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thinkLaw Curriculum

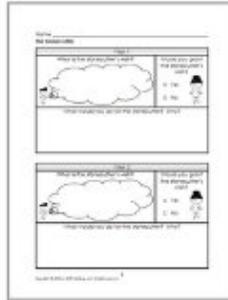
Comprehensive Teacher Guides



Less than 20 Minutes Prep Time!

Includes Over 500 Probing Discussion Questions!

Student Work Pages



To Accompany Each Lesson!

PowerPoint Presentations

Each Lesson has a pre made PowerPoint and/or Google Slide Presentation



Additional Lessons



thinkLaw Users Have Access to a Library of Additional thinkLaw Lessons



Assessments

Assessments Designed to Measure Critical Thinking Skills and Dispositions



Extension Activities

Additional Extension Activities to Review Math, Writing, and Science Skills Using Social Justice as a Motivator!



Project-Based Learning Experiences



Allow Students Real-World Opportunities for Active Citizenship

Comprehensive Teacher Onboarding



Training Video Calls to Explain the thinkLaw Approach and Materials

All thinkLaw Materials are Standards Aligned!



THINK LAW

VOLUME 1
EARLY EDUCATION EDITION
TEACHER EDITION
Sample Download

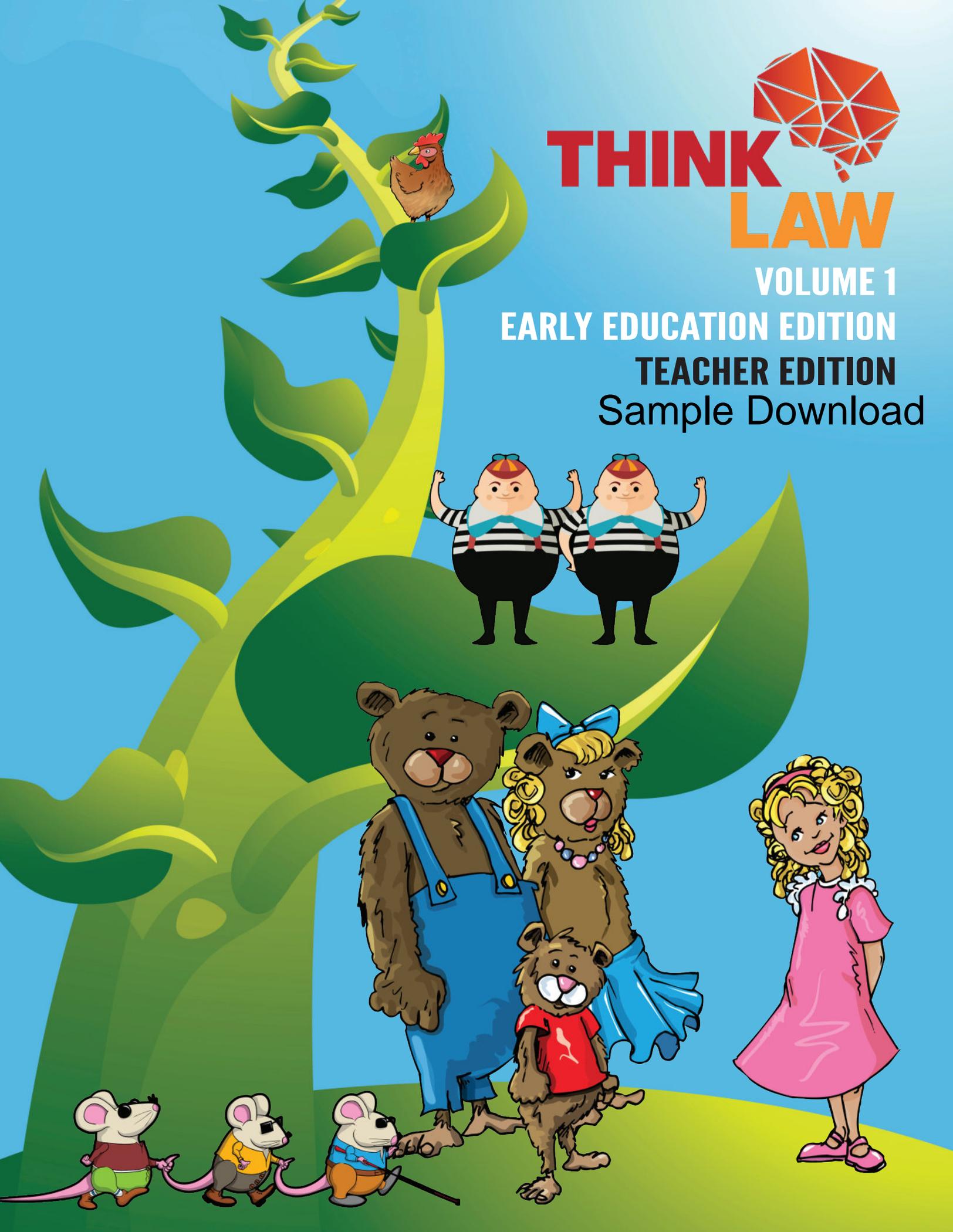




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Peter Peter Pumpkin Eater: Introduction

Objective: Thinkers will deduce the species of Peter the Pumpkin eater, determine his wife's feelings about being kept in a pumpkin, and justify their choices with reasoned evidence.

Lesson Outline

1. During the thinkStarter thinkers will be introduced to the idea that thinking hard is exercise for their brains.
2. After reading the nursery rhyme, "Peter Peter Pumpkin Eater," thinkers will deduce the species of Peter.
3. Thinkers will consider the ending line of the poem, "He put her in a pumpkin shell and there he kept her very well." They will determine how Peter's wife must be feeling and justify their response with supporting evidence.

Materials

Peter Pumpkin Eater
PowerPoint
Presentation



Peter Pumpkin Eater
Student Response
Sheet


 A student response sheet for the nursery rhyme. At the top, it says "Name _____". Below that, it says "Peter, Peter Pumpkin Eater". The poem is written in a small font: "Peter, Peter pumpkin eater / Had a wife who didn't like him / He put her in a pumpkin shell / And there he kept her very well." Below the poem is a large empty rectangular box for writing. At the bottom of the page, there is a small pumpkin icon and a line of text: "© 2014 by Linda Ward Beech, Scholastic Teaching Resources".

