

PROJECT



NORTHLAND

CLASS ACTION

A HIGH SCHOOL ALCOHOL-USE PREVENTION CURRICULUM
SECOND EDITION

*Case 5: Brown v. The Bixby
Frog Festival Planning Committee*
Drinking and Vandalism on Trial

Handouts: Step Assignment Sheet

Who's Who

Prep Sheets

- Prep Sheet 1: Responsibilities Neglected
- Prep Sheet 2: Preventable Damages
- Prep Sheet 3: Relevant Facts

Strategy Sheets

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- Step 4: Prove That Irresponsibility Caused Damages
- Step 5: Present Expert Testimony
- Step 6: Rebuttal

Transcript of Defense Attorney's Argument

Step Assignment Sheet

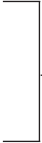
Team: _____

Steps for Building Your Case	Team Member Assignment
STEP 1 Explain the responsibility of the planning committee.	
STEP 2 Explain how the planning committee failed to meet its responsibility.	
STEP 3 Explain the damages suffered by the Browns.	
STEP 4 Prove that the damages suffered by the Browns were caused by the failure of the planning committee to meet its responsibility.	
STEP 5 Conduct an interview with a law enforcement officer to add to the evidence.	
STEP 6 Respond to the arguments from the planning committee's attorney.	
BEFORE THE JURY VOTES Answer questions from the jury/class.	<i>All team members</i>

Who's Who

The following list shows the key individuals in your case.

Bill and Jane Brown → own cabin vandalized by teens

Michael Kralek		→ teens who vandalized the Browns' cabin
Yvonne Auclair		
Jodi Porter		
Steve Haines		

Jonathan Allen → chair of the Bixby Frog Festival Planning Committee,
owner of Allen's Liquor Store

Ed Rice → beer stand vendor, employee at Allen's Liquor Store

Prep Sheet 1: Responsibilities Neglected

Team: _____

To whom did the committee have a responsibility?	What was the responsibility?	How did the committee fail to meet that responsibility?
Town of Bixby and neighboring communities		
Teens attending festival		
Other people attending festival		

Prep Sheet 2: Preventable Damages

Team: _____

What could the festival planning committee have done about . . .	
Beer stands selling beer at the festival?	
Teens buying beer?	
Teens driving after drinking?	

How did alcohol affect what happened?	
Yvonne hurt her foot.	
Teens broke into the cabin.	
Teens vandalized the cabin.	
Teens did not limit their drinking.	

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 *Brown v. The Bixby Frog Festival Planning Committee*, you must demonstrate

- a. What the planning committee’s responsibility was to the community of Bixby and others attending the festival.

This responsibility to the community included maintaining order at the festival so that people and property were safe. It included taking reasonable steps to prevent provision or sale of alcohol to minors. Keep in mind that the committee had a responsibility to plan an event that would uphold the law.

- b. What the responsibility was to the four teens involved in the break-in. They could have suffered many types of injuries by being drunk, such as drowning or getting in a car accident.

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 the planning committee had to the community of Bixby, including Bill and Jane Brown.

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 relevant happenings in the community during the time the committee was planning the festival. This material might be useful to explain what is reasonable for members of the planning committee to have known about underage drinking, the problems it can cause, and reasonable steps the committee could have taken to prevent it at the frog festival. *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 the planning committee'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 *Brown v. The Bixby Frog Festival Planning Committee*. 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 the Bixby Frog Festival Planning Committee had to the community and to the four teenagers, it was guilty of failing to meet that responsibility. You must show that the planning committee should have foreseen the damage to the people of Bixby that could result from allowing teens to drink alcohol at the festival. Also, think about the responsibility that the committee had to take reasonable steps to control who could drink alcohol at the festival and where they could drink it. How did the committee fail to meet this responsibility?

Team members working on step 2 will have five minutes to convince the jury that the planning committee failed to meet its responsibility to the community of Bixby (including the Browns) and the four teens. 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, no one ever said anything to the teens about the fact that they were drinking or about how much they were drinking.

