

2006-2007

**YMCA TEXAS YOUTH &
GOVERNMENT PROGRAM**



**THE CASE
OF
FRIEND OR FOE**

Part I of IV

MEMORANDUM

TO: All Mock Trial Competition Participants

RE: State of Washington v. Chelan Lake

INTRODUCTION

State of Washington v. Chelan Lake is a criminal case. Chelan Lake is charged with two crimes, second-degree manslaughter and promoting a suicide attempt, in connection with the death of her former boyfriend, Douglas Furr. The case arose in Quaint, Washington, a community of 6,000 located in Queen Victoria County. However, due to the enormous pretrial publicity surrounding this case, which resulted from the fact that Chelan Lake is the younger sister of talk show host Rick Lake and granddaughter of Washington's Gov. Ethel Lake, this case has been transferred to Brady, Texas. Though the case will be tried in Texas, Washington law will be applied.

The case materials also permit the student attorneys to argue about the propriety of assisting an individual to die. Provided in the materials is a hypothetical initiative, which is assumed to have passed and taken effect less than one week after Douglas Furr's death. At least one defense witness is prepared to state that such activity should be permitted by the law.

The case is designed to permit the students to obtain firsthand knowledge of the constitutional right of each defendant in a criminal case to refuse to testify. That variable, together with a motion which the prosecution may elect to make, should ensure that no two trials of this case are identical. Such variety should provide participants with an enhanced understanding of the judicial system. Moreover, such complexities more accurately simulate reality and create interesting possibilities for closing arguments. The most outstanding student teams will be prepared to deal with any possible developments in the trial.

Special thanks are given to the Washington State YMCA State Youth and Government Program who provided this case to us for our competition.

BACKGROUND INFORMATION

The factual background for State of Washington v. Chelan Lake is completely contained in the following set of affidavits and exhibits. The discussion here is designed to provide you with certain procedural information.

WITNESSES FOR THE PROSECUTION

There are four witnesses for the prosecution or state. They are:

Bunny Furr
Louis Strickland
Cher Cicconi
Dudley Columbo

All four of these witnesses must be called by the prosecution, but may be called in any sequence.

CRIMINAL CHARGES

THE DEFENDANT, Chelan Lake is charged with two crimes: second degree manslaughter; and promoting a suicide attempt. Information pertaining to those crimes, the elements necessary to prove those crimes, and the meaning of beyond a reasonable doubt (which is the prosecution's burden of proof), is set forth in the Applicable Law section of these materials.

FINGERPRINT EVIDENCE

For the purpose of this mock trial, the parties have stipulated to the fact that Dudley Columbo is a qualified fingerprint expert and that there are no problems with the chain of custody of the evidence in obtaining and the procedures used in identifying the fingerprints as Ms. Lake's. To admit the fingerprint evidence, however, certain predicate questions must be asked of the expert witness in order to establish a "foundation" before he can testify regarding his conclusions. In actual trials these questions can be very lengthy and take a great deal of time. For the purposes of the mock trial, a list of the necessary predicate questions have been set forth in the Rules of Evidence and Procedure. If a team does not ask the predicate questions, upon a timely objection by the other side, the fingerprint expert opinion evidence may be excluded.

MOTION TO DISMISS

At the close of the prosecution's case (before the defense calls any witnesses), the prosecution is entitled to make a motion to dismiss one or the other (but not both) of the two charges. Whether to make such a motion is entirely within the prosecution's discretion, and whether to grant such a motion is up to the court. (It is unlikely that a defendant would resist dismissing half of the charges against her; however, if counsel for the defense wishes, they may argue against such a motion). If either of the charges is dismissed, the case shall proceed on the other charge only.

WITNESSES FOR THE DEFENSE

There are five potential witnesses for the defendant:

Homer Socrates
Cornelia Flake
Faulkes Furr
Millie Palmer
Chelan Lake

Only four of those five witnesses may be called by the defendant.

In particular, it is up to the defense counsel to choose whether to put the defendant on the stand or not. Recall that a defendant has a constitutional right not to testify under the Fifth Amendment. **The defense need not provide the prosecution with any advance warning of which four witnesses they will call at trial**, but, like the prosecution, the defense must call four. (If Chelan Lake testifies, one of the other witnesses must be omitted).

APPLICABLE LAW

Set forth in the Applicable Law section of these materials is a law which should be assumed to have passed by initiative petition on November 6, 2005 (no such law was proposed or passed). As the events which created this case occurred on or about October 31, 2005, a law passed on November 6 would not have a direct application to these facts in ordinary circumstances. However, materials regarding ex post facto issues are included. Student advocates should determine whether—and to what extent—they wish to discuss changes of the law in their closing arguments.

SUPERIOR COURT, QUEEN VICTORIA COUNTY, STATE OF WASHINGTON

STATE OF WASHINGTON,	§	
	§	No. 06-1-0007
	§	
v.	§	INFORMATION FOR:
	§	
CHELAN LAKE,	§	MANSLAUGHTER IN THE
	§	SECOND DEGREE, AND
Defendant.	§	PROMOTING A
	§	SUICIDE ATTEMPT

I, DeFend D. Public, Prosecuting Attorney in and for Queen Victoria County, State of Washington, come now here in the name and by the authority of the State of Washington and by this information do accuse Chelan Lake with the crimes of Manslaughter in the Second Degree and Promoting a Suicide Attempt, committed as follows:

A. Manslaughter in the Second Degree. That the Defendant, Chelan Lake, then and there being in Queen Victoria County, State of Washington, on or about the 31st day of October, 2005, did provide or make available a quantity of a drug toxic to the victim, thereby through criminal negligence causing the death of Douglas Furr, a human being, in violation of RCW 9A.32.070 (1), said crime being a class C felony; and

B. Promoting a Suicide Attempt. That the Defendant, Chelan Lake, then and there being in Queen Victoria County, State of Washington, on or about the 31st day of October, 2005, did knowingly cause or aid Douglas Furr, a human being to attempt or commit suicide in violation of RCW 9A.363060 (1), said crime being a class C felony; both crimes being contrary to the applicable statues in such cases and made and committed against the peace and dignity of the State of Washington.

Dated this _____ day of January, 2006.

DeFend D. Public
WSBA #14443
Prosecuting Attorney in and for
Queen Victoria County, State of
Washington

STATE OF WASHINGTON §
 § ss
County of Queen Victoria §

I, DeFend D. Public, being first duly sworn on oath, depose and say: that I am duly appointed and acting Prosecuting Attorney in and for Queen Victoria County, State of Washington, I have read the foregoing information, know the contents thereof and the same is true as I verily believe.