Thinker Materials:
Writing Utensils

Common Core Content Standards

	KINDERGARTEN	FIRST GRADE	SECOND GRADE
R11	With prompting and support, ask and answer questions about key details in a text.	Ask and answer questions about key details in a text.	Ask and answer such questions as <i>who</i> , <i>what</i> , <i>where</i> , <i>when</i> , <i>why</i> , and <i>how</i> to demonstrate understanding of key details in a text
W2	Use a combination of drawing, dictating, and writing to compose informative/explanatory texts in which they name what they are writing about and supply some information about the topic.	Write informative/explanatory texts in which they name a topic, supply some facts about the topic, and provide some sense of closure.	Write informative/explanatory texts in which they introduce a topic, use facts and definitions to develop points, and provide a concluding statement or section.
W3	With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.	Write narratives in which they recount two or more appropriately sequenced events, include some details regarding what happened, use temporal words to signal event order, and provide some sense of closure.	Write narratives in which they recount a well-elaborated event or short sequence of events, include details to describe actions, thoughts, and feelings, use temporal words to signal event order, and provide a sense of closure.
SL1.1 & SL1.2	Follow agreed-upon rules for discussions (e.g., listening to others and taking turns speaking about the topics and texts under discussion). Continue a conversation through multiple exchanges	Follow agreed-upon rules for discussions (e.g., listening to others with care, speaking one at a time about the topics and texts under discussion). Build on others' talk in conversations by responding to the comments of others through multiple exchanges	Follow agreed-upon rules for discussions (e.g., gaining the floor in respectful ways, listening to others with care, speaking one at a time about the topics and texts under discussion). Build on others' talk in conversations by linking their comments to the remarks of others.

Peter Peter Pumpkin Eater: Introduction

thinkStarter



What do all of these pictures have in common?

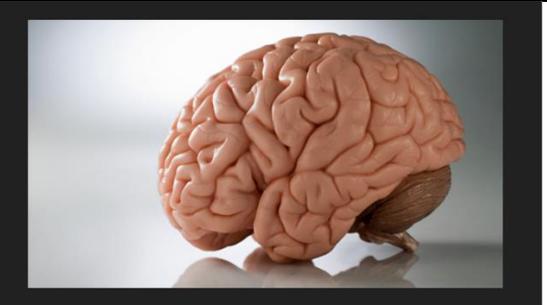
They're all pictures of people exercising.



What happens to your muscles when you exercise?

Pictures will appear as you click through the slide

Your muscles get bigger and stronger the more you exercise.



But did you know that your brain needs exercise too?

It needs exercise to make it bigger and stronger. What kind of exercise do you think you can do for your brain?

Allow thinkers to share their responses.

In class, we do a lot of things to exercise your brain. But we're going to start doing some new brain exercises by thinking really hard about stories and poems and asking lots of questions! Are you ready to get started?

thinkAnalysis

Peter Peter Pumpkin Eater

Peter, Peter pumpkin eater
had a wife and couldn't keep her.
He put her in a pumpkin shell
and there he kept her very well.
Put her in a pumpkin shell
there he kept her very well.



This nursery rhyme is called "Peter, Peter Pumpkin Eater."

You may have heard this poem before.

Read the poem aloud.

Raise your hand if you have heard this poem before.

Some of you may have heard this poem before and, for some of you, today might be the first time.

This nursery rhyme makes me have a LOT of questions. Does it make you have questions? What questions do you have about this poem? Give thinkers the opportunity to share their questions.

Who is Peter?



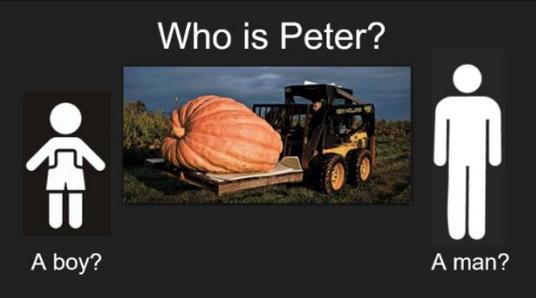
My first question is who is Peter?

What do we know about Peter?
The poem doesn't give a lot of information but we know that Peter eats pumpkins, had a wife, and he put his wife in a pumpkin

shell.

When you click on the slide, the images will appear.

Who is Peter?



A boy? A man?

Could Peter be a boy or do you think he's a man? Why did you pick boy/man?

Thinker responses will vary. Many thinkers might choose man since it says that Peter is married

Is Peter human?

Do you think Peter is human? Why or why not?

Thinker responses will vary. The most important part of any response is the justification. A thinker's reasoning that Peter could be an animal might be that people don't fit in most pumpkins.

What kind of animal could Peter be? What would eat a pumpkin?

When you click on the slide, the images will appear. Go through each animal individually.

Is Peter human?



A tiger?



A giraffe?



A mouse?

Do you think Peter could be a tiger? Why or why not?

Most thinkers will probably argue no because tigers eat meat and a pumpkin is a fruit.

Do you think Peter could be a giraffe? Why or why not?

Most thinkers will probably argue no because giraffes are very big and couldn't fit in a pumpkin. However giraffes do eat plants.

Do you think Peter could be a mouse? Why or why not? It is reasonable to think that Peter might be a mouse. A mouse would eat a pumpkin and would be small enough to fit inside a pumpkin.

What other animals could Peter be? You could keep a list of possible animals on the board. Sample responses might be a squirrel, chipmunk, rat, rabbit, etc.

Your turn:

Name _____
Peter Pumpkin Eater
Peter, Peter pumpkin eater
had a wife and couldn't keep her.
He put her in a pumpkin shell
and there he kept her very well.
Put her in a pumpkin shell
there he kept her very well.
Who or what is Peter? How do you know?


Your turn to tell me.

Who or what do you think Peter is?

Thinker responses will vary.
Depending on the age your learners, responses may be pictures, writing, or a combination of both.

Give thinkers time to respond and share.

What does it mean that Peter has a wife and couldn't keep her?



What does it mean that Peter had a wife and couldn't keep her?