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 the planning committee failed to meet its responsibility to the community of Bixby (including the Browns) and the four teens, and (b) that it should have foreseen that the alcohol could affect the teens in negative ways.
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 relevant happenings in the community while the committee was planning the festival. This material might be useful to explain what is reasonable for members of the planning committee to have known about underage drinking, the problems it can cause, and reasonable steps they could have taken to prevent it at the frog festival. *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 the planning committee'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 *Brown v. The Bixby Frog Festival Planning Committee*. The obvious damage is the vandalism of the Browns' cabin. Think of other damages to the Browns, including emotional and economic injuries. You could also include how this act of vandalism harmed or damaged the community as a whole.

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

- emotional distress
- cost of repairing the damage to the cabin
- damage to town's reputation
- damage to town's sense of safety

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 the Browns have suffered emotionally and economically. You could also include damage that was done to the community as a whole.
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 relevant information about what was happening in the community during the time the committee was planning the festival. This material might be useful to explain what is reasonable for members of the planning committee to have known about underage drinking, the problems it can cause, and reasonable steps the committee could have taken to prevent it at the frog festival. *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 the planning committee'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 *Brown v. The Bixby Frog Festival Planning Committee*. You must prove that the damages to the Browns were in part *caused by* the alcohol that the teens drank at the Bixby Frog Festival.

Team members working on step 4 will have five minutes to convince the jury that the planning committee's failure to meet its responsibility helped cause the damages to the Browns. Remember that part of proving negligence is proving that it would be reasonable for the planning committee to be aware of the negative effects of underage drinking.

Your presentation must build on 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 the planning committee's failure to control the sale of alcohol to minors influenced the four teens to break in and vandalize the Browns' cabin.
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 in the community relevant to your case during the time the committee was planning the festival. This material might be useful to explain what is reasonable for members of the planning committee to have known about underage drinking, the problems it can cause, and reasonable steps the committee could have taken to prevent it at the frog festival. *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 the planning committee'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 *Brown v. The Bixby Frog Festival Planning Committee*. 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 most crimes. 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 law enforcement officer. By interviewing an officer, you will be able to use the expert testimony to convince the jury that the influence of alcohol was directly related to the vandalism of the Browns' cabin.

Team members working on step 5 will have five minutes to use expert testimony to convince the jury that the planning committee's irresponsibility caused the damage that was done to the Browns' cabin.

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 law enforcement agency 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 law enforcement officer 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 the alcohol the teens bought at the festival influenced them to break into and vandalize the Browns' cabin.)
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 common is it for teens to commit crimes of vandalism?
- How often is alcohol involved in teen vandalism?
- Is alcohol a problem at festivals or events in our community or in other communities that you know of? If so, do you think most people know about this?
- What can communities do to restrict the availability of alcohol to teens at community events and festivals?
- Are community members willing to do the things you just mentioned? What are the advantages and disadvantages of restricting the availability of alcohol to teens?
- What types of problems have occurred from teens drinking alcohol?
- In your opinion, who should be responsible for restricting alcohol availability at community events and festivals? The police? Parents? Planning committees? Teens?

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 it is more likely than not that alcohol affected the four teens' behavior and caused them to commit a crime. Your interview will also help stress the point that the planning committee had the responsibility to restrict the availability of alcohol to teens at the festival. 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 crime. *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 in the community relevant to your case during the time the committee was planning the festival. This material might be useful to explain what is reasonable for members of the planning committee to have known about underage drinking, the problems it can cause, and reasonable steps the committee could have taken to prevent it at the frog festival. *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 the planning committee'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 *Brown v. The Bixby Frog Festival Planning Committee*. Your job is to respond to the points raised by the planning committee's lawyer. To prepare your rebuttal, you will need to listen to the audio recording of this 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 the planning committee's lawyer defending the committee 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 the Bixby Frog Festival Planning Committee 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 the Bixby Frog Festival Planning Committee'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 the planning committee's attorney.

