

PROJECT



NORTHLAND

# CLASS ACTION

A HIGH SCHOOL ALCOHOL-USE PREVENTION CURRICULUM  
**SECOND EDITION**

## Case 4: *Allen v. Block* Date Rape on Trial

**Handouts:** Step Assignment Sheet

Who's Who

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Transcript of Defense Attorney's Argument

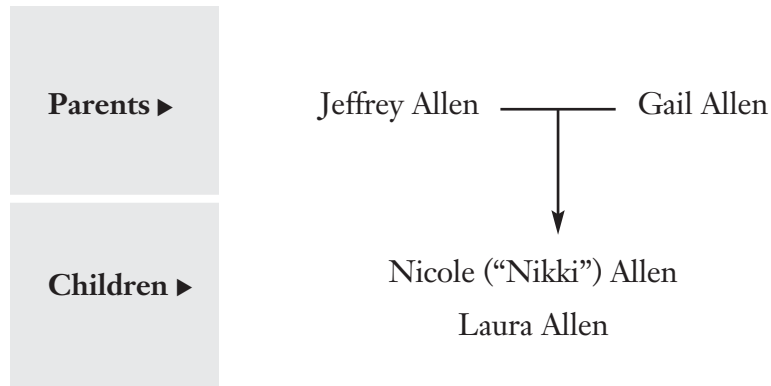
## Step Assignment Sheet

Team: \_\_\_\_\_

Steps for Building Your Case	Team Member Assignment
<p><b>STEP 1</b> Explain the responsibility of Melissa Block.</p>	
<p><b>STEP 2</b> Explain how Melissa Block failed to meet her responsibility.</p>	
<p><b>STEP 3</b> Explain the damages suffered by the Allens.</p>	
<p><b>STEP 4</b> Prove that the damages (financial, emotional, and physical) suffered by the Allens were caused by the failure of Melissa Block to meet her responsibility.</p>	
<p><b>STEP 5</b> Conduct an interview with a counselor or social worker to add to the evidence.</p>	
<p><b>STEP 6</b> Respond to the arguments from Melissa Block's attorney.</p>	
<p><b>BEFORE THE JURY VOTES</b> Answer questions from the jury/class.</p>	<p><i>All team members</i></p>

## Who's Who

The following list shows the key individuals in your case.



**Melissa Block:** Had a party and provided beer

**Frank Sowell:** Boyfriend of Melissa and brother of Kyle

**Kyle Sowell:** Brother of Frank; raped Nikki

## Prep Sheet 1: Events of the Case

Team: \_\_\_\_\_

Questions	Possible responses
What happened?	
How was Nikki affected by alcohol?	
How was Kyle affected by alcohol?	

## Prep Sheet 2: Responsibilities Neglected

Team: \_\_\_\_\_

Person	Irresponsible actions during the party
Melissa acted irresponsibly by	
Frank acted irresponsibly by	

## Prep Sheet 3: Relevant Facts

Team: \_\_\_\_\_

Summary of Relevant Facts	Sources

## Step 1: Prove Responsibility (Duty)

### *Strategy Sheet*

Team Member(s): \_\_\_\_\_

Responsibility, or “duty,” as it is called in legal terms, involves acting in a way that would prevent someone from foreseeable harm. It is important to show that the harm or injury should have been anticipated or foreseen by the responsible party.

In the case of *Allen v. Block*, you must demonstrate

- a. What Melissa Block’s responsibility was to Nikki Allen, given that she knew Nikki was seventeen years old.

Knowing that Nikki was under the legal age of twenty-one years, what were Melissa’s legal responsibilities toward her? What should Melissa have been able to foresee when she continued to give Nikki alcohol while she was with Kyle?

- b. What Melissa Block’s responsibility was to Kyle Sowell, knowing that he was seventeen years old and that she and Frank Sowell were trying to get Nikki and Kyle together.

Remember, you must be clear about Melissa’s legal responsibilities toward Kyle and Nikki. It will be important to consider how often Melissa actually gave Kyle and Nikki alcohol, as well as just providing alcohol for the party.