DeFend D. Public, WSBA #14443
Prosecuting Attorney

SUBSCRIBED AND SWORN to before me this _____ day of January, 2006.

Notary Public in and for the State of Washington
residing at Quaint
My commission expires: _____

SUPERIOR COURT, QUEEN VICTORIA COUNTY, STATE OF WASHINGTON,

STATE OF WASHINGTON,	§	No. 06-1-00107
	§	
V.	§	AFFIDAVIT OF
	§	
CHELAN LAKE	§	BUNNY FURR
	§	
Defendant.	§	
	§	
	§	
	§	

STATE OF WASHINGTON	§	
	§	
	§	ss.
	§	
COUNTY OF QUEEN VICTORIA	§	

BUNNY FURR, being first duly sworn upon oath, deposes and says:

1. My name is Bunny Furr. I am principal of Henry M. Jackson High School located in Quaint, Washington. I have held the position for the past eight years. I also am the mother of Douglas Furr, the victim of a brutal murder on October 31, 2005, at the hands of my son’s girlfriend, Chelan Lake. This affidavit contains facts within my own knowledge.

2. Douglas was the kind of boy that made any mother proud. That was especially true in my case, because I not only got to be at home with him while he was growing up, I saw how he acted in and around Jackson High School. He was popular among the students, and even more highly regarded by the faculty.

1. After the automobile accident last March, life as Douglas knew it was

shattered. If those boys from St. Josephine's High School in Quite, Washington, hadn't caused trouble that night, I am sure none of this would have happened.

4. However, Douglas was making remarkable progress at the Nightingale Nursing Home. Most of the time when I visited, his spirits seemed to be up. He told me that he had given up his dream of becoming a professional quarterback in the NFL, and would settle for becoming a noted trial lawyer. Of course, as anyone who knew him well understood, Douglas was blessed with the gift of gab, in addition to his athletic prowess. He loved to argue and had begun watching Perry Mason reruns while at the nursing home.

5. Chelan Lake had been very good friends with Douglas for almost four years, and they had been seriously dating for about two. I did not approve of her, or their relationship, and they both knew it. I told Douglas that running around with that girl would do him no good. Chelan had the reputation around school of dating every boy on the varsity team. Of course she dated Douglas too.

6. On October 31, 2005, as I was driving to the Nightingale Nursing Home for my regular visit, my car phone rang. It was Nurse Cicconi, who was telling me I should come to the nursing home right away. Something horrible had happened.

7. When I got there, I found my dead son. Nurse Cicconi told me he had died but they didn't know how or why. She explained that only Chelan Lake had seen him that afternoon, and that we needed to talk to Chelan to see if she knew anything. Nurse Cicconi thought, based upon the condition of Douglas's body, that Chelan would have been there when Douglas died.

8. I suppose Ms. Lake will attempt to make this brutal murder look like a suicide. She will probably claim that Douglas must have taken aspirin on his own. But that's not true. I know my son did not want to die. He was well aware of the effect aspirin would have on him. Chelan also knew the effect aspirin would have on Douglas. We had talked about it at least once when she complained of her chronic headaches. I have never known a girl as moody or stressed out as Chelan is. Chelan must have dropped the pills into a Coke to trick Douglas into taking them.

9. When my husband Faulkes and I discovered that Douglas had named Chelan as the beneficiary of half of Douglas's \$50,000 life insurance policy in July of this year, I was livid. It made me more sure than ever that Chelan had caused Douglas's death.

10. I think Chelan also did this so she could begin dating other boys. She must have felt burdened by having to care for Douglas, and it could have made her feel guilty to leave him when she thought he needed her. I'm sure she's "recuperating" from losing Douglas by dating any male she can lay her hands on. Her lifestyle sure changed since she received the insurance money. Chelan deserves to rot in jail for what she did.

Bunny Furr

SIGNED AND SWORN to me before me this _____ day of November, 2005.

Notary Public in and for the State of Washington
Residing at _____
My commission Expires: _____

SUPERIOR COURT, QUEEN VICTORIA COUNTRY, STATE OF WASHINGTON,

STATE OF WASHINGTON	§	No. 06-1-0007
	§	
V.	§	AFFIDAVIT OF LOUIS
	§	
CHELAN LAKE	§	STRICKLAND, M.D.
Defendant.	§	
<hr/>		
	§	

STATE OF WASHINGTON §
:SS.
COUNTY OF QUEEN VICTORIA §

LOUIS STRICKLAND, M.D., being first duly sworn upon oath, deposes and says:

1. My name is Louis Strickland, M.D. I am the staff physician at the Florence Nightingale Nursing Home located in Quaint, Washington. This affidavit describes things the way I know them.

2. Except for the years during which I pursued my education, I have been a lifelong resident of Quaint. I received my B.A. in Greek mythology from Northern Washington University in 1982, and I obtained my M.D. from the University of West Dakota Medical School in 1987. I did my residency at the Quaint Community Hospital, and have been staff physician at the Nightingale Nursing Home since 1990.

3. Douglas Furr, a local hero, became a patient of mine when he moved into the Nightingale Nursing home on June 15, 2005. By that time, he had pretty much recovered to the extent he ever physically would from the significant trauma he suffered in the car accident on St. Patrick’s Day, 2005. As the whole town knows, he had been out celebrating with some of the “Fighting Irish” who were none too happy about Douglas’s

intent to enroll at the University of Miami. After hoisting a few at the local bar, the group told Douglas they were going to take him out and “raise a little cane.” The long and short of it is that the car Douglas was driving went over the embankment on Beach Street. Everyone in town has heard a variety of rumors about the accident, many of which contradicted the official report. What really happened didn’t matter much to me, of course, because I only had to deal with the results.

4. Although Douglas would have to face the rest of his life as a paraplegic, and he was a bit discouraged because of that fact, he was otherwise quite normal, at least as far as patients at Nightingale go. I enjoyed reminiscing with him about his days on the gridiron.

5. On October 31, 2005, I had checked in to see Douglas during my normal rounds in the morning. I didn’t see him again until Nurse Cicconi paged me to come from the physician’s lounge to his room at approximately 5:00. When I arrived at the room, Nurse Cicconi was attempting to administer CPR, but there was no point. I took one look at him and told her that Douglas was already dead.

