healing process. The broken nose was not set and did heal a bit off center. There is also a possibility that Logan will experience sinus issues due to the broken nose, possibly for the rest of his/her life. It's hard to determine at this time whether this will be the case.

7. Logan Lovell experienced a significant amount of discomfort, pain and inconvenience but will, in all likelihood, and with some consistent physical therapy, heal well. If the bone heals normally, and it seems to be doing so, the shoulder function should fully return with time. The result will be little, if any, permanent limitation; however, once a bone has broken in this particular area, there is an increased likelihood that another break can occur. Some patients experience dull

aching in the area for months and even years after the bone heals, which can limit mobility in the area.

8. In Logan's case, the bones were not separated or displaced by a significant amount, which aided in clean healing, and means that surgery could be avoided.

9. Logan needed to wear the figure eight brace for 6-8 weeks and during that time was able to undergo some physical therapy. Logan developed a rather large bump on the site of the break which should diminish during the healing process, but may never completely go away. Quite often evidence of a collar bone break is visible even to the untrained eye for the rest of one's life. The lump just doesn't diminish. That may well be the case here. Slow healing, like Logan's can be an indicator that there may be permanent evidence of a break in the form of a small bump at the break site.

10. I have reviewed all of Logan Lovell's medical records from birth through the accident and Logan had no pre-existing condition that would have affected the cause of the break or the healing processes. The car accident was the sole cause of the break. The break could have been significantly worse had the air bags on the automobile not deployed.

11. This is a very uncomfortable injury and one that can cause physical problems in the future, like limited range of mobility or occasional pain or aches. I personally sometimes feel a dull ache where my collar bone was broken. In some cases, patients have had issues with pain medications, but Logan has tolerated all the treatments very well. There have been no adverse reactions to pain medications, vitamin or other therapies.

12. Logan will, in all likelihood, need to curtail strenuous activities for quite some time, which will mean that swimming may be out for this season, and certain job duties may need to be curtailed at his/her place of employment. It would be unfortunate if a scholarship is jeopardized, but Logan's long-term health is our primary concern. As I said, there is an increased potential for re-break if the initial break does not heal well or heal completely. This means great care and some physical limitations for some months to come.

13. As to Logan's blood alcohol readings, it's my professional opinion that cough drops and other foods that leave a residue in the mouth, like ice cream, can lead to a small increase in breathalyzer readings. I've done a bit of reading on this and have found that breathalyzers don't actually measure alcohol levels, they measure something called Ketone, which is a protein created by the body when it metabolizes alcohol. There are reasons for Ketone in one's system other than from alcohol consumption. This is irrelevant really, as Logan didn't receive a citation for a DUI.

Defendants:

Pat Sainsbury (driver of following car)

1. My name is Pat Sainsbury; I'm 18 years old and attend Mary Lincoln High School along with Logan Lovell. We're both on the swim team and have been friends for years. I've been asked to give my height and weight as well. I'm 5'6" tall and weigh 120 lbs.² This means I'd have had to have the equivalent of one full drink to get me to the blood alcohol level they say I had the night in question. That's just not what happened.

2. I attended that same program on the *Seven Reasons to Leave The Party* and was impressed. It made a lot of sense. So, when the beers started appearing at the party that was held on April 11 at Kim Jordan's house, I looked around for other kids on the swim team and noticed that Logan Lovell had already left. I knew I should leave too and I did, after I took the time to round up some of the other kids who had heard the *Seven Reasons* presentation.

3. I admit that I had never tasted beer in my entire life until that night. Someone handed me a soda can and I took a huge swig and then realized that it was beer that they'd put in the can to trick me. I swallowed that one gulp, but that was all. I'd had a cold and couldn't taste very well, my sense of smell was all messed up and I'd been sucking on throat lozenges pretty consistently for days. And because I think my breath smells awful from this cold, I'd also been using breath freshener strips that may have alcohol in them. I think a combination of all that made me blow the .05 and not that one swallow of beer. And, I just read somewhere on line that having a temperature can cause a false positive on that breath test I was given. I had a cold; I could have had a fever. I read that for every degree above normal there can be an increase in the reading of a blood alcohol test.