Team members working on step 1 will have five minutes to present the opening argument. What you say will be important because everyone else will refer to your arguments and build on them. Read through the facts of the case again, including the affidavits and depositions. Fill in any more facts that you discover on your prep sheets.

#### *Strategy Steps: Preparing for the Class Presentation*

1. Begin by stating what you are going to prove in the next five minutes. This is your ***opening statement***. Write down what you will say. Be sure to emphasize the responsibility that Melissa Block had to Nikki Allen and Kyle Sowell at the party.

2. Back up your opening statement with facts from the case, including the affidavits and depositions. You may quote the affidavits and depositions by reading them aloud or by playing the audio recording. *Write out the **facts** you will present and what you will say to present them.*
3. Examine the Relevant Laws File in the casebook. Do these laws apply to your case? How can you use them to support your argument? *Write out how the **relevant laws** apply (or do not apply) to your case.*
4. Examine the Case Law File in the casebook. How can you show the jury that your arguments are similar to arguments used in these other cases? Which points made in these successful cases support the points you are making in your case? *Write out which points in your case are supported by specific arguments in **case law**.*
5. Back up your arguments with more information from the Info File. You can collect facts and opinions from experts, along with information about what was happening at Troy University, where Melissa Block was going to college. You will also want to prove that the information is well known and that it is reasonable for a person such as Melissa Block to have known about the effects of alcohol. *Write out the **additional information** you will present.*
6. At the end of your five minutes, summarize your presentation by restating what you set out to prove and emphasizing how you proved it. *Write your **summary**.*

The written statement that you prepare will need at least six paragraphs, one (or more) to address each of the six parts outlined above. You need about five typed (or twelve to fifteen handwritten) pages for a five-minute presentation. Practice reading your statement aloud to make sure that it is the appropriate length. The more you practice, the more smoothly you will be able to present. This will help you to be dramatic and convincing when you present to the jury in class.

**Important**

Review your arguments and brainstorm counterarguments Melissa Block's attorney might make for each point. Prepare to answer these counterarguments with evidence. *Write your counterarguments.*

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## Step 2: Prove That Responsibility Was Not Met (Breach of Duty)

### *Strategy Sheet*

Team Member(s): \_\_\_\_\_

You will prove that there was a breach of duty in the case of *Allen v. Block*. An important part of breach of duty concerns doing what is reasonable to prevent someone from foreseeable harm. You must show that, given the responsibility that Melissa Block had to Nikki Allen and Kyle Sowell, she was guilty of failing to meet that responsibility. You must show that Melissa Block was or should have been aware that there were many foreseeable consequences of her giving alcohol to Kyle and Nikki. These consequences include what could have happened to Nikki and Kyle individually and together.

Team members working on step 2 will have five minutes to convince the jury that Melissa Block failed to meet her responsibility to both Nikki Allen and Kyle Sowell. It is important to show (a) that a reasonable adult could anticipate or foresee the harm that occurred and (b) what reasonable action an adult could have taken to prevent that harm.

Remember that in the end your legal team needs to prove that the alcohol that Nikki and Kyle drank helped cause Kyle to rape Nikki. Kyle has already been convicted of rape, so the issue here is what role alcohol played in the rape.

Your presentation will have to build on what your team member(s) presented in step 1. It is important that you meet with this person so you know what he or she will be saying.

Read through the facts of the case again, including the affidavits and depositions. Fill in any more facts that you discover on your prep sheets.

#### *Strategy Steps: Preparing for the Class Presentation*

1. Begin by stating what you are going to prove in the next five minutes. This is your *opening statement*. Write down what you will say.

Be sure to emphasize (a) how Melissa Block failed to meet her responsibility to Nikki Allen and Kyle Sowell, and (b) that she should have

foreseen that the alcohol could affect them and their interaction with each other.