There are a lot of possible answers to this question. Maybe Peter's wife was tired of him eating pumpkins all of the time and so she'd run away. Maybe, if Peter

and his wife are mice, she's in danger and birds and cats are trying to eat her. Allow thinkers to share their thoughts and follow up with the question "Why?" to make sure that they explain their reasoning.

Your turn:

What does it mean that Peter "Had a wife and couldn't keep her"?

Your turn to tell me.

What does it mean that Peter had a wife and couldn't keep her?

Thinker responses will vary.
Depending on the age your learners, responses may be pictures, writing, or a combination

of both. When thinkers are finished allow them to share their responses.

He put her in a pumpkin shell and there he kept her very well.



The last part of the rhyme tells us that “He put her in a pumpkin shell. There he kept her very well.”

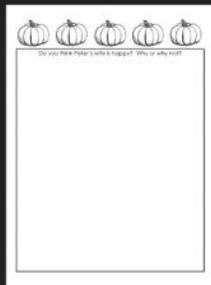
What do you think that means?

Do you think his wife is happy?
Why or why not?

It says that he kept her very well. How might that mean she's unhappy? How might that mean she's happy?

Thinker's responses will depend largely on their previous responses. If Peter and his wife are mice she might be happy about the situation. She has a safe place to hide. They could have decorated the pumpkin really nicely and it could be really cozy. If she's been trying to escape and it's more of a prisoner situation she might be more upset about being put in a pumpkin shell.

Your turn:



Your turn to tell me.
What does it mean that Peter put her in a pumpkin shell and there he kept her very well?

Thinker responses will vary.

When thinkers are finished allow them to share their responses.

I want to thank you for your hard work and big thoughts for today. We're going to keep looking at fairy tales and nursery rhymes to exercise our brains!

Name _____

Peter, Peter Pumpkin Eater

Peter, Peter pumpkin eater
had a wife and couldn't keep her.
He put her in a pumpkin shell
and there he kept her very well.
Put her in a pumpkin shell
there he kept her very well.

Who or what is Peter? How do you know?



What does it mean that Peter "Had a wife and couldn't keep her"?



Do you think Peter's wife is happy? Why or why not?



THINK 
LAW

VOLUME 2
EARLY EDUCATION EDITION
TEACHER EDITION



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Lesson 7

Why the Pineapple has 1,000 Eyes

Settlement and Negotiation

Objective: Thinkers will analyze problems faced by characters in the story and determine why the problems are occurring. Thinkers will devise solutions to the problems faced by the characters.

Lesson Outline

1. Thinkers will begin by sharing experiences with lost shoes and how their parents responded.
2. Thinkers will listen to the story "Why the Pineapple has 1,000 Eyes." Thinkers will analyze the problems faced by the characters in the story. They will determine why the mother and daughter are having those problems and create solutions the characters could implement.
3. Thinkers will examine a picture of a strawberry and make observations. They will then extend their thinking by writing a story about a child who turns into a strawberry.

Materials

Why the Pineapple
PowerPoint
Presentation



Why the Pineapple
Student Sheet

The student sheet is a white page with a grid for notes. At the top, it says "Name" and "Date". Below that is the title "Why the Pineapple has 1,000 Eyes" and "Epic and Fable for a problem." The grid has four columns with the following headers: "What is the problem?", "What are the characters?", "What is the problem causing the characters?", and "How could they solve the problem?". There are small icons of a person in each of the first four boxes. At the bottom of the page, there is a large empty box for drawing.

Thinker Materials:
Writing Utensils

Optional
Bring in a real
pineapple for
students to examine

Common Core Content Standards

KINDERGARTEN	FIRST GRADE	SECOND GRADE
RL.K.3 With prompting and support, identify characters, settings, and major events in a story.	RL.1.3 Describe characters, settings, and major events in a story, using key details.	RL.2.2 Recount stories, including fables and folktales from diverse cultures, and determine their central message, lesson, or moral.
RL.K.10 Actively engage in group reading activities with purpose and understanding.	RL.1.10 With prompting and support, read prose and poetry of appropriate complexity for grade 1.	RL.2.3 Describe how characters in a story respond to major events and challenges.
W.K.8 With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.	W.1.8 With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.	W.2.8 Recall information from experiences or gather information from provided sources to answer a question.
SL.K.3 Ask and answer questions in order to seek help, get information, or clarify something that is not understood.	SL.1.3 Ask and answer questions about what a speaker says in order to gather additional information or clarify something that is not understood.	SL.2.3 Ask and answer questions about what a speaker says in order to clarify comprehension, gather additional information, or deepen understanding of a topic or issue.

Why the Pineapple has 1,000 Eyes

A Folktale from the Philippines

thinkStarter

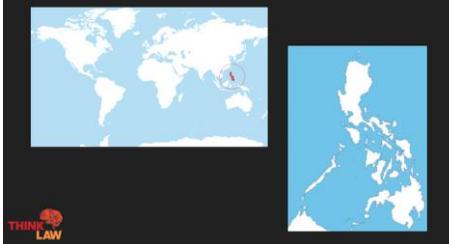


Raise your hand if you've ever lost one of your shoes at your house. Why was your shoe missing? **Allow thinkers to share their responses. Thinkers might say their shoe was missing because they did not put it away in the correct spot.**

- What do your parents say when you lose a shoe?
- Are they grumpy?
- What if they're trying to go somewhere and they're going to be late because they must find your shoe?
- Are they grumpy if it's only happened one time?
- Are they grumpier if it's happened a lot of times?
- Do they help you look?

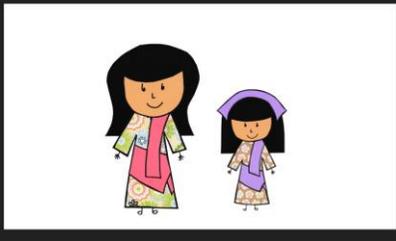
Allow thinkers to share their responses. Remember, in thinkLaw lessons you don't need to ask every, single question! Pick and choose the best questions for your class. Some thinkers will probably share that their families start to get frustrated over missing shoes.