1. In the ***opening statement*** of your counterargument, explain how you disagree with the planning committee'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 5: Brown v. The Bixby Frog Festival Planning Committee

Drinking and Vandalism on Trial

Ladies and gentlemen of the jury, I represent the esteemed community members of the Bixby Frog Festival Planning Committee. Now, today the Browns are suing the committee for the damage that occurred to their property, which was committed by four people: Michael Kralek, Yvonne Auclair, Steve Haines, and Jodi Porter.

Now, this immediately brings to mind a question: Why attack the committee? We all know that it's much too easy for underage people to get alcohol, not just at the festival. After all, the committee was just following tradition. Now, is it fair to hold the committee responsible for the failings of bars and liquor stores across the state? No. Is it fair to hold the committee responsible for the failings of the police and other authorities to enforce the law? Or is it fair to hold the committee responsible for the failings of the parents of these four vandals? The answer to all of these questions is an obvious no. All four of these individuals were convicted in a court of law for breaking and entering into the Browns' home. For vandalizing and destroying the Browns' personal property and for underage drinking. In other words, these four people were held responsible for their decisions, their own choices in the eyes of the law. Now, choices, that is what this all comes down to today, ladies and gentlemen.

In this state, the Browns must prove four points: First, that the committee had a duty to the Browns. Second, that this duty was breached. Third, that this breach caused an injury, and fourth, that they can be compensated for that injury.

Now, let's think of an example of this. Let's say the Browns went to McDonald's. They bought a hamburger. Mr. Brown started eating this hamburger, but there were rotten pickles, so he had to spit the hamburger out, it landed on his shirt, and it destroyed his shirt. McDonald's had a duty to sell Mr. Brown a good hamburger without rotten pickles. McDonald's breached that duty by giving Mr. Brown a bad hamburger with rotten pickles. This rotten pickle caused Mr. Brown to spit it out, which ruined his shirt, and Mr. Brown can be compensated for the cost of a replacement shirt. Now, in our case today, the Browns cannot prove these four points to you. The Browns have the responsibility to prove to you that all four of these points can be met and as you have probably noticed, maybe, or as you will soon, they cannot.

Now, I'm going to focus today on the third point, causation. The Browns must prove that because of the committee, Michael kicked down the front door of the cabin. They must prove that because of the committee, these four people decided to throw furniture, to throw clocks, and to throw pots and pans all across the cabin, and that because of the committee, Michael and Steve opened the refrigerator, opened the wine coolers, and drank them. And that because of the committee, Steve vomited all over the carpeting of the cabin. Did these things happen because of the committee? No. These things did happen, but it wasn't because of any actions or choices of the committee. It was decisions of four individuals that caused the damage to the cabin. Michael chose to drive to the other side of the lake. Jodi pointed out that the cabin was empty. Michael kicked in the door. Michael opened the refrigerator and took out the wine coolers. Steve drank the wine coolers and threw up on the floor. Jodi grabbed a clock and then threw it. Yvonne threw a kitchen pan. Would these things have happened without the active choices of these four? No.

Now, let's take an example of this. If the four had bought beer at the festival, walked along the lakeshore, bumped into the mayor's wife, tossed her into the lake, ruining a pair of her silk shorts, there are no active choices by these four that would have caused an accident. But, in this case, these four all made active choices that caused the problem. All four have admitted they came to the festival to drink. I'm going to repeat that. They admitted they came to the festival to drink. All four chose to get into the car. All four broke into the cabin. All four trashed the cabin, and all four have been convicted for the crimes that they chose to commit. We have a final question. Could the committee, the esteemed

members of your community, have foreseen the break-in and the destruction of the Browns' personal property? No. The committee could not have reasonably foreseen that four people would first break the law and they'd get into a car, drive around the lake, go into someone's cabin, and destroy the personal property of two innocent individuals.

Ladies and gentlemen, the law is about responsibility and holding people accountable for their actions. Negligence is the law's way of holding people responsible for when their actions directly injure others. Negligence is also set up to ensure that we do not wrongfully hold the committee liable for the poor decisions of others that actually caused the damage. Michael, Yvonne, Steve, and Jodi have all admitted to their poor decisions. They have been convicted for their crimes that each of them decided to commit. Now I urge you to make the just and fair decision and not hold the committee liable for the poor decisions of others.

Thank you.

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