4. Six friends and I left the party about a half hour after we realized Logan Lovell had left with two other kids. I thought maybe we could catch up to them, especially if they stopped for gas or something. Someone said that Logan had invited some kids to his/her house to watch movies. I thought it would be a good idea to leave the party, so we did. All seven of us. We piled into my older brother's van and left.

5. I'm a very safe driver. I have had no tickets at all since getting my driver's license. I didn't speed and I didn't do anything wrong in this instance either. We spotted what we thought was Lovell's car in front of us some miles before the turn off to his/her house. Some of the kids in the back of the van tried calling Lovell on his/her cell phone, but there was no answer. Probably had it shut off when driving. That's what we've been told to do. When we got closer to the car, we realized from the color and the fact that it was a Prius, that we were 90% sure it was Lovell's car.

6. Someone in the back tried to text Lovell using my cell phone and then handed the cell phone to Quincy Waitrose, a passenger in the front, to show me what they had texted. That's why the police think I was texting when I was driving. All I did was look down for a second and that was enough. I never even held that phone in my hand, I just glanced at it.

² This information is provided in reference to the Blood Alcohol Content Table, found in the educational materials. Witnesses may be any height and weight, but must state that they are 5'6" tall and weigh 120.

7. We'd been following Lovell for awhile, and Lovell would slow down then speed up. I thought that was a signal that Lovell recognized us. It never occurred to me to pass the car. We were going to follow Lovell home and join their party. Play it safe, you know? Be clean and not risk our grades or positions on the swim team. We all know that the school has a zero tolerance policy for junk like that.

8. Anyhow, right in front of the police station on Jackson Road, just yards before Lovell's own street, Second Road, where he/she should have been turning, Lovell signals to turn left, which would be the direction of his/her home, and starts to enter the left turn lane, but then Lovell slams on the brakes and tries to turn right into the police parking lot, right in front of me. I had no chance of stopping. The van's heavy and handles like a truck. I tried to brake but it felt like nothing happened and the next thing I knew Lovell's Prius was piled up on the lamp post right in front of the police station and officers are starting to swarm around us.

9. A bunch of kids in my van had been trying to be funny. They'd brought an O'Doul's fake beer and had soaked towels and were swinging them around in the back of the van. It wasn't alcohol, I swear. There may have been empty cans back there from my brother, or they may have fallen out of the recycling bin, but those cans weren't ours, they were dry!

10. Anyhow, after the accident, everyone in the van got out and ran to the Prius and we all saw what had happened to Logan and we freaked. There was blood everywhere. That's when things got all crazy. Half the people around me started feeling sick and complaining and crying. That didn't help my situation, I can tell you that. I think their reaction made me look guilty. I hadn't done anything wrong. I hadn't been speeding, we all had our seatbelts on, we'd left the party like we were supposed to do, and we'd not been drinking. We'd been goofing around and things got out of hand. I told the investigating officer that I was sorry that I may have looked down at a text message for less than a second and didn't see the car turn until it was too late.

11. The arresting police officer must have thought I looked drunk because I seemed off balance. The ground was pretty uneven in that area and I did sort of trip and fall a few times, but I wasn't drunk. But, I think my stumbling, plus that O'Doul's prank, made the officer think I was drunk. I cooperated fully and did everything I was asked to do, including the breathalyzer test. It was after that test that I was arrested and got read my *Miranda* rights. I still can't believe all of this is happening, but I can't believe anyone would find that I was drunk beyond a reasonable doubt. I explained everything about the one gulp of beer, the O'Doul's and that stuff...but no one wanted to listen to me.

12. So now I'm facing a possible DUI conviction, possible fine, possible jail time, possible community service, loss of my driver's license...all of which I'd accept if I'd done anything really wrong. It was Logan's fault, really. We wouldn't be here if Logan Lovell hadn't slammed on the brakes and made the crazy turn! Logan tried to apologize to me for not asking me to come along when he/she left that party. Talk about denial. Logan caused that accident, not me. If Logan hadn't slammed on the brakes and made that crazy turn. And I wasn't using a cell phone when the accident happened. It was someone else using my cell phone.

13. Logan, who is a so called friend, wants me to pay for everything, even for the possibility of him/her not getting as swimming scholarship? Some apology! And, let's not forget that Logan's on probation for bad grades, for crying out loud. They don't give scholarships to kids with grades like

Logan's. I just don't think a real team player should sue another team member. This law suit is going to do Logan some harm too when it comes to scholarships. If anyone looks at the complete record, they'll see that Logan was trying to get something for nothing and blames other people for his/her own mistakes. And, add to all of this, Logan Lovell also blew a blood alcohol level above the zero tolerance level. I think Logan's was a .02. That's not that different from what I blew. Logan should have gotten a DUI out of this whole thing too.