6. Later that evening, I performed an autopsy. The autopsy confirmed my initial gut feelings. My autopsy is attached to this affidavit. Douglas Furr had died at approximately 4:00 p.m., the immediate cause of his death being his reaction to two pills of aspirin he had apparently ingested approximately 45 minutes earlier. While it is true that the amount of salicylate in his blood was lower than even a level considered therapeutic, to an extremely allergic person, such a level can be fatal. Death would be nearly instantaneous. From the look of the body, that is what appeared to have happened.

Douglas Furr would not have been in pain very long

7. Other than the fact that an aspirin bottle was found on the floor in Douglas's room, nothing was present in or around the boy to indicate anything out of the ordinary. We all knew Douglas was mortally allergic to aspirin, as he himself did. In fact Douglas had told me that another physician years earlier, after he had experienced a severe aspirin reaction, had told him that if he took even two more aspirin, he should be sure he had a valid will, because it would be the death of him. For years before becoming a patient at Nightingale, Douglas had worn tags around his neck, which warned of that allergy.

8. Prior to his death, during the time that Douglas was under my care, he was only capable of some movement and feeling from the chest up. Generally his mind was alert, and he was not prevented from talking, chewing or moving his arms because of his injuries. Eventually he probably would have had some ability to turn his head from side to side, but we were not sure about that at the time of his death. During the entire time Douglas was a patient at Nightingale, he was in a "halo" to prevent his head from moving from side to side or up and down at all. The halo was necessary to allow Douglas to recover from the injuries to his spine suffered in the accident.

9. Several times Douglas and I discussed whether he would be able to have children in the future. At the time of his death, to my knowledge, he was incapacitated in that regard. It was my view that it was possible that the necessary body functions would be restored over time. Clearly this question caused some of Douglas's depression.

Louis Strickland, M.D.

SIGNED AND SWORN to me before me this _____ day of November,
2005, by LOUIS STRICKLAND, M.D.

Notary Public in and for the State of Washington
Residing at _____
My commission Expires: _____

**QUAINT COMMUNITY HOSPITAL
QUAINT, WASHINGTON**

AUTOPSY REPORT ON DOUGLAS FURR

History:

Douglas Furr died on October 31, 2005 at approximately 4:00 p.m. Douglas had been involved in a motor vehicle accident on March 17, 2005 and was rendered paraplegic as a result of that accident. He was hospitalized at Quaint Community Hospital until June 15, when he was transferred to the Florence Nightingale Nursing Home. He was a resident of the nursing home until his death.

Gross Examination:

The body is 76 inches long and the weight is 200 pounds. There are no identifying body marks. There are no bruises, cuts, scratches, or abrasions. There is a healed surgical scar on the midline posterior on the neck. There is no edema noted.

Head:

The head is normal. There are no fractures. The brain is normal and microscopic sections of the cerebrum, cerebellum and brain stem are normal.

Neck:

There is a scar on the posterior aspect. There is a surgical fusion of the sixth and seventh cervical vertebrae. The cervical spinal cord is severed at the level of C-7.

Chest:

The chest was normal on external inspection. The chest was opened and the heart and lungs are normal. Microscopic inspection of the heart and lungs is normal. The thoracic spine and thoracic spinal cord are normal.

Abdomen:

The abdomen is normal on external examination. The stomach, intestines, liver, spleen, pancreas, kidneys, adrenal glands, and bladder are all normal.

Extremities:

The extremities show some atrophy of the muscles of the lower extremities. The upper extremities are normal.

Toxicology:

Toxicology studies were done for multiple drugs. The salicylate level was 7 mcg/dl. (Therapeutic level is 20 mcg/dl and toxic level is >50 mcg/dl) No tranquilizers, narcotics, cocaine, or marijuana were found.

Conclusion:

The autopsy does not show an absolute cause of death. This patient was known to have an allergy to aspirin and had had a previous severe anaphylactic reaction from which he recovered, but only after a lengthy critical course. It is my conclusion that the death was caused by anaphylaxis to aspirin because of the known history, the presence of salicylate in the blood, and the rapid death that he sustained, as he was known to have been in satisfactory condition shortly before his death. An anaphylactic reaction happens very suddenly and death is nearly instantaneous.

Louis Strickland, M.D.
November 1, 2005

2006-2007

**YMCA TEXAS YOUTH &
GOVERNMENT PROGRAM**



**THE CASE
OF
FRIEND OR FOE**

Part II of IV

SUPERIOR COURT, QUEEN VICTORIA COUNTY, STATE OF WASHINGTON

STATE OF WASHINGTON,

§
§
§
§
§
§
§
§

No. 06-1-10007

V.

AFFIDAVIT OF CHER CICCONI

CHELAN LAKE,

Defendant.

STATE OF WASHINGTON

§

:ss.

COUNTY OF QUEEN VICTORIA §

CHER CICCONI, being first duly sworn upon oath, deposes and says:

1. My name is Cher Cicconi. I am a registered nurse at the Florence Nightingale Nursing Home located in Quaint, Washington. Quaint is a community of 6,000, located in Queen Victoria County, Washington. This affidavit sets forth facts of my own knowledge.

2. I have worked at the Nightingale Nursing Home for eight years, following my graduation from the Providence School of Nursing in Holyoke, Massachusetts. Most of the patients at the Nightingale Nursing Home are elderly, but we also care for persons who are seriously ill or injured and cannot care for themselves.

3. One of our most notorious cases involved Douglas Furr, a 19 year-old who died in the Nightingale Nursing Home on October 31, 2005. Douglas was one of approximately 30 patients for whom I was primarily responsible during my shift. My shift is 3:00 p.m. to 11:00 p.m., five days per week.

4. Douglas had lived at Nightingale since June 15, 2005, when he was transferred from Quaint Community Hospital. Douglas had been a patient at Quaint Community since the date of his car accident, March 17, 2005.

5. From the time Douglas first became a patient at Nightingale, he suffered from chronic depression. Of course, that is easy to understand when you realize the change that had taken place in Douglas's life. To go from the star quarterback of the high school football team who had accepted a scholarship to the University of Miami to a paraplegic, paralyzed from the chest down, in a matter of seconds, would have an effect upon anyone's outlook.

6. It was hard to tell whether Douglas even wanted to have visitors, but there was a steady stream. His girlfriend, his parents, and virtually everyone in the community came by to see him to attempt to cheer him up. Nothing seemed to work, although he did seem to respond to my ministrations. I enjoyed having a patient who wasn't senile, and who was young and good-looking.