Sometimes kids have trouble finding things. They might ask their parents over and over to help them look. If you were a mom or dad, would you be grumpy if your kid always had trouble finding things? Why or why not? **Allow thinkers to share their responses.**



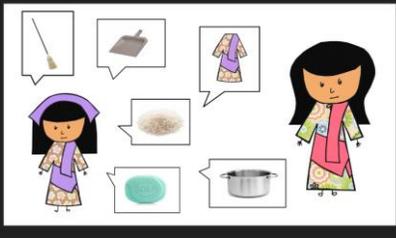
Our story today is from the Philippines. The Philippines is an island country in Asia. The story is called "Why the Pineapple has 1,000 Eyes," and it's about a girl who had trouble finding things.

thinkStory



Once upon a time, there was a widow named Rosa. Rosa had a 10-year-old daughter named Pingang whom she loved very much.

Rosa wanted Pingang to grow up and know how to do housework, so she taught her how to take care of their home and gave Pingang many chores.



Pingang always argued with her mother. Whenever Rosa tried to teach Pingang something new, Pingang would tell her mother that she already knew what to do.

But whenever Pingang had chores to do, she always had many questions for her mother.

Where is the broom? (Click to make the broom appear.)

Where is the dust pan? (Click to make the dust pan appear.)

Where is the rice? (Click to make the rice appear.)

Where is the soap? (Click to make the soap appear.)

Where is the pot? (Click to make the pot appear.)

Where is my dress? (Click to make the dress appear.)

Pingang would never look for things herself. She would just ask her mother to find them.

Rosa and Pingang have a problem.	
What is Rosa's problem?	What is Pingang's problem?
Why is Rosa having the problem?	Why is Pingang having the problem?
How could they solve their problem?	

Pingang and her mother are having a problem.

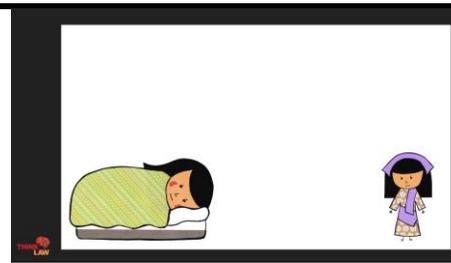
First, let's think about what problem Rosa is having and then about what problem Pingang is having. **Give**

thinkers time to respond and share their answers. Rosa's problem is that her daughter asks her too many questions. Pingang's problem is that she cannot find anything! Thinkers do not have to give these responses. They may have alternative problems. The most important point is that students can support their ideas.

Second, why do you think they are having this problem? Why do you think Pingang can't find the items she looks for? **Give thinkers time to respond and share their answers.** Some thinkers might suggest that Pingang isn't paying attention or she just asks her mom instead of looking for what she wants.

Finally, let's think about how they could solve their problem. How could Pingang do a better job of finding the items she's looking for? How would that help Rosa? What solution can you think of that might make them both happy? **Give thinkers time to respond and share their answers.**

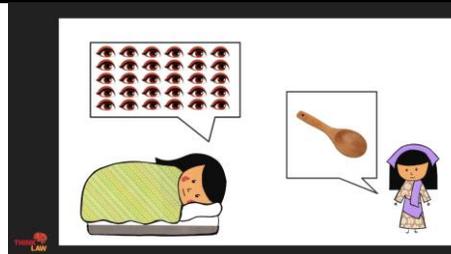
Let's keep reading to see what happens.



One day Rosa got very sick. She could not get out of bed.



Pingang was forced to do all of the housework. All day long she asked her mother questions.

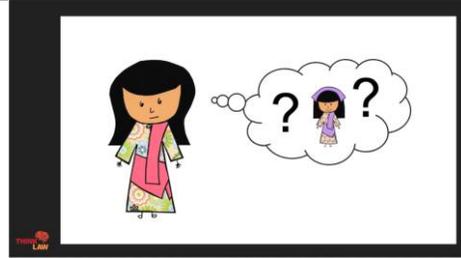


Rosa did not get mad, but she was disappointed that Pingang could not find anything on her own. Rosa was sick for a few more days, so Pingang had to keep taking care of the house.

One day while Pingang was cooking, she could not find the spoon for the rice, so she asked her mother where it was. **(Click to make the spoon appear.)**

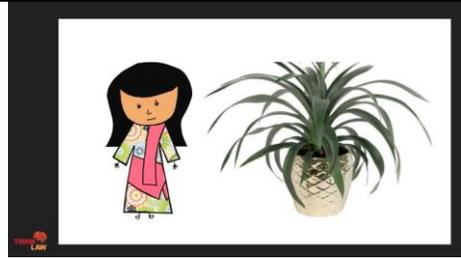
Rosa was fed up with Pingang's questions. "Oh Pingang," she said, "I wish you had 1,000 eyes. **(Click to make the eyes appear.)** If you

had 1,000 eyes, then maybe you could find all of the things yourself and never ask questions again.”



The next morning Rosa was feeling better. She got out of bed. But she could not find Pingang.

She looked outside. She looked in the kitchen. She looked in the basement.



She could not find Pingang. But in the basement, she did find a strange plant growing.

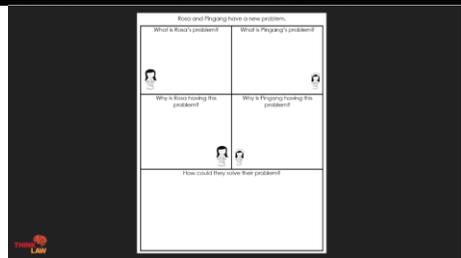
Rosa took the plant and put it in her garden.



The plant grew and soon there was a fruit. The fruit was shaped like a human head and surrounded by many eyes.

Rosa suddenly remembered her last words to Pingang that she wanted her

to have a lot of eyes to find all the things she was looking for. Rosa realized that the plant WAS Pingang. **(Click to make the thought bubble appear.)**



Now Rosa and Pingang REALLY have a problem.

First, let's think about what problem Rosa is having and then about what problem Pingang is having. **Give**

thinkers time to respond and share their answers. Rosa's problem is that she said something when she was angry and now her daughter has turned into a pineapple! Pingang's problem is that she's a pineapple. Thinkers do not have to give these responses. They may have alternative problems. The most important point is that students can support their ideas.

Second, why do you think they are having this problem? Why do you do you think Pingang turned into a pineapple? Give thinkers time to respond and share their answers. Some thinkers might suggest that Rosa was very angry when she told Pingang that she wished she had 1,000 eyes and didn't think about what she said.