2. Back up your opening statement with facts from the case, including the affidavits and depositions. You may quote the affidavits and depositions by reading them aloud or by playing the audio recording. *Write out the **facts** you will present and what you will say to present them.*
3. Examine the Relevant Laws File in the casebook. Do these laws apply to your case? How can you use them to support your argument? *Write out how the **relevant laws** apply (or do not apply) to your case.*
4. Examine the Case Law File in the casebook. How can you show the jury that your arguments are similar to arguments used in these other cases? Which points made in these successful cases support the points you are making in your case? *Write out which points in your case are supported by specific arguments in **case law**.*
5. Back up your arguments with more information from the Info File. You can collect facts and opinions from experts, along with information about what was happening at Troy University, where Melissa Block was going to college. You will also want to prove that the information is well known and that it is reasonable for a person such as Melissa Block to have known about the effects of alcohol. *Write out the **additional information** you will present.*
6. At the end of your five minutes, summarize your presentation by restating what you set out to prove and emphasizing how you proved it. *Write your **summary**.*

The written statement that you prepare will need at least six paragraphs, one (or more) to address each of the six parts outlined above. You need about five typed (or twelve to fifteen handwritten) pages for a five-minute presentation. Practice reading your statement aloud to make sure that it is the appropriate length. The more you practice, the more smoothly you will be able to present. This will help you to be dramatic and convincing when you present to the jury in class.

**Important**

Review your arguments and brainstorm counterarguments that Melissa Block's attorney might make for each point. Prepare to answer these counterarguments with evidence. *Write your counterarguments.*

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## Step 3: Present Evidence of Damages

### *Strategy Sheet*

Team Member(s): \_\_\_\_\_

To prove that a person or persons are negligent, you must show that some damage occurred. You will present damages in the case of *Allen v. Block*. The obvious injury is Nikki Allen's rape, but try to think of other injuries (damages) as well. For example, how was Nikki's reputation affected by what happened? Her mental health? Her education? Her social life? How was her family affected? How was Kyle affected? How might serving his sentence affect him? How will having a criminal record affect him?

Team members working on step 3 will have five minutes to convince the jury of the damages that occurred. Consider these types of damages:

- parents' pain and suffering over the injury of their child
- emotional distress
- counseling costs
- parents' lost work time immediately after the incident
- damage to reputation
- loss of school time
- legal fees
- problems suffered by other family members

Read through the facts of the case again, including the affidavits and depositions. Fill in any more facts that you discover on your prep sheets.

#### ***Strategy Steps: Preparing for the Class Presentation***

1. Begin by stating what you are going to prove in the next five minutes. This is your ***opening statement***. Write down what you will say. Be sure to emphasize how much Nikki and her family have suffered emotionally, physically, and economically. Although this case is about Nikki's injuries, you could mention injuries to Kyle as well.

2. Back up your opening statement with facts from the case, including the affidavits and depositions. You may quote the affidavits and depositions by reading them aloud or by playing the audio recording. *Write out the **facts** you will present and what you will say to present them.*
3. Examine the Relevant Laws File in the casebook. Do these laws apply to your case? How can you use them to support your argument? *Write out how the **relevant laws** apply (or do not apply) to your case.*
4. Examine the Case Law File in your casebook. How can you show the jury that your arguments are similar to arguments used in these other cases? Which points made in these successful cases support the points you are making in your case? *Write out which points in your case are supported by specific arguments in **case law**.*
5. Back up your arguments with more information from the Info File. You can collect facts and opinions from experts, along with information about what was happening at Troy University, where Melissa Block was going to college. You will also want to prove that the information is well known and that it is reasonable for a person such as Melissa Block to have known about the effects of alcohol. *Write out the **additional information** you will present.*
6. At the end of your five minutes, summarize your presentation by restating what you set out to prove and emphasizing how you proved it. *Write your **summary**.*

The written statement that you prepare will need at least six paragraphs, one (or more) to address each of the six parts outlined above. You need about five typed (or twelve to fifteen handwritten) pages for a five-minute presentation. Practice reading your statement aloud to make sure that it is the appropriate length. The more you practice, the more smoothly you will be able to present. This will help you to be dramatic and convincing when you present to the jury in class.