7. Douglas sometimes told me that he wished he had simply died in the accident instead of becoming paralyzed. He thought life wasn't worth living. I tried to show him otherwise. I told him that his depression was common among paraplegics for the first few months. I told him things would get better, and he would learn to go on with life and become a useful member of society. Douglas was undergoing counseling on a daily

basis. I told him that we all knew that he was a fighter, not a quitter, and that he would still make a name for himself.

8. At about 3:10 on the afternoon of October 31, 2005, Douglas's girlfriend, Chelan Lake, came by to visit. Although Chelan was always pleasant to me, I never trusted her motives. I heard she was back on the social circuit in the blink of an eye after Douglas's accident. In fact, I think Chelan came by Nightingale just to put on a show for Douglas. I never thought she understood Douglas like his mother and I did. To my knowledge, although I must leave my station from time to time during my shift, Chelan was Douglas's only visitor that day. It is true that I was away from my station periodically that day also. From my nurse's station, I saw Chelan go into his room and thought little of it. In fact, she cheerfully greeted me, as she usually did. Approximately an hour and a half later, Chelan left. She looked like she had been crying.

1. When I took Douglas's dinner in to him, I understood . He was dead

10. I immediately called Dr. Strickland, our staff physician. We attempted to restore Douglas's vital signs, but it was much too late. It appeared he had been dead for close to an hour.

11. Because Douglas had been doing well considering his paraplegic condition, and because of Chelan's visit, we immediately suspected foul play. The only thing I noticed around the room out of the ordinary, however, was the aspirin bottle on the floor by the nightstand. Everyone on the staff had been aware of Douglas Furr's allergy to aspirin, and a prohibition against providing him any had been clearly noted on his chart.

I have no idea where the bottle of aspirin came from, but it was a common brand, available in any drugstore or grocery store. It was also sold in the Nightingale Nursing Home gift shop located just inside the Home's front door. Also, there was a half-full glass of Coke near Douglas's bed. I called the Queen Victoria County Sheriff right away. Dr. Strickland performed an autopsy later that evening.

12. After the detective finished his investigation of Douglas's room, I went inside. I figured I didn't need to worry about crossing the police tape because I had already been inside when I found and tried to resuscitate Douglas. From what the detective said as he was leaving, I was sure he was finished with his investigation. I cleaned the room a bit and thought about how much I'd miss having someone like Douglas at Nightingale.

Cher Cicconi

SIGNED AND SWORN to before me this _____ day of November, 2005,
by CHER CICCONI.

Notary public in and for the State of Washington
Residing at _____
My _____ Commission Expires: _____

SUPERIOR COURT, QUEEN VICTORIA COUNTY, STATE OF WASHINGTON

STATE OF WASHINGTON,	§	No. 06-1-0007
	§	
V.	§	AFFIDAVIT OF
	§	DUDLEY COLUMBO
CHELAN LAKE,	§	
Defendant.	§	
_____	§	

STATE OF WASHINGTON §
:SS
COUNTY OF QUEEN VICTORIA §

DUDLEY COLUMBO, being first duly sworn upon oath, deposes and says:

1. My name is Dudley Columbo. I am a detective with the Queen Victoria County Sheriff’s Department and am also a qualified fingerprint expert. This affidavit sets forth facts of my own knowledge.

2. I have worked for the Queen Victoria County sheriff’s Department since my graduation from the T.J. Hooker Police Academy in 1996. As part of my employment with the Sheriff’s Department I have received extensive expert training in fingerprint collection and identification. This training includes a two-month intensive course at the FBI academy in Quantico, Virginia in 1998 and additional work and courses under the Washington State Crime laboratory. After a year as a trained but uncertified fingerprint expert and having worked on and testified in approximately 50 cases, I received my certification as an expert in 2000. I spend up to a third of my professional time working

with various aspects of obtaining and identifying fingerprints. However, because both the community of Quaint and the County of Queen Victoria are generally peaceful areas

COLUMBO AFFIDAVIT -1

of Washington State, most of my fingerprint work is in relation to burglaries and other non-violent property crimes. The Douglas Furr case is my first homicide investigation.

3. I was sent to the Nightingale Nursing Home in response to a call from Cher Cicconi, a nurse at the home, who reported that she believed foul play may have caused the death of one of her patients. That patient turned out to be Douglas Furr, a 19-year-old former high school football player who had resided at the Nightingale Nursing Home for several months. Like anyone in Quaint, I had known Douglas for some time. I was one of the biggest fans when he was leading the Jackson High Pirates to the state championship. In fact, my youngest brother, Denny, was a split end on that team.

4. Upon arriving at the room containing Douglas Furr's body, I sealed the area. I put police tape across the doorway and began my investigation.

5. The room appeared fairly normal. Furr's body was lying in bed in the condition Nurse Cicconi and Dr. Strickland left it when they gave up on their resuscitation efforts. It was obvious to me that Furr had been dead for some time, because he was already becoming a bit stiff.

6. Believing that Furr may have been poisoned, we searched the room for a possible clue. On the floor near Furr's bed I spotted a bottle of a nationally known brand of aspirin. Cicconi and Stickland had noticed the bottle, but did not know whether it had been on the floor when they came in, or whether it had fallen from somewhere else during their resuscitation efforts. I picked up that bottle, dusted it for fingerprints, found

it had several, applied the fingerprint tape, and put it into an evidence pouch. Later I took the bottle to the lab.

COLUMBO AFFIDAVIT -2

7. Next we obtained a search warrant to take Chelan Lake's fingerprints on November 1, 2005. The prints we obtained from her were inked prints which we call "known" prints since we know the identity of the person to whom the prints belong. Fingerprints are unique to each individual. The idea of fingerprinting has been in use in criminal investigations since the 1930's and to date no two people have ever been found to have the same prints. Fingerprints are made of whorls and lines in unique pattern of ridges in the skin of an individual's fingers. No matter how "clean" a person's hands are, there are oils in their skin, which leave patterns in the form of the skin on their fingers when they handle items. We call these marks fingerprints. The only way a person cannot leave a fingerprint when handling something is to wear gloves. This is not to say that all fingerprints can be identified. Sometimes there are too many prints all on top of each other to identify a single one, for example on a public handrail. Or prints can also be smudged or smeared so that their unique characteristics can't be identified. I took the latent prints that I lifted by tape off of the aspirin bottle and prepared a card as I have been taught. Basically this is like the printing of a negative in photography, and gives a printing of the fingerprints from the item being examined. I then compared these prints to the known prints that we had obtained from Ms. Lake. In comparing the "points" I was able to find 13 identifying points or places where the patterns from the aspirin bottle exactly matched those from Ms. Lake's known prints. On the basis of the number of matched points I identified, it is my expert opinion that the fingerprints on the aspirin

bottle belong to Chelan Lake. There were some other smudged prints that could not be identified, but the only prints indisputable were those of Ms. Lake. There were no prints

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or with all of them together depends on the circumstances of the individual case. With regard to the Furr family, most of my attention was focused upon Douglas. He had an extraordinarily difficult time adjusting to his condition.

5. I obtain considerable satisfaction from my work. It is rewarding to see the effects that appropriate counseling can have upon a family. Indeed, in many instances, I can see a benefit to the family from the traumatic circumstances. It often breaks down tensions in the family, focuses the members jointly upon one issue or concern and creates bonds in lieu of the tensions.

6. However, Douglas Furr did not present the usual case as I saw him at least once per day, seven days a week, but nothing in my counseling or my numerous visits appeared to improve his outlook. Day after day he was depressed and devastated. My notes normally described him as sullen. He confided in me dozens of times that he wished he were dead. His family was surely aware of those remarks, as I believed they should be alerted to the fact that dangerous drugs or weapons should be kept away from Douglas. He even asked me once if I could provide him a prescription to “put him to sleep.” Of course, I declined.

7. Even more than the effect upon Douglas, it was clear to all of us how traumatic an experience his accident was on his family. It divided his mother and father. They blamed each other for his condition, each feeling somehow inadequate. During my counseling sessions with them, there have been many times I feared that this situation would result in the disintegration of the family, and the divorce of the parents.

8. The one stable element in Douglas’s life appeared to be the constant love and support of his girlfriend, Chelan Lake. Chelan was a daily visitor to Douglas’s room.

They confided in each other, and at times, especially during Chelan's visits, Douglas would almost come out of his gloom.

9. From my knowledge of Chelan, I cannot believe that she would have committed the act with which she is charged. She is no killer. Certainly not as the one true love of his life. If Chelan did anything in this case, it would be my opinion that, at most, she would have followed Douglas's instructions in letting him die without calling for help. Of course, she may have had to bring the aspirin to him, but I have no reason to think that she knew what he was going to do with it, or that she knew of his allergy. I believe she should be acquitted and this case tossed out of court. That result would enable the family and Chelan to come to grips with their feelings, something which may require further counseling.

Cornelia Flake

SIGNED AND SWORN to before me this _____ day of November, 2006
by CORNELIA FLAKE.

Notary Public in and for the State
of Washington, residing at _____
My Commission Expires: _____

4. During the time Douglas was hospitalized at Quaint Community and then living at Nightingale, I had many opportunities to talk about his condition with Chelan. In fact, when Douglas was most depressed, right after the accident, Chelan talked to me several times about her concern that Douglas seemed to have given up, and that he had said he wished he were dead. Chelan was horrified by that idea. She asked me for my suggestions about how to cheer up Douglas.

5. In the following months, Douglas's attitude seemed to vary. Some days we would think he was learning to deal with his condition and his attitude would pick up. Other days he would seem to be far worse than ever. Counselor Flake told us this was not unusual, but it still caused a lot of stress for all of us. That was especially true to Chelan. Douglas would tell her things that he wouldn't say to the rest of us. Chelan was forced to cope with more than most teenagers can handle

6. It's not surprising that, with all the media attention on Initiative 555, we discussed it. Douglas himself brought the subject up to Chelan once when it came on the TV news while she was visiting. While Douglas and I never spoke of the Initiative, Chelan talked it over with me. She told me she was trying as hard as she could to convince him there were many things to live for. She said he agreed with her sometimes, and other times was just silent.

7. I was shocked to learn of my son's death on October 31, 2005. Since that time, however, I have come to believe that it may have been the best for all concerned. With Douglas gone, the rest of us, with the help of some counseling, can begin to piece our lives together. We do not need to be reminded daily of the tragedy that befell our

only son. That car accident had had profound effects, and not just physical ones, on Douglas. He was not the same happy-go-lucky person he once was.

8. Since Douglas's death, Chelan has attempted to be almost a daughter to Bunny and me. Chelan has tried only to be supportive and caring. Bunny will have none of it. She blames Chelan for Douglas's death, just because Chelan was there. In fact, the first time Bunny saw Chelan after Douglas died; I had to restrain Bunny to prevent her from attacking Chelan.

9. Chelan and I have talked about Douglas and his death many times since last October. I know how much she cared about him and, for that matter, all of us. I have never asked her what she did that day in Douglas's room. I do not need to. Whatever it was that Chelan did, I know it was the right thing. At a minimum, I know that she didn't have it in her heart to do anything other than what Douglas asked her to do. That must be why she never called the nurse for help while Douglas died.

10. As to the life insurance policy, I have no reason to believe Chelan even knew Douglas had made her a beneficiary. Bunny and I received the other half of the money. I believe Douglas just wanted to benefit the persons he loved most. That's the way he was. Chelan was surely someone he cared for deeply.

Faulkes Furr

SIGNED AND SWORN to before me this _____ day of February, 2006, by
FAULKES FURR.

Notary Public in and for the State
Of Washington, residing at _____
My Commission Expires: _____

SUPERIOR COURT, QUEEN VICOTRIA COUNTY, STATE OF WASHINGTON

STATE OF WASHINGTON,

§
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06-1-0007

v.

AFFIDAVIT OF
MILLIE PALMER

CHELAN LAKE,

Defendant.

STATE OF WASHINGTON §
 :SS
COUNTY OF QUEEN VICORIA

MILLIE PALMER, being first duly sworn upon oath, deposes and says:

1. My name is MILLIE PALMER. I am 90 years old. I live at the Florence Nightingale Nursing Home in Quaint, Washington. This affidavit sets forth facts of my own knowledge.

2. I have lived at Nightingale Nursing Home for a long time. I do not remember exactly when I moved in here, but it was several years ago. I share a room with Elizabeth Brinson. Elizabeth is a nice person, although her wits are not often about her. Conversations with her are an adventure. Several times she has even fallen asleep in the middle of one of my sentences. I know I am not boring so it must be her age.

3. The room I share with Elizabeth is directly across the hall from the one that Douglas Furr used to live in. That is, until he died.

4. I seldom have visitors, but I like to keep occupied as best I can here at Nightingale. I take an interest in visitors for the other residents, especially when Elizabeth is napping.

5. I remember October 31, 2005 well. It was Halloween. My room was decorated with witches and goblins, and my granddaughter Laura Palmer had brought me a large, magnificently carved pumpkin. I was wearing my Halloween costume. I was dressed as the wicked witch of the west.

6. Late that afternoon, as was frequently the case, Elizabeth dozed off. I was sitting in my wheelchair at the end of my bed, reading the issue of the *Reader's Digest* I had just received. I heard a noise in the hallway and looked up to see Chelan Lake entering Douglas Furr's room. Chelan waived hello to me, as she always did. She told me she loved my witch outfit. Chelan is a sweet girl.

7. After Chelan went into Douglas's room, I wheeled my chair over closer to my door. I always found it interesting to listen to what these two young people talked about. Twice I had even heard Douglas say that life without sex wasn't worth living. Boy did that make me laugh.

8. I think I heard Douglas ask Chelan to give him some aspirin. "But you know how it affects you," she said. I didn't hear anything else other than normal chit-chat that day when, unexpectedly, my granddaughter Laura arrived to wish me happy Halloween. She was not wearing a costume at that point, although she was going to a Halloween party later that evening. Instead Laura was wearing her cheerleader's outfit from Henry Jackson high school, where she was a senior. At least, I think that's right. Sometimes the years run together in my mind. It's possible that Laura was a year out of school and that the cheerleader's outfit was her costume. I just don't exactly remember.

9. After twenty minutes or so, Laura left to attend a volleyball game. On her way out the door, Laura went in to Douglas's room and said she hoped he was feeling better.

I didn't hear the response, and she didn't come back to tell me what Douglas and Chelan said. When I saw Laura later that week, she told me she did not see anything out of the ordinary then. I am sure that if she had noticed anything, she would have told me. In fact, Laura said that Douglas and Chelan appeared to be in good spirits. After Laura left, I started to listen to the activity in Douglas Furr's room again, but couldn't hear much. The door was only slightly ajar, preventing me from looking in. I think I heard Douglas saying something about being tired, or tired of all this, but I'm not sure exactly what he said. He may not have even said "tired" at all. I heard Chelan tell him to cheer up and that she was sure he would feel better soon. I don't remember hearing anything else.

10. Right about dinnertime, you should have seen the activity in Douglas Furr's room. Nurse Cicconi called the doctor, the ambulance came by, and a little later a detective came in. It was so interesting that it made me forget that I was going to go trick-or-treating around Nightingale. But at least there's always next year for that.

10. I didn't see anyone else go into Douglas Furr's room that afternoon, but that doesn't mean that no one else did. The orderlies were often in and out of all the rooms, and with Laura's visit, my conversation with Elizabeth, and my own nap earlier that day, anything could have happened. Ever since Laura left Quaint in November to move to California to work on a documentary on life in Washington State, I haven't been able to discuss the events of that day with anyone. I was not interviewed by Detective Columbo, and to my knowledge, neither was Laura. I believe Laura may be the only one besides Chelan and Douglas who really had any idea what went on in that room that day.

Millie Palmer

SIGNED AND SWORN to before me this _____ day of February 2006, by
MILLIE PALMER.

Notary Public in and for the State
Of Washington, residing at _____
My Commission expires: _____

spilled some flour on the floor first thing in the morning. A little while later I knocked over several loaves of bread as I was getting ready to slice them. Then it seemed like I answered the same question for 500 customers. Next Douglas Brachman, a 38-year-old attorney who is also a sleaze, came in supposedly to buy a bagel and started hitting on me. I have told Mr. Brachman dozens of times that I am not interested in him, but still he wouldn't leave me alone. He is always touching me and asking me out. He keeps saying it should be easy for me to date someone else named Douglas, and that it would keep me from making any embarrassing remarks. What a jerk.

5. Anyway, by the time I visited Douglas, I was stressed out. I had a headache. I always carry a bottle of aspirin in my purse, so I took a couple after I got to his room. Then Douglas asked me for some. I laughed and told him that he knew what it would do to him, and I said things weren't that bad. I'm sure he asked me for it as a joke. He hadn't mentioned the idea of suicide to me for several weeks. Of course, we had discussed Initiative 555, the Death by Choice Initiative, several times. Douglas had been hoping it would pass. He thought it would be a 'way out.'" I told him that was wrong. He would hurt a lot of people who loved him. When he kept bringing the idea up, I got pissed. I told him I wouldn't talk about it anymore. I thought his meetings with Counselor Flake were helping with his depression.

6. I don't know what happened to the bottle of aspirin I had that day. I thought I put it back in my purse, but I didn't have it when I looked for it later. I sure never gave Douglas any aspirin, and I didn't see him take any either.

7. Douglas and I sat and talked about nothing much in particular for quite some time. After a bit, Laura Paler came in to say hello. We all graduated together from

Jackson High last June. She and I don't get along very well. I always thought she was jealous of my relationship with Douglas. She didn't stay long, probably because I was there. She thinks she's so cute. She flirts with any guy who is dating someone else.

8. Suddenly, Douglas looked at me, smiled, and said he loved me. The next thing I knew he was dead. I freaked out. I had never had anybody die while I was in the room before, especially not someone I loved so much. I cried for a while, and tried to put myself back together. Then I left. I don't know why I didn't tell anybody at the nursing home Douglas was dead. I just couldn't deal with it. I had to get out of there. Besides, I knew they'd figure it out eventually.

9. Douglas's mother, Principal Bunny Furr, has always hated me. Counselor Flake has told me that that is often the case where a mother thinks she is "losing" a favorite son to someone he is dating. I think this whole case is concocted by her as a way to get back at me. But I didn't do anything wrong.

10. I resent any claim by Bunny Furr that my social life has anything to do with this case. What I do in my free time is none of her business and was none of her business even when I was a student at Jackson High. Besides, there are hundreds of guys in Quaint with whom I haven't had sex. The idea that I would kill my boyfriend because he was temporarily incapacitated is just rude. Douglas was very understanding. I loved him for that.

11. This bit about the insurance money is just something else Bunny Furr has used to accuse me of doing something wrong. I knew Douglas had a life insurance policy. I even knew that he had recently changed the designation of beneficiaries to make me one. He told me when he did it that he knew his mother didn't like me, and that he wanted me

to be able to leave town if something happened. But I sure wouldn't ever have killed him just for money. We loved each other. Our feelings didn't have a price tag.

12. Finally, I can't figure out what these prosecutors are up to anyway. When the Death by Choice Initiative passed, I thought it would mean I couldn't get charged with anything. It doesn't make any sense for prosecutors to waste their time on a case like this one when there are so many real criminals like drug dealers out there.

Chelan Lake

SIGNED AND SWORN to before me this _____ day of November, 2005, by CHELAN LAKE.

Notary Public in and for the State
Of Washington, residing at _____
My Commission Expires: _____

2006-2007

YMCA TEXAS YOUTH & GOVERNMENT PROGRAM



THE CASE
OF
FRIEND OR FOE

Part IV of IV

APPLICABLE LAW

A. Applicable Statutes:

RCW 9A.32.070 provides:

Manslaughter in the second degree

- (1) A person is guilty of manslaughter in the second degree when, with criminal negligence, he causes the death of another person.
- (2) Manslaughter in the second degree is a class C felony.

RCW 9A.36.060 provides:

Promoting a suicide attempt

- (1) A person is guilty of promoting a suicide attempt when he knowingly causes or aids another person to attempt suicide.
- (2) Promoting a suicide attempt is a class C felony.

RCW 9A.08.010 provides in pertinent part:

General requirements of culpability

- (1) Kinds of Culpability Defined.

* * *

- (i) he is aware of a fact, facts or circumstances or result described by a statute defining an offense; or
- (ii) he has information which would lead a reasonable man in the same situation to believe that facts exist which facts are described by a statute defining an offense.

* * *

(d) Criminal negligence. A person is criminally negligent of acts with criminal negligence when he fails to be aware of a substantial risk that a wrongful act may occur and his failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable man would exercise in the same situation.

B. Elements of Crimes:

For purposes of this case, we will use simplified elements of the crimes charged. They follow.

Based upon RCW 9A032.070(1), to convict a defendant of manslaughter in the second degree, the prosecution must prove:

- (1) the death of a human being;
 - (2) the death was caused by the defendant's conduct;
- and
- (3) the defendant's conduct was "criminally negligent."
- (See RCW 9A.08.010(1) (d)).

Adapted from WPIC 28.02)

Based upon RCW 9A.36.060(1), to convict a defendant of promoting a suicide attempt, the prosecution must prove:

- (1) a human being attempted (or committed) suicide;
- (2) the defendant caused or aided that person in that attempt; and
- (3) the defendant did so "knowingly." (See RCW 9A.08.010(1) (b)).

C. Burden of Proof.

This issue can be set out in two statements:

- (1) The defendant is presumed innocent until proven guilty.
- (2) The prosecution must prove each element of each crime beyond a reasonable doubt, or the defendant must be found not guilty.

D. "Death by Choice" Initiative.

For purposes of this case, it is stipulated that on November 6, 2005, an initiative was passed by the voters of Washington State that contained the following provisions:

Section 1.

- (a) "Adult person" means a person attaining the age of majority as defined in RCW 26.28.010 and 26.28.015, or, unless otherwise specified, the age of eighteen years.

(b) ‘Aid-in-dying’ means aid in the form of a medical service, provided in person, that will end the life of a conscious and mentally competent person in a dignified, painless, and humane manner, when requested voluntarily by the person through a written directive in accordance with this chapter at the time the medical service is to be provided.

Section 2.

RCW 70.122.030 is amended to read as follows:

Any adult person may execute at any time a directive directing the withholding or withdrawal of life sustaining procedures and/or requesting the provision of aid-in-dying. The directive shall be signed by the declarer in the presence of two witnesses not related to the declarer by blood or marriage and who would not be entitled to any portion of the estate of the declarer upon declarer’s decease under any will of the declarer or codicil thereto then existing or, at the time of the directive, by operation of the law then existing. In addition, no witness to a directive may be an attending physician, an employee of the attending physician or a health facility in which the declarer’s a patient, or any person who has a claim against any portion of the estate of the declarer upon declarer’s decease at the time of the execution of the directive. The directive, or a copy thereof, shall be made part of the patient’s medical records retained by the attending physician, a copy of which shall be forwarded to the health facility upon the withdrawal of life sustaining procedures, and/or provision of aid-in-dying. No person shall be required to execute a directive in accordance with this chapter. Any person who has not executed such a directive is ineligible for aid-in-dying under any circumstances.

Section 3.

RCW 9A.36.060, “Promoting a Suicide Attempt,” is hereby repealed.

Section 4.

This Initiative shall be effective immediately upon its passage by a majority of the voters voting in a duly called election in this state.

A. Washington constitutional Provisions:

Article I, Section 1:

All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

Article I, Section 2:

The Constitution of the United States is the supreme law on the land.

Article I, Section 9:

No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offense.

Article I, Section 22 provides in part:

In criminal prosecution the accused shall have the right to appear and defend in person, or by counsel, to demand the nature and the cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county in which the offence is charged to have been committed, and the right to appeal in all cases: . . .

Article I, Section 23:

No bill of attainder, ex post facto law, or law impairing the obligations of contracts shall ever be passed.

Article II, Section 1 (a):

The first power reserved by the people is the initiative. Every such petition shall include the full text of the measures so proposed . . .

F. United States Constitutional Provisions:

Amendment V:

. . . nor shall [any person] be compelled in any criminal case to be a witness against himself . . .

Article I, Section 9:

. . . No . . . ex post facto law shall be passed. . .

G. Various Court Cases.

Compelling a criminal defendant to submit to fingerprinting does not violate his constitutional privilege against self-incrimination. State v. Anderson, 12 WnApp. 171, 528 P.2d 1003 (1974).

A criminal defendant's constitutional right to remain silent may not be employed to defeat cross examination as to a subject he has opened on direct examination after voluntarily taking the stand. State v. Robideau, 70 Wn2d 994, 425 P.2d 880 (1967).

To permit a prosecuting attorney in his opening statement to place the defendant in a position where he is obliged either to take the witness stand or rest under an imputation of guilt is violative of the privilege against self-incrimination. State v. O'Donnell, 191 Wash. 511, 71 P2d 571 (1937).

Although a defendant in a criminal case cannot be compelled to give evidence against himself, nevertheless, when he voluntarily offers himself as a witness in his own behalf, he is subject to all rules of law relating to cross examination of other witnesses. State v. Morden, 87 Wash. 465, 151 P. 832 (1915).

A defendant, once having waived his right to remain silent, may not prevent the state from commenting on his failure to deny guilt. State v. Young, 89 Wn. D 613, 574 P.2d 1171 (1978).

The privilege against self-incrimination has been incorporated into the due process clause of the Fourteenth Amendment and thus binds the State of Washington. State v. Foster, 91 Wn.2d 466, 589 P.2d 789 (1979).

The conduct of a prosecutor in eliciting testimony from arresting officers concerning the fact that the defendant made no statement to them when he was arrested, and drawing attention to such silence during closing argument, penalized the defendant for exercising his constitutional right to remain silent, by implying that his silence was consistent with guilt and inconsistent with an exculpatory story given at trial, thus violating defendant's right to due process. State v. Fricks, 91 Wn.2d 391, 588P.2d 1328 (1979).

Calling attention to the defendant's exercise of his right to remain silent and suggesting thereby that unfavorable inferences may be drawn, violates due process, whether such action occurs in cross examination, the state's case in chief, or in argument. State v. Despenza, 38 Wn.App. 645, 689 P.2d 87 (1984).

A law violates ex post facto prohibitions of the state and federal constitutions if it aggravates a crime or makes it greater than it was when committed, permits imposition of a different or more severe punishment than was permissible when the crime was committed, or, changes legal rules to permit less or different testimony to convict the offender than was required when the crime was committed. State v. Edwards, 104 Wn.2d 63, 701 P.2d 508 (1985).

The fundamental principle that a required criminal law must have existed when the conduct at issue occurred must apply to bar retroactive criminal complaints emanating from courts as well as from legislatures. State v. Gore.

Every law that alters the legal rules of evidence and

The power of the legislature to define crimes and punishment is virtually unlimited. State v. Cook

A defendant is innocent until proven guilty. State v. Odom.

The state has the burden of proving every element of the offense charged. State v. Bryant.

A criminal case may be proved by circumstantial evidence and reasonable inferences have the same probative effect as live testimony. State v. Bennett.

Evidence of flight is generally admissible as evidence of consciousness guilt and of guilt itself. United States v. Harris.

Evidence of the actions of a person, following commission of a crime, is admissible as evidence and may be considered by a jury as circumstances, along with other circumstances of the case, in determining guilt or innocence. State v. Bruton.

The work “knowledge” does not mean merely negligent ignorance. State v. Shipp.

The state always has the burden of proving that the accused acted with the necessary culpable mental state.

Whether evidence is relevant or not is ordinarily left to the discretion of the trial judge. State v. Rolax.

A conviction for manslaughter in the second degree requires a showing of negligence. Negligence consists of showing that the defendant owed a duty to the victim, the breach of that duty, caused the victim’s resulting death.

A “reasonable doubt” is one for which a reasonable person could reasonably conclude from the facts that may arise from evidence or lack of evidence; it is the doubt that would exist in the mind of a reasonable person after fairly and carefully considering all the evidence or lack of evidence and if, after such consideration, a juror has an abiding belief in the truth of the charge, the juror is satisfied beyond a “reasonable doubt.” State v. Walker

Doubt of guilt cannot coexist with conviction of guilt; any fact in evidence may, under particular circumstances, raise doubt of guilt which would not otherwise exist, and if doubt is raised, it follows that jury is not convinced beyond a reasonable doubt of guilt of defendant and must acquit. State v. Allen

Mere opportunity to commit a criminal act, standing alone, provides no proof that the defendant committed the criminal act, but if that opportunity is coupled with other circumstances, the proof may be sufficient to support a finding based on circumstantial evidence that the accused did commit the act. State v. Pennewell

TRIAL SEQUENCE & INFORMATION FOR STUDENT PARTICIPANTS

For the purpose of the YMCA Texas Youth & Government, a team will consist of two attorneys and three witnesses for a total of five people. The team will compete at the District conference as a unit and at the State Conference, provided they qualify.

As is true in any trial, this case presents a host of problems for team members. When to call a witness, what the witness should say, and how to cross-examine are just some of the issues that will be encountered. This outline should clarify the issues and solve some of those problems by placing the entire case in an understandable perspective for student attorneys and witnesses. Some of the material discussed in the outline below is described in more detail in the Simplified Rules of Evidence and Procedure section. Students should be familiar with all such material.

The trial is divided into three sections: (1) the Opening Statements; (2) Examination of Witnesses; and (3) Closing Arguments.

TRIAL SEQUENCE

1. **Opening Statement:** these are brief presentations to the judge which are made by the attorneys: (3 minutes per side)
 1. a Prosecution Attorney will outline the case by briefly telling the judge (and jury) the facts of a case in a light which is favorable to his side, the legal points expected to be raised during the trial, and a statement of the result that he or she will seek at the close of the case. Note: The application of the law to the law to the facts shall not be argued in the opening statement.
 2. The Defendant's Attorney will then do the same, unless the defense reserves its opening statement until the beginning of its case.
2. **Examination of Witnesses:** (5 minutes for each Direct Examination and 3 minutes for a Cross-Examination.)
 1. Direct: The purpose of this segment of the trial is to allow your witnesses to tell their side of the story in a narrative manner. Witnesses should know their statement "cold." Attorneys should be sure to listen to their witness's response so that if he or she forgets anything, you can make sure it gets into the record by asking the question again or rephrasing the question to elicit the response desired.

2. Cross: At the close of every direct examination, the opposing counsel will cross-examine that same witness before the next witness is called. The purpose of the cross-examination is to impeach the witness's credibility (believability); that is, to make him/her look bad in the eyes of the judge/jury. This can be done by showing the witness is biased or prejudice, the witness doesn't remember just exactly what happened, or the witness did not actually see what happened.
 3. Redirect: Assuming time is remaining, the attorney who called the witness may ask follow-up questions about issues raised in the cross-examination.
3. **Closing Arguments:** These are concluding arguments made to the judge/jury by each side. (3 minutes per side)

It is always proper in final argument to refer to a witness's interest in the outcome of the case, his appearance and conduct while testifying, and the character and credibility of the parties and witnesses when the remarks are based on facts in evidence.

The Closing Argument should tie the whole case together as if the attorney is closing a circle. The attorney should point out the most favorable things brought out in the trial in his/her favor and suggest weaknesses in his opponent's case. The attorney should always ask for a judgment or ruling in his client's favor.

- a. The prosecutor, who always has the burden of proof, has the right to have the first closing argument, and may reserve time for rebuttal. Failure to reserve time waives the right, however.
- b. The defendant's attorney then has an opportunity to argue his case. The attorney should urge the judge/jury to find that the prosecution has not met its burden of proof, and should point out any facts, which would lead the judge/jury to believe that the state's story is not quite true so that the prosecution is not entitled to convict the defendant.