Next, let's think about how they could solve their problem. How could Pingang turn back to a girl? Give thinkers time to respond and share their answers. Some thinkers might suggest that maybe if Rosa apologized to Pingang, she would turn back into a girl.

Let's keep reading to see how the story ends.



Rosa was very sad, but she took good care of the plant and called it Pingang after her daughter.

Later the fruit was called "pinya" or "pineapple" in English.

What did you think about the ending of the story? Did you like it? Why or why not? Give thinkers an opportunity to respond. Some thinkers might feel like the ending of the story was sad for both Rosa and Pingang.

Were you disappointed that Pingang did not turn back into a girl? Why or why not? Some thinkers might think it's sad that Pingang did not turn back into a girl because Rosa will miss her very much. Others might feel like Pingang and Rosa deserved what happened.

thinkBigger



Why do you think that the author of this story chose for Pingang to turn into a pineapple?

Do you think a pineapple looks like it has 1,000 eyes? Why or why not?



Now I want you to write a story about a kid who turns into a strawberry.

Let's start by thinking about how strawberries look.

- What color are strawberries?
- What size?
- What shape are strawberries?
- What are these little spots over the outside of the strawberries? (*seeds*) What do the seeds remind you of?
- What is the green part at the top of the strawberries? (*stems*) What do the stems remind you of?

Now that you've had some time to think about strawberries, I want you to write a story about a kid who turns into a strawberry! *Give thinkers time to write and share their responses with the class.*

The student response sheet comes in two formats: one for just drawing and one for drawing and writing. You could also provide students with a few sentence starters such as:

- *Once upon a time there was a boy/girl who had a big problem!*
- *The boy/girl's mom/dad always told him/her...*
- *The boy/girl never listened. They always did _____ instead...*

Write a story about a kid that turns into a strawberry.

Write a story about a kid that turns into a strawberry.

Write a story about a kid that turns into a strawberry.

Name _____

Why the Pineapple has 1,000 Eyes

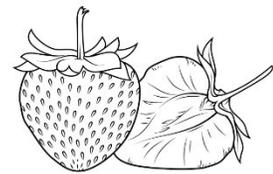
Rosa and Pingang have a problem.

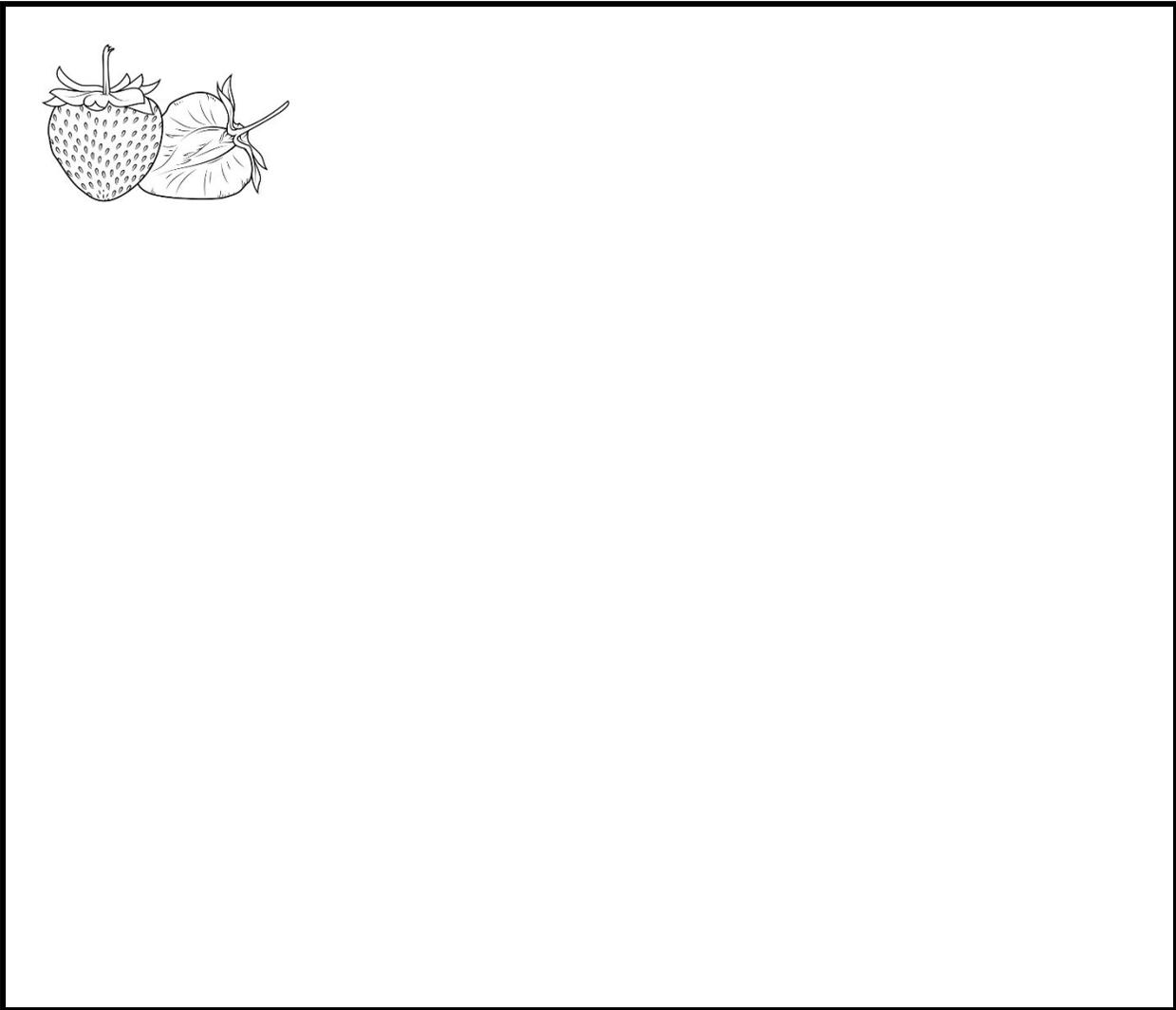
<p>What is Rosa's problem?</p> 	<p>What is Pingang's problem?</p> 
<p>Why is Rosa having this problem?</p> 	<p>Why is Pingang having this problem?</p> 
<p>How could they solve their problem?</p>	

Rosa and Pingang have a new problem.