**Important**

Review your arguments and brainstorm counterarguments that Melissa Block's attorney might make for each point. Prepare to answer these counterarguments with evidence. *Write your counterarguments.*

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## Step 4: Prove That Irresponsibility Caused Damages (Causation)

### *Strategy Sheet*

Team Member(s): \_\_\_\_\_

You will present causation in the case of *Allen v. Block*. You must prove that the injuries to Nikki Allen and Kyle Sowell were in large part *caused by* the beer and wine coolers that Melissa Block gave to them at her party. In other words, you must prove that the alcohol caused Nikki and Kyle to act the way they did and was a contributing factor in Kyle's rape of Nikki.

Team members working on step 4 will have five minutes to convince the jury that Melissa Block's failure to meet her responsibility helped cause the injuries to Nikki Allen. Remember that part of proving negligence is proving that it would be reasonable for Melissa Block to be aware of the possibility that someone could get hurt.

Your presentation also must show that Melissa Block's failure to meet her responsibility helped to cause the damages described by your teammates. It is important to talk to the other members of your legal team when putting your presentation together. You must know what points will be emphasized in all the different parts, so that you can bring all the links in this chain of events together.

Read through the facts of the case again, including the affidavits and depositions. Fill in any more facts that you discover on your prep sheets.

#### *Strategy Steps: Preparing for the Class Presentation*

1. Begin by stating what you are going to prove in the next five minutes. This is your ***opening statement***. Write down what you will say. Your statement should emphasize how Melissa Block's actions helped cause the injuries to Nikki Allen.
2. Back up your opening statement with facts from the case, including the affidavits and depositions. You may quote the affidavits and depositions by reading them aloud or by playing the audio recording. *Write out the facts you will present and what you will say to present them.*

3. Examine the Relevant Laws File in the casebook. Do these laws apply to your case? How can you use them to support your argument? *Write out how the **relevant laws** apply (or do not apply) to your case.*
4. Examine the Case Law File in the casebook. How can you show the jury that your arguments are similar to arguments used in these other cases? Which points made in these successful cases support the points you are making in your case? *Write out which points in your case are supported by specific arguments in **case law**.*
5. Back up your arguments with more information from the Info File. You can collect facts and opinions from experts, along with information about what was happening at Troy University, where Melissa Block was going to college. You will also want to prove that the information is well known and that it is reasonable for a person such as Melissa Block to have known about the effects of alcohol. *Write out the **additional information** you will present.*
6. At the end of your five minutes, summarize your presentation by restating what you set out to prove and emphasizing how you proved it. *Write your **summary**.*

The written statement that you prepare will need at least six paragraphs, one (or more) to address each of the six parts outlined above. You need about five typed (or twelve to fifteen handwritten) pages for a five-minute presentation. Practice reading your statement aloud to make sure that it is the appropriate length. The more you practice, the more smoothly you will be able to present. This will help you to be dramatic and convincing when you present to the jury in class.

### **Important**

Review your arguments and brainstorm counterarguments that Melissa Block's attorney might make for each point. Prepare to answer these counterarguments with evidence. *Write your **counterarguments**.*

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## Step 5: Present Expert Testimony (Supporting Causation)

### *Strategy Sheet*

Team Member(s): \_\_\_\_\_

You will present expert testimony to support causation in the case of *Allen v. Block*. As part of the causation section of the presentation, it will be important to show that drinking alcohol can lead people to make poor judgments or to act violently in ways they might not if they were sober. You will want to demonstrate that alcohol plays a major role in date rape, sexual assault, and unwanted sex. This material might be useful to explain what was reasonable for Melissa Block to know about underage drinking and the problems that can be caused by it.

To do this, you will need to present some facts by using the Info File in your casebook and by conducting an *interview with an expert witness*, such as a counselor or social worker who works with rape victims or victims of sexual assault. This person could be someone at a hospital, clinic, women's shelter, or rape crisis center, or a social worker from your school or county social services.

Team members working on step 5 will have five minutes to use expert testimony to convince the jury that Melissa Block's irresponsibility caused the harm that was done to Nikki Allen.

Your presentation is actually part of the causation argument, so it will be important for you to meet with the person who is responsible for step 4. Or, you could work together with this person and both do the interview and share the work for steps 4 and 5.