Quincy Waitrose (passenger)

1. My name is Quincy Waitrose and I'm a 17 year old student at Mary Lincoln High School. I'm friends with both Logan Lovell and Pat Sainsbury. I was in Pat's brother's van when the accident happened on the evening of April 11.
2. We got to the party the same time Logan Lovell did, but we left sometime after Logan left. I was with Pat the entire evening and saw what happened when someone gave Pat that soda can full of beer. Pat took one huge swig and then yelled at the kid who'd given him/her the can for about 10 minutes. I've never seen Pat so upset. Pat was saying stuff like, "Zero Tolerance, you jerk," and "This could ruin me." All of which is true. The school does have zero tolerance and if someone thought that Pat had taken the drink voluntarily, Pat could have been banned from the swim team, or could have been serving detentions or worse. Now he/she may lose his/her driver's license too. Man, that's harsh.
3. We left the party some time after Logan left. I didn't think we were making any conscious effort to catch up with Logan's car. There are only about 10 miles between the party house and Logan's house with loads of places to stop between them. Pat never said anything about trying to catch up to Logan...but some of the kids in the back of the van said they were trying to call Logan to see if it would be ok to come over to his/her house. I tried texting Logan as well using Pat's cell phone. My battery was dead on mine.
4. We really were taking the *Seven Reasons to Leave the Party* seriously. We talked about it in the van. Everyone there thought the reasons to leave were good ones, not that anyone gave us problems when we left. They just said goodbye and off we went. I especially liked the trust thing in that presentation. I've worked hard to be a good example to my younger brother and sister. And I think my parents trust me. I know they are proud of the fact that I decided to leave that party. And I know they are proud of me for standing by my friend, Pat, and am working to clear his/her good name. Pat wasn't drinking.
5. I was sitting in the front seat of the van, next to Pat. I saw tail lights ahead of us and said, "I bet that's Logan." Pat sped up a little bit, but not so much as to make anyone nervous. As we closed the distance, I said, "Yep, that's Logan's car. A red Prius. It's the only one like that in town."
6. The kids in the back were making kind of a lot of noise and they said something about O'Doul's and then we smelled something like beer and Pat started laughing, but yelled that they should cut it out..
7. Pat sped up a little more and someone in the back seat texted Logan using Pat's phone and passed the phone to the front to show us what they were going to send. It said something like "where's the party" trying to let them know we were following them. I held the phone so Pat could see it and I said, "It says "where the party?." And Pat laughed and then we noticed that the Prius's brake lights were on and we had no chance to stop. It was awful. The noise was incredible. We in the van all had our seat belts on, thank goodness. I dropped the cell phone and now they think it was Pat who he/she was a texting while driving because Pat admitted it was his/her phone. It was Pat's phone, but other people were using it. Logan signaled that he/she was turning left, which would have taken us to his/her home, but he/she turned right! Right in front of us. Someone in the

back was yelling, “Slow down” and I think someone said, “Watch out,” but it didn’t do any good. All the warnings in the world won’t help if the driver in front of you does something totally unexpected. Logan Lovell’s left turn signal was on and Logan was heading toward the left turn lane when he/she jerked the wheel and made that crazy right turn right in front of us.

8. Everything stopped for a period of a few seconds and then everyone in the van started screaming. I remember yelling right before the accident, “Look out, the car in front of us is turning the wrong way.” We got out of the van and ran toward the Prius to see if we could help. Thank goodness we were in front of the police station. Those officers were out there fast and the ambulance arrived in what seemed like seconds. I talked to the police officer and told him/her the car just swerved to the left, then right, and turned right in front of us. We had no chance to stop.

9. The kids in the Prius were ok, except for Logan. Logan’s face was covered with blood and he/she was all crunched over like he/she was in pain and trying to protect him/herself from moving too much. The police did everything right, except they wouldn’t listen to us. We kept trying to explain that the smell in the van was O’Doul’s and the towel was wet with that non-alcoholic beer, but they also found some older empty cans of real beer that were under some of the seats, probably from Pat’s older brother. Now Pat’s being blamed for everything, even though Logan really caused the accident by slamming on the brakes and making that crazy turn.

10. Pat and some of the other kids were having trouble walking on the grass, it was sort of lumpy and they kept saying junk like “it’s almost like we’ve been drinking” but we hadn’t been, not any of us. Maybe that’s what gave the officer the idea that Pat had been drinking. That and the O’Doul’s smell from the car. Pat sure wasn’t drunk, hadn’t even had anything alcoholic to drink, except for that one prank gulp at the party. And, Pat had a terrible cold. Maybe some of the medicine he/she had been taking made the breath test go all strange.

11. Pat’s a great kid. He/She shouldn’t have to have his/her whole life messed up because someone ahead of him/her slammed on their brakes and made a crazy turn!

Raven Burberry (expert in auto crash reconstruction)

1. My name is Raven Burberry and I work for the Put Drivers First or PDF Insurance Company, the company that insures Pat Sainsbury. I have 25 years of experience in the insurance industry, and 8 years as an automobile crash investigator and reconstruction expert. I trained at State College and have a Master's in Business Administration and over 100 hours of insurance industry training provided by a variety of insurance providers.

2. Air bags and seat belts are saving lives. There's no doubt about that, but they also have the potential to do some harm. Some airbag deployments can cause the types of injuries sustained by Lovell and some cars have very delicate sensors that will release the airbag when a crash is experienced even at slow rates of speed. Because Lovell had slowed rapidly and was in the process of turning when struck from behind the Prius hit the light post on the driver's side, causing both the front and side airbags to deploy around the driver, but passenger airbags did not deploy, indicating that the rate of speed for the Prius was probably less than 30 mph, probably more like 25 mph. Skid marks on the pavement also indicate that the Prius had slammed on the brakes about 15 yards before the driveway they had attempted to enter.

3. The van didn't really *push* the Prius into the light post, but the bump from the rear did prompt the Prius driver to lose control of the vehicle. This bump would probably not have caused a more experienced driver to react the way Logan Lovell did. It is my opinion that a more experienced driver could have avoided that lamp post. I think Lovell just froze and had no idea how to avoid the collision.

4. There was also a set of skid marks made by the van indicating that driver Sainsbury had attempted to swerve to avoid hitting the Prius and to slow the vehicle, but the skid marks from the van indicate a minor delay in braking. From the skid marks, I am able to confirm that the Prius was partially in the left turn lane when it started to make the right-hand turn into the police parking lot.

5. The Prius, being a much lighter vehicle, quite simply had better maneuverability, the van had little chance of matching the braking range of the Prius, not only because the Prius was a smaller vehicle, but the van also had additional people riding in it. Three passengers in the lighter Prius could out-stop the heavier van loaded with seven people. Its simple math and physics.

6. It is my professional opinion, given the testimony by both Pat Sainsbury and Logan Lovell that the driver of the Prius caused the accident. Sudden braking by a lighter vehicle will inevitably cause the heavier vehicle following to collide. Logan Lovell admits to seeing the van following in what he/she deems a "too close" manner and yet still decided to take a chance and make that sudden turn while sharply braking. Lovell is quite lucky that the Prius didn't flip on its own with driving like that.

7. If Logan Lovell had been driving a van, for instance...and had been followed by a semi, would Lovell have made the same decision? I think not. It's not quite the same weight values, but still, when a larger and heavier vehicle is following, the smaller lead vehicle needs to be aware of the maneuverability differentials.

8. The van was an older vehicle as well. The Prius has anti-lock brakes and the van doesn't. Those wheels locked when Sainsbury tried to stop. Locked brakes don't work as well as anti-lock

brakes. There was another differential in this situation that didn't help the Prius driver, Logan Lovell. There's nothing illegal about driving an older vehicle that doesn't have modern equipment, like anti-lock brakes or air bags.

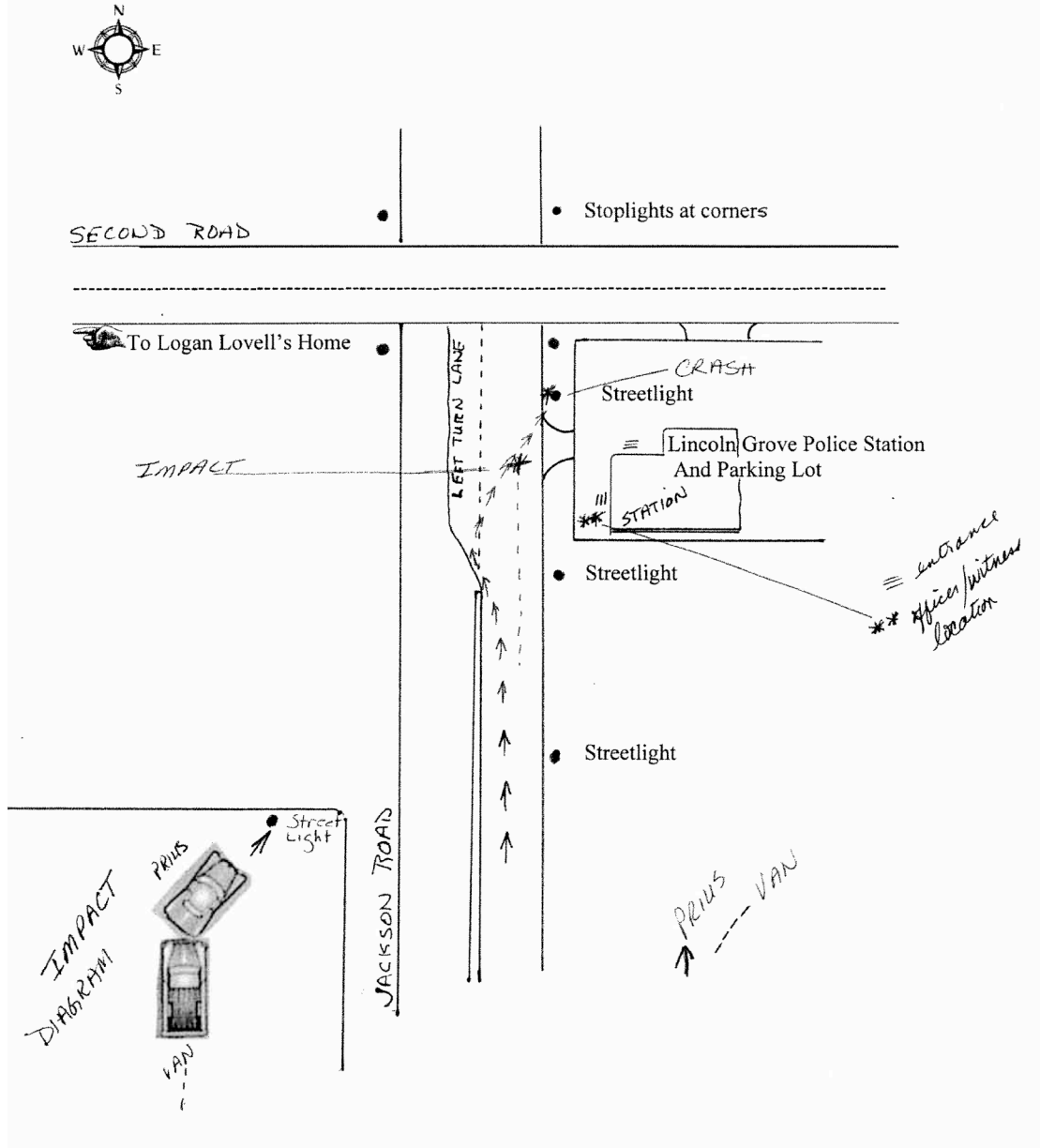
9. I'm not a legal professional, but I am aware that six states (Illinois, Massachusetts, Michigan, New Mexico, Ohio, and Pennsylvania) specifically allow a locality to ban cell phone use. I've done a little research on this and found that localities that have enacted restrictions on cell phone use include Chicago, Illinois, and other jurisdictions may be considering restrictions at this time; however, the community where the accident took place has no law or ordinance banning cell phone use while driving, nor do they currently ban texting. Illinois does have a young driver cell phone ban for those younger than 19; however, simply holding a phone so someone can glance at a screen for a moment probably shouldn't qualify as "using a cell phone." Billboards on the side of the road aren't banned and it's not illegal for a teen to read one of them! Glancing at something is equal to checking your mirror or changing the radio station, it takes a few seconds and should not impair your driving skills.

10. The insurance industry likes the party who causes an accident to pay for damages, injuries, pain and suffering, etc. That's why we're here. Pat Sainsbury doesn't believe that he/she caused this accident. He/She's asking the courts to help us make a determination as to fault and responsibility. The Prius has been fully repaired and is back on the road and completely drivable. The total sum for the repair work came to \$5647.56. The frame wasn't bent, but the radiator was punctured and had to be replaced. The remaining sum was used for body work and repainting. The front hood, fender and side panels on the ~~left-right~~ front side of the car. They got lucky. If the frame had been bent, the car may have had to have been totaled.

11. I was not at the scene of the accident until a week after it happened. No rain had fallen since the accident and the road and side of the road had not been altered since the accident. It was obvious from the police report and diagrams, and the scene itself, that the Prius driver had really made a violent turn and had braked hard to make that turn. Again, I assert that the Prius driver was the primary cause of this accident and should bear the responsibility for repairs to the car, and for any pain and suffering incurred. There's a better than fair chance the Prius could have lost control making that particular maneuver without being hit by the van.

SUPPORT DOCUMENTS – SUPPLEMENTAL MATERIALS

EXHIBIT A - Diagram of accident site.



This information will be familiar to the students who are testifying.

The Illinois Judges Association

7 Reasons To Leave The Party

Information available on line at the Illinois Judges Association Website:

<http://ija.org/7%20Reasons.htm>

Read a newspaper article about 7 Reasons To Leave The Party -

<http://ija.org/The%20Voice.pdf>

Read testimonials about the program - <http://ija.org/7%20Reasons%20Testimonials.pdf>

Read the program brochure and review the contract - <http://ija.org/7%20reasons.pdf>

7 REASONS TO LEAVE THE PARTY

1. **Do the math. Alcohol/drugs + cars = death.**
2. **You like the Internet? So do schools and employers...YOUR record may be there.**
3. **Trust is fragile. Don't break it.**
4. **Movies are more fun than urine tests.**
5. **...and, by the way, they watch you urinate to prevent cheating.**
6. **That \$2 beer may really cost \$100s in fees and fines....It's cheaper at 21.**
7. **You waited 16 years for your driver's license. Don't lose it - or your car.**

Last year, 155 Illinois teens died in car crashes.

Zero Tolerance in Illinois for teens...ANY alcohol suspends your license.

You have two job applicants. One has an arrest record. Who would you choose?

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This information will be familiar to the police officer

Illinois State Police Website

Influenced Driving

Each year in Illinois, hundreds of people die needlessly as the result of drinking or drugged driving. Hundreds more are seriously injured or permanently disabled, and millions of dollars of property damage occur. Here are some things you should know about the consequences of drinking and driving in Illinois.

Teenage Drinking and Driving

Drivers under age 21 represent 10% of licensed drivers but are involved in 17% of alcohol-related fatal crashes. If you are arrested for DUI you will be handcuffed and taken to jail. What will your parents say when you call home and tell them you are in jail? Illinois DUI laws for drivers under 21 years of age are tough and will effect your life for years-- if you live that long.

Crashes are a leading cause of death for teens. Nationally, six individuals between the ages of 15 - 20 die in motor vehicle crashes each day. About 2 in every 5 Americans will be involved in an alcohol-related crash at some time in their lives.

The average college student spends more money for alcohol than for books.

Legal Consequences of Underage Drinking and Driving

First Underage 21 DUI Conviction

- Loss of full driving privileges for a minimum of 2 years.
- Possible imprisonment for up to 1 year.
- Maximum \$2,500 fine.

Second Underage 21 DUI Conviction

- Loss of full driving privileges for a minimum of 5 years or until age 21, whichever is longer.
- Mandatory 5 days in jail or 30 days community service if prior offense within 5 years.
- Possible imprisonment for up to 1 year.
- Maximum \$2,500 fine.

Third Underage 21 DUI Conviction - Class 4 Felony

- Loss of full driving privileges for a minimum of 10 years.
- Mandatory 10 days imprisonment or 60 days community service.
- Possible imprisonment for 1-3 years.
- Maximum \$25,000 fine if prior offense within 5 years.

Aggravated DUI

Class 4 Felony (Following a crash resulting in great bodily harm or permanent disfigurements)

- Loss of full driving privileges for a minimum of 1 year.
- Possible imprisonment for 1-12 years.
- Maximum fine of \$25,000.

Underage Illegal Transportation of an Alcoholic Beverage

- Maximum fine of \$1,000.
- Drivers license suspended for first conviction.
- Drivers license revoked for a second conviction.

Summary Suspension

- A chemical test indicating a blood alcohol concentration (BAC) of .08 or greater results in a 3-month drivers license suspension.
- Refusal to submit to a chemical test(s) results in a 6-month license suspension.

- For subsequent offenses, a chemical test indicating a BAC of .08 or greater results in a 12-month drivers license suspension. Refusal to submit to a chemical test(s) results in a 36-month drivers license suspension.

Possession of Alcoholic Beverages

It is illegal for any person under the age of 21 to have alcoholic beverages in their possession, whether open or unopened. Penalties include:

- A maximum of \$2,500 fine and up to one year in jail.

Zero Tolerance Law for Underage Drinking and Driving

Zero tolerance is a state law that went into effect on January 1, 1995. The law provides for suspension of the driving privileges of any person under the age of 21 who drives after consuming alcohol. Like the name zero tolerance suggests, any trace of alcohol in a young person's system can result in a suspended drivers license. There are exceptions -- minors who consume alcohol as part of a religious service or those who ingest a prescribed or recommended dosage of medicine containing alcohol.

Penalties for Drinking and Driving

The Zero Tolerance Law provides that minors can have their driving privileges suspended even if they're not intoxicated at the .08 level. The following table shows the length of time your driving privileges may be suspended under the Zero Tolerance Law (for BAC of .01 or greater) and DUI Laws (for BAC of .08 or greater). The loss of driving privileges is greater if you refuse to take a sobriety test.

	Under Zero Tolerance Law		Under DUI Laws	
		If Test Refused		If Test Refused
1 st Violation	3 Months	6 Months	2 Years	2 Years
2 nd Violation	1 Year	2 Years	Until age 21 or 5 Years Minimum	Until age 21 or 5 Years Minimum

Effect on Your Driving Record

- **Zero Tolerance** (BAC of .01 or greater) -- Except during suspension period, not on public driving record as long as there is no subsequent suspension
- **DUI Conviction** (BAC of .08 or greater) -- Permanently on public driving record

Under certain conditions, you may be charged with DUI even though your BAC is below .08.

How You Can Help Report Drunk Drivers

You can help by reporting suspected drunk drivers to your nearest State Police Headquarters. From your cellular telephone or citizens band radio, provide us with the following information:

- The location you are calling from.
- Time, location, direction of travel and a description of the suspected drunk driver.
- The make, color, and license plate number of the car.

Blood Alcohol Content Table

This table shows the effects of alcohol on a normal person of a given body weight. Please do not take this table as a license to drink irresponsibly. Everyone is different, and alcohol effects each person in a slightly different way. Only you know your limits. Please drink within them.

One drink equals:

- 1 oz. 86 proof Liquor, or
- 3 oz. wine, or
- 12 oz. Beer

Levels of Intoxication:

- BAC less than .05% - Caution
- BAC .05 to .079% - **Driving Impaired**
- BAC .08% & up - **Presumed Under the Influence**

Body Weight	Number of Drinks								
	1	2	3	4	5	6	7	8	9
100	0.052	0.065	0.097	.0129	.0162	0.194	0.226	0.258	0.291
120	0.027	0.054	0.081	0.108	0.135	0.161	0.188	0.215	0.242

140	0.023	0.046	0.069	0.092	0.115	0.138	0.161	0.184	0.207
160	0.020	0.040	0.060	0.080	0.101	0.121	0.141	0.161	0.181
180	0.018	0.056	0.054	0.072	0.090	0.108	0.126	0.144	0.162
200	0.016	0.052	0.048	0.064	0.080	0.097	0.113	0.129	0.145
220	0.015	0.029	0.044	0.058	0.073	0.088	0.102	0.117	0.131
240	0.014	0.027	0.040	0.053	0.067	0.081	0.095	0.108	0.121

This table shows the effects of alcohol within one hour on a normal person of a given body weight. Please do not take this table as a license to drink irresponsibly. Everyone is different, and alcohol affects each person in a slightly different way. Only you know your limits. Please drink within them.

Information copied from the Illinois State Police Website at
<http://www.isp.state.il.us/traffic/drnkdriving.cfm>

AN ACT concerning transportation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Vehicle Code is amended by adding Section 12-610.2 as follows:

(625 ILCS 5/12-610.2 new)

Sec. 12-610.2. Electronic communication devices.

(a) As used in this Section:

"Electronic communication device" means an electronic device, including but not limited to a wireless telephone, personal digital assistant, or a portable or mobile computer while being used for the purpose of composing, reading, or sending an electronic message, but does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.

"Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. "Electronic message" includes, but is not limited to electronic mail, a text message, an instant message, or a command or request to access an Internet site.

(b) A person may not operate a motor vehicle on a roadway

while using an electronic communication device to compose, send, or read an electronic message.

(c) A violation of this Section is an offense against traffic regulations governing the movement of vehicles.

(d) This Section does not apply to:

(1) a law enforcement officer or operator of an emergency vehicle while performing his or her official duties;

(2) a driver using an electronic communication device for the sole purpose of reporting an emergency situation

and continued communication with emergency personnel during the emergency situation;

(3) a driver using an electronic communication device in hands-free or voice-activated mode; or

(4) a driver of a commercial motor vehicle reading a message displayed on a permanently installed communication device designed for a commercial motor vehicle with a screen that does not exceed 10 inches tall by 10 inches wide in size;

(5) a driver using an electronic communication device while parked on the shoulder of a roadway; or

(6) a driver using an electronic communication device when the vehicle is stopped due to normal traffic being obstructed and the driver has the motor vehicle transmission in neutral or park.

Effective Date: 1/1/2010

Glossary of Terms

BAT – Blood Alcohol Test

Breathalyzer test – breathing into a tube/apparatus that indicates blood alcohol content

BAC – Blood Alcohol content

CDL – Conditional Driver License

DUI – Driving Under the Influence of alcohol

DWI – Driving While Intoxicated

EMT – Emergency Medical Technician

Review Questions

After reading the mock trial case scenario for *Lovell v. Sainsbury*, and the accompanying witness affidavits, discuss the following:

- How would you go about encouraging your friends to leave a party if alcohol or drugs were present? What reasons would you give for leaving?
- What could Logan Lovell have done to avoid the accident?
- What could Pat Sainsbury have done to avoid the accident?
- Who made good choices? What were they?
- Who made bad choices? What were they?
- Should Kim Jordan bear any responsibility for what happened later in the evening? Why or why not?
- Should Kim Jordan's parents, who were not home when Kim's party occurred, bear any responsibility for what happened later in the evening? Why or why not?
- Should Pat Sainsbury's brother, whose van had empty beer cans in it, bear some responsibility for Pat's legal problems?
- If found guilty of reckless driving and driving under the influence of alcohol, what would be an appropriate punishment for Pat?
- Should it be illegal to text message while driving? Why or why not?
- Should it be illegal for those under 18, or 21, to talk on cell phones while driving? Why or why not?
- In Illinois, if you're under 21 and convicted of DUI, you can be ordered to participate in a program that includes visits to morgues to observe DUI accident victims or visits to facilities that treat DUI victims. Do you think this type of penalty would prevent someone from drinking and driving? Why or why not? What other penalties might work?
- According to the Illinois Secretary of State's Webpage, <http://www.cyberdriveillinois.com/publications/dui/section5.html> some additional consequences of a DUI conviction include, but may not be limited to:
 - The conviction becomes a permanent part of an offender's driving record.
 - The offender's vehicle may be impounded or seized.
 - The offender is required to carry high-risk auto insurance for 36 consecutive months.Are these consequences fair? If not, why not? What additional consequences might there be? Visit the Secretary of State's Website to view.

Caselaw –

Two cases are also provided for review.

Arthur v. Catour, 833 N.E.2d 847, 216 Ill.2d 72 (2005)

Wills v. Foster, 229 Ill. 2d 393, 892 N.E.2d 1018 (2008)

Attached as separate documents.

The law exam will be available on-line only. Teachers may fax a request for answers to the test to Donna Schechter at 217.525.9063, or e-mail a request to dschechter@isba.org. Please sign your e-mail so we're sure you are a teacher requesting the answers!



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EXHIBIT A - Diagram of accident site.