<p>What is Rosa's problem?</p> 	<p>What is Pingang's problem?</p> 
<p>Why is Rosa having this problem?</p> 	<p>Why is Pingang having this problem?</p> 
<p>How could they solve their problem?</p>	

Write a story about a kid that turns into a strawberry:





thinkLaw Curriculum

Comprehensive Teacher Guides



Less than 20 Minutes Prep Time!

Includes Over 500 Probing Discussion Questions!

Student Work Pages



Available as Workbooks or Electronically

Compatible with Google Classroom

PowerPoint Presentations

Each Lesson has a pre made PowerPoint and/or Google Slide Presentation

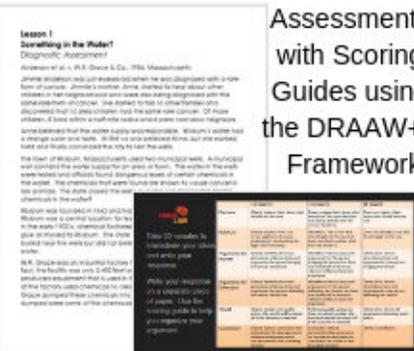


Additional Lessons



thinkLaw Users have Access to a Library of over 50 Additional thinkLaw Lessons

Writing Assessments



Assessments with Scoring Guides using the DRAAW+C Framework

Braincandy

Online Database of over 1,000 questions that accompany all thinkLaw Lessons



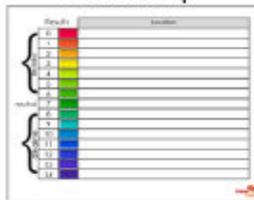
Extension Activities

Additional Extension Activities to Review Math, Writing, and Science Skills Using Social Justice as a Motivator!

Activity	Grade Level
Writing Extension: Write a letter to the editor about a current event.	5-8
Writing Extension: Write a letter to the editor about a current event.	9-12
Writing Extension: Write a letter to the editor about a current event.	5-8
Writing Extension: Write a letter to the editor about a current event.	9-12
Writing Extension: Write a letter to the editor about a current event.	5-8
Writing Extension: Write a letter to the editor about a current event.	9-12

Project-Based Learning Experiences

Allow Students Real-World Opportunities for Active Citizenship



Comprehensive Teacher Onboarding



Training Video Calls to Explain the thinkLaw Approach and Materials

All thinkLaw Materials are Standards Aligned!



THINK
LAW

VOLUME 1
THIRD AND FOURTH GRADES
TEACHER'S EDITION

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Lesson 3

The Chair and the Stick (Part 1)

Applying Legal Rules from Multiple Perspectives



Objective:

Thinkers will use their personal knowledge about unwanted touching to create a rule defining the legal elements of battery, learn the actual rule for battery through real-life battery cases, and analyze multiple perspectives of these cases.

Lesson Outline:

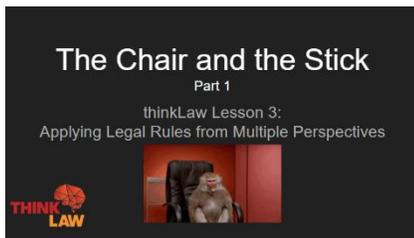
1. Thinkers will briefly discuss exceptions for the general rule that it is not okay to hit people and use this exercise to define a general rule for battery.
2. Thinkers will learn the formal elements of a battery claim and apply these elements.
3. Thinkers will apply the rule from the chair case to determine if a battery occurred in the bicycle case.

COMMON CORE CONTENT STANDARDS

	RI1	W1	W2	SL1
GRADE 3	Ask and answer questions to demonstrate understanding of a text, referring explicitly to the text as the basis for the answers.	Write opinion pieces on topics or texts, supporting a point of view with reasons.	Write informative/explanatory texts to examine a topic and convey ideas and information clearly.	Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on <i>grade 3 topics and texts</i> , building on others' ideas and expressing their own clearly.
GRADE 4	Refer to details and examples in a text when explaining what the text says explicitly and when drawing inferences from the text.	Write opinion pieces on topics or texts, supporting a point of view with reasons and information.	Write informative/explanatory texts to examine a topic and convey ideas and information clearly.	Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on <i>grade 4 topics and texts</i> , building on others' ideas and expressing their own clearly.

Lesson 3: The Chair and the Stick (Part 1)

Applying Legal Rules from Multiple Perspectives



Instructor's Note:

Have thinkers brainstorm reasons to hit someone first. Then ask them "why?" several times to spark deeper discussion.

Instructor's Note:

Have thinkers write what they think might be the rule for legal battery in the box. Thinkers should consider the reasons they brainstormed of times that it is okay to hit someone when they write their rule.

Instructor's Note:

Thinkers may copy the 4 elements of battery off of a slide in the Lesson 3 PowerPoint.

Lesson 3

The Chair and the Stick (Part 1)

Applying Legal Rules from Multiple Perspectives

thinkStarter

Should you ever be able to hit someone without getting in trouble for it? Why or why not?

Reasons to hit someone	Why should this reason keep you from getting into trouble?
You should be able to hit someone in self-defense.	You should not get in trouble for self-defense because you were protecting yourself.
You should be able to hit someone if they give you permission to hit them. For example, if you are in a boxing match.	If you are in a boxing match or someone gives you permission to hit them, you aren't doing anything wrong.

Summary of thinkStarter

If you hit someone that person can sue you for **battery**. Battery is a fancy word for hitting someone. If you commit a battery and get sued you will be the **defendant**. The **plaintiff** is the person suing you.

What do you think is the rule for battery?

Thinkers' rules should focus on when it is not okay to hit someone else.

There are four elements that make hitting someone a battery. A battery must meet all four elements.

1. Intentional (on purpose)
2. Contact with another person
3. Harmful or offensive
4. Cause damages

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Legal Definition: Battery

To prove that a battery happened, a plaintiff must prove that the defendant made.

1. Intentional (on purpose)
2. Contact with another person
3. Harmful or offensive
4. Cause damages



The Chair

(Garrett v. Daily, 1956, Washington)

Brian was five years old and his aunt sued him for battery. He aunt claimed that Brian saw that she was about to sit down in a chair. Brian pulled the chair away from her just as she was going to sit down. As a result, she fell on the floor. She seriously hurt her hip and had to pay \$11,000 in hospital bills.

Do you think Brian is liable (responsible) for battery?

- Yes
- No

Did Brian's actions meet all 4 requirements?

Element 1: Brian's act was on purpose.	
How will Brian's aunt argue that Brian's act was on purpose?	How will Brian's lawyer argue that Brian's act was NOT on purpose?
He pulled out the chair right before she sat down, so that shows he must have known what he was doing.	Brian is only five. He was too young to realize what he was doing.
What do you think? Why?	
Responses will vary.	

Element 2: Brian's act involved contact with another person	
How will Brian's aunt argue that Brian's act involved contact with another person?	How will Brian's lawyer argue that Brian's act did NOT involve contact with another person?
Brian's actions caused his aunt to fall and make contact with the floor.	Brian did not actually touch is aunt, he just touched the chair.
What do you think? Why?	
Responses will vary.	

Instructor's Note:

Poll your thinkers at this point to see how many people believe Brian is liable for battery if the aunt's story is true. Initial reactions to facts are important because when a jury hears a case like this, people sitting in a jury may also have emotional reactions.

Many thinkers will want more information. But in this case, like the real world, there is no additional information. Push thinkers to look very closely at the given facts rather than speculating about missing information.

Probing Questions:

- What is the strongest evidence that Brian's act was not done on purpose? (He is only five) Why is this a strong piece of evidence?
- What is the strongest evidence that Brian's act was done intentionally or on purpose?
- Did Brian's act involve contact with another person? Why or why not?
- If there was contact, was that contact harmful or offensive? Why or why not?
- Have you ever had a chair pulled out from under you and fallen on the floor? Did you enjoy that? Why or why not? Does your past experience influence your opinion?

Probing Questions:

- Did Brian's aunt suffer damages as a result of Brian's act? Why or why not? What is the best argument that Brian's aunt didn't suffer any damages?

Instructor's Note:

Here we know that Brian's aunt had serious injuries that caused her to go to a hospital. But since we know that Brian's aunt still has to prove three other elements besides the damages, it makes more sense to focus on the elements that are less clear. Thinkers should also reach the conclusion that there is no good argument that pulling out a chair is harmful or offensive contact.

Element 3: Brian's act was harmful or offensive	
How will Brian's aunt argue that Brian's act was harmful or offensive? His aunt hurt her hip and had to go to the hospital.	How will Brian's lawyer argue that Brian's act was NOT harmful or offensive? It was just a prank that was not meant to be harmful.
What do you think? Why? Responses will vary.	

Element 4: Brian's act caused damages	
How will Brian's aunt argue that Brian's act caused damages? His aunt broke her hip and had \$11,000 in medical bills.	How will Brian's lawyer argue that Brian's act did NOT cause damages? None
What do you think? Why? Responses will vary.	

thinkBigPicture

Would you sue your 5-year-old nephew if he did this to you? Why or why not?

Thinker responses will vary.

Probing Questions:

- Is there any reason not based on evidence that Brian should or should not be liable for the lawsuit?
- Would you want to live in a world where it was okay to sue a 5-year-old for damages caused by their pranks? Why or why not?
- Would you want to live in a world where an adult could sue for serious medical injuries because the person who harmed him or her was only 5-years-old? Why or why not?

Why do you think she is suing her own family member?

Thinker responses will vary.
Thinkers usually feel that there is something else going on. Thinkers may wonder if there is family drama. Thinkers may wonder if the aunt just really needs money.

Do you think Brian is liable (responsible) for battery?

- Yes
- No

NEW FACT: Brian was actually 5 years and 9 months old when this happened. Does that change your mind about whether Brian is responsible? Why or why not?

Usually thinkers do not change their minds based on this fact. You may remind thinkers that Brian was probably at the end of kindergarten.

Do you think Brian is liable (responsible) for battery?

- Yes
- No

NEW FACT: Brian's aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than most other adults do. Does that change your mind about whether Brian is responsible? Why or why not?

Ask thinkers how both sides will argue this fact to support their case. Brian's attorney will say that Brian can't see arthritis and probably doesn't know what it is. The aunt's attorney will say that Brian had to wait longer for his aunt to sit down, so he had a lot of time to change his mind.

Do you think Brian is liable (responsible) for battery?

- Yes
- No

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Instructor's Note:

Thinkers may conclude that it is odd for an aunt to sue a child. Push thinkers to come up with reasons why the aunt would make this interesting choice to sue her 5-year-old nephew. Thinkers might think that there must have been some sort of ongoing family dispute, which is often the case in lawsuits involving family members. In the actual case, Brian's parents had a home insurance policy that would have covered the aunt's injuries if Brian was found liable for batter. This is probably the major reason why the lawsuit happened.

Instructor's Note:

In this case, it did not matter that Brian may not have meant to hurt her. All that mattered is that he meant for her to hit the ground instead of her chair. Therefore, Brian was liable for battery.

Instructor's Note:

Thinkers should find that the answer to the thinkBigger depends on whether Juliet and Jacob crashed into Claire on purpose. If this was an accident, then it would not be intentional. In the actual case, Claire did not sue Juliet and Jacob for battery. She sued for negligence, which basically means that Juliet, Jacob, and their parents violated their duties to make sure their children rode their bikes safely.

Your teacher will tell you what happened in the real case. What do you think about the decision?
The Court decided that Brian was liable for the battery, but the final result does not matter. What matters is how the Court thought about the case. The Court explained that even though Brian did not touch his aunt, he pulled her out her chair just before she sat down. Therefore, her injury was "substantially certain" to occur.

thinkBigger

(Menagh v. Breitman, 2010, New York)

Juliet was 4 years old when she and her 5 year old friend Jacob raced their bikes down a sidewalk in New York. Juliet and Jacob's mothers were watching them. Their bikes still had training wheels. The children crashed into Claire, and 87 year old woman who was walking on the sidewalk. Claire broke her hip. She sued Juliet and Jacob for battery.

How is this case like the chair case?	How is this case different from the chair case?
<ul style="list-style-type: none"> Both cases involve 5-year-old children that caused serious harm to an adult. The woman in both cases broke their hips. 	<ul style="list-style-type: none"> The chair case involved a boy who pulled out a chair as someone was sitting down. The bike case involved two children crashing into a woman on the sidewalk.

Do you think Juliet and Jacob are liable (responsible) for battery?

- Yes
- No

Why?
Thinkers should find that the answer depends on whether Juliet and Jacob crashed into Claire on purpose. If this was an accident, then it would not be intentional. The act must be intentional for it to be considered battery.

Lesson 3

The Chair and the Stick (Part 1)

Applying Legal Rules from Multiple Perspectives

thinkStarter

Should you ever be able to hit someone without getting in trouble for it?
Why or why not?

Reasons to hit someone	Why should this reason keep you from getting into trouble?

Summary of thinkStarter

If you hit someone that person can sue you for **battery**. Battery is a fancy word for hitting someone. If you commit a battery and get sued you will be the **defendant**. The **plaintiff** is the person suing you.

What do you think is the rule for battery?
--

There are four elements that make hitting someone a battery. A battery must meet all four elements.

1.
2.
3.
4.

The Chair

(Garrett v. Daily, 1956, Washington)

Brian was five years old and his aunt sued him for battery. He aunt claimed that Brian saw that she was about to sit down in a chair. Brian pulled the chair away from her just as she was going to sit down. As a result, she fell on the floor. She seriously hurt her hip and had to pay \$11,000 in hospital bills.

Do you think Brian is liable (responsible) for battery?

- Yes
- No

Did Brian's actions meet all 4 requirements?

Element 1: Brian's act was on purpose.	
How will Brian's aunt argue that Brian's act was on purpose?	How will Brian's lawyer argue that Brian's act was NOT on purpose?
What do you think? Why?	

Element 2: Brian's act involved contact with another person	
How will Brian's aunt argue that Brian's act involved contact with another person?	How will Brian's lawyer argue that Brian's act did NOT involve contact with another person?
What do you think? Why?	

Element 3: Brian's act was harmful or offensive

How will Brian's aunt argue that Brian's act was harmful or offensive?

How will Brian's lawyer argue that Brian's act was NOT harmful or offensive?

What do you think? Why?

Element 4: Brian's act caused damages

How will Brian's aunt argue that Brian's act caused damages?

How will Brian's lawyer argue that Brian's act did NOT cause damages?

What do you think? Why?

thinkBigPicture

Would you sue your 5-year-old nephew if he did this to you? Why or why not?

Why do you think she is suing her own family member?

Do you think Brian is liable (responsible) for battery?

- Yes
- No

NEW FACT: Brian was actually 5 years and 9 months old when this happened. Does that change your mind about whether Brian is responsible? Why or why not?

Do you think Brian is liable (responsible) for battery?

- Yes
- No

NEW FACT: Brian's aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than most other adults do. Does that change your mind about whether Brian is responsible? Why or why not?

Do you think Brian is liable (responsible) for battery?

- Yes
- No

Your teacher will tell you what happened in the real case. What do you think about the decision?

thinkBigger

(Menagh v. Breitman, 2010, New York)

Juliet was 4 years old when she and her 5 year old friend Jacob raced their bikes down a sidewalk in New York. Juliet and Jacob's mothers were watching them. Their bikes still had training wheels. The children crashed into Claire, an 87 year old woman who was walking on the sidewalk. Claire broke her hip. She sued Juliet and Jacob for battery.

How is this case like the chair case?	How is this case different from the chair case?

Do you think Juliet and Jacob are liable (responsible) for battery?

- Yes
- No

Why?



THINK 
LAW

VOLUME I
TEACHERS EDITION

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The Chair and the Stick (Part I) Applying Legal Rules from Multiple Perspectives

This is the first part of a two-part lesson that can be broken into two days for 45-55 minute sections or done in one day taught in a 90-110 minute block.

Objective: Thinkers will use their personal knowledge of rules about unwanted touching to create a rule for battery through real-life battery cases, and analyze multiple perspectives of these cases.

COMMON CORE CONTENT STANDARDS

GRADE 5

RI.5.6 Analyze multiple accounts of the same event or topic, noting important similarities and differences in the point of view they represent.

RI.5.9 Integrate information from several texts on the same topic in order to write or speak about the subject knowledgeably.

W.5.4 Produce clear and coherent writing in which the development and organization are appropriate to task, purpose, and audience

SL.5.1C Pose and respond to specific questions by making comments that contribute to the discussion and elaborate on the remarks of others.

SL.5.1D Review the key ideas expressed and draw conclusions in light of information and knowledge gained from the discussions.

GRADE 6

RI.6.6 Determine an author's point of view or purpose in a text and explain how it is conveyed in the text.

RI.6.9 Compare and contrast one author's presentation of events with that of another

W.6.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.6.1C Pose and respond to specific questions with elaboration and detail by making comments that contribute to the topic, text, or issue under discussion.

SL.6.1D Review the key ideas expressed and demonstrate understanding of multiple perspectives through reflection and paraphrasing.

GRADE 7

RI.7.6 Determine an author's point of view or purpose in a text and analyze how the author distinguishes his or her position from that of others.

RI.7.9 Analyze how two or more authors writing about the same topic shape their presentations of key information by emphasizing different evidence or advancing different interpretations of facts.

W.7.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.7.1C Pose questions that elicit elaboration and respond to others' questions and comments with relevant observations and ideas that bring the discussion back on topic as needed.

SL.7.1D Acknowledge new information expressed by others and, when warranted, modify their own views.

Lesson Outline

1. Thinkers will briefly discuss exceptions for the general rule that it is not okay to hit people and use this exercise to define a general rule for battery.
2. Thinkers will learn the formal elements of a battery claim and apply these elements, the broader context, and public policy considerations while arguing the plaintiff and defendant sides of The Chair case.
3. Thinkers will apply the rule from The Chair case to determine if a battery occurred in the Bicycles case.

COMMON CORE CONTENT STANDARDS

GRADE 8

RI.8.6 Determine an author's point of view or purpose in a text and analyze how the author acknowledges and responds to conflicting evidence or viewpoints