#### ***Prepare for the Interview***

1. Call the nearest hospital, clinic, or addiction treatment center to set up your interview.

Name of facility: \_\_\_\_\_

Phone number of facility: \_\_\_\_\_

- Say who you are, the name of your school, and why you are calling.
- Describe the case and the argument you are preparing.
- Explain that you want to interview a counselor or social worker for about fifteen minutes.
- Ask permission to record the interview.
- Arrange a time to conduct the interview in person or by phone; otherwise, arrange to send your interview questions by e-mail.
- Write down the details of your interview appointment:

Name: _____
Job title: _____
Location: _____
Date and time of interview: _____
Other important details: _____
_____

2. Consider the information you want from this witness, and think about what to ask. (Remember, you are trying to prove that Kyle and Nikki's drinking contributed to Kyle's rape of Nikki.)
3. Write out the questions you will ask this witness. *Sometimes it works best to write each question at the top of a separate sheet of paper, leaving plenty of space below for answers.*  
See suggested interview questions on the next page.
4. If you will record the interview, prepare equipment for recording.

### Suggested Interview Questions

- How often is alcohol involved in rape and sexual assault?
- How common is it for rape to occur between two people who know each other?
- How does alcohol play a role in teen sex and teen pregnancy?
- Where do most date rapes occur?
- How common is it for boys to “get girls drunk” in order to have sex?
- How does alcohol affect sexual behavior?

*Add your own questions, too.*

### *Conduct the Interview*

- Make sure you have your questions, plenty of paper for taking notes, a few pencils, and any recording equipment needed.
- Be on time.
- Be sure to write notes about the details of what the person says. Don't be afraid to ask the person to repeat something.
- Ask follow-up questions to get details and to be sure that you understand the answers.
- Be sure to thank the person for his or her time and information.

### *Strategy Steps: Preparing for the Class Presentation*

Review the facts of the case, including the affidavits and depositions. Fill in any more facts that you discover on your prep sheets. Your presentation must show that alcohol can affect behavior in such a way that a person might actually rape someone when drunk. You must also show that a reasonable person would know these effects. Using the facts of the case and expert testimony will help convince the jury.

1. Begin by stating what you are going to prove in the next five minutes. This is your opening statement. Your statement must emphasize how

alcohol affects a person's behavior, especially when it comes to rape and sexual assault. *Write your opening statement.*

2. Review the results of your interview. *Write out the statements from the expert that you will present.*
3. Back up your arguments with more information from the Info File. You can collect facts and opinions from experts, along with information about what was happening at Troy University, where Melissa Block was going to college. You will also want to prove that the information is well known and that it is reasonable for a person such as Melissa Block to have known about the effects of alcohol. *Write out the additional information you will present.*
4. At the end of your five minutes, summarize your presentation by restating what you set out to prove and emphasizing how you proved it. *Write your summary.*

The written statement that you prepare will need at least four paragraphs, one (or more) to address each of the four parts outlined above. You need about five typed (or twelve to fifteen handwritten) pages for a five-minute presentation. Practice reading your statement aloud to make sure that it is the appropriate length. The more you practice, the more smoothly you will be able to present. This will help you to be dramatic and convincing when you present to the jury in class.

### **Important**

Review your arguments and brainstorm counterarguments that Melissa Block's attorney might make for each point. Prepare to answer these counterarguments with evidence. *Write your counterarguments.*

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## Step 6: Rebuttal

### *Strategy Sheet*

Team Member(s): \_\_\_\_\_

You will write and present your rebuttal in the case of *Allen v. Block*. Your job is to respond to the points raised by Melissa Block's lawyer. To prepare your rebuttal, you will need to listen to the audio recording of Melissa's lawyer presenting the closing argument. You can get this recording from your teacher. *You are the only member of your team who will be allowed to listen to this recording before the trial.* Your teacher will also give you a printed copy of the defense statement so you can follow along.

After your legal team has made its presentation (steps 1 through 5), the recording of Melissa Block's lawyer defending Melissa will be played for the class.

Team members working on step 6 will have five minutes to make your team's final argument and convince the jury that Melissa Block was negligent. It is important to make a strong argument that leaves a lasting impression on the jury.

#### *Strategy Steps: Preparing for the Class Presentation*

**Listen** to the recording of the defense argument and write down the main points made by Melissa Block's attorney. Plan and write counterarguments for these points. When you write your rebuttal, remember that your job is to **respond directly to the defense attorney**; you are not to summarize your team's entire argument. You may review notes from the team's other five steps, but your argument must address only points raised by Melissa Block's attorney.

1. In the **opening statement** of your counterargument, explain how you disagree with Melissa Block's attorney. Clearly summarize the main points made by the defense, and state that you will prove these points false.
2. Back up your opening statement with **facts** from the case, including the **affidavits** and **depositions**. Use this information to dispute the defense attorney's main points.

3. Summarize the *relevant laws* that apply to your case, and use this information to dispute the defense attorney's main points.
4. Summarize the *expert testimony* and *key evidence* from the Info File. Use this information to dispute the defense attorney's main points.
5. At the end of your five minutes, *summarize your rebuttal* by restating what you set out to prove and emphasizing how you proved it.

The written statement that you prepare will need at least five paragraphs, one (or more) to address each of the five parts outlined above. You need about five typed (or twelve to fifteen handwritten) pages for a five-minute presentation. Practice reading your statement aloud to make sure that it is the appropriate length. The more you practice, the more smoothly you will be able to present. This will help you to be dramatic and convincing when you present to the jury in class.

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## Transcript of Defense Attorney's Argument

Below is a verbatim transcript of the defense attorney's argument found on the audio CD for this case. The audio CDs are first used by the students assigned to do the rebuttals for each of the cases. The whole class should listen to the audio CDs during the classroom presentations (prior to the rebuttal). Please note that the transcript below and the transcripts for the other cases are of spoken, not written, language and may include stutters, stammers, and incomplete sentences for dramatic effect.

### Case 4: *Allen v. Block*

#### Date Rape on Trial

Good day, Your Honor, ladies and gentlemen of the jury. I'm representing Melissa Block in this matter, and I would like to say how sorry I am for what happened to Nicole. It is a terrible thing that happened to her, and I hope that they catch and—wait a minute; they already caught and convicted the guy that did it. His name was Kyle, and he served his time. So what are they saying? They're saying that my client, Melissa Block, is responsible for Kyle's action. That's preposterous. The law says that if someone does something, and because of that action there's a direct line to something else that happens, that that person might be responsible for it, because they kind of set everything in motion. But if there's a superseding cause, which is something in the middle, then this person isn't responsible, and there is a whole Atlantic Ocean of superseding causes.

What did my client, Melissa, do? Did she rape anyone? Did she hurt anyone? No. She threw a party. How many of you have thrown parties or gone to parties? That was her crime. Her crime when she threw the party: She bought beer. She bought beer. She bought alcohol. But does that mean that she caused Kyle to do what he did? No. Kyle chose to do what he did. Kyle did that thing to Nicole. Kyle's the problem. Melissa had a party. She didn't just invite Kyle. She didn't just invite Nikki. She invited a lot of people. As a matter of fact, she didn't even invite Kyle. He was invited by—her—he was her boyfriend's brother. She invited her friend's little sister, Nikki, to the party. Did she say, "Come and get smashed and get bombed and get raped, because that's what I want"? No, she said, "Come to my party and have a good time." Did she tell Nikki, "Come and drink"? No, she said, "I'm having a party, come on to the party." And what did Nikki do

when she got there? She chose to have liquor. At the same time, Kyle showed up at the party, who's also underage. Did she say, "Here, Kyle, slam all these beers"? No. Kyle chose to drink beer. Kyle chose to do a lot of things. He's not—he's not six or seven. He—he chose exactly, he knew exactly what he was doing. Melissa had a party. At the party these two people chose to have alcohol, and then Kyle chose to do a very, very terrible thing. And for that we got him, and he's done his time. But it's not Melissa's fault.

Thank you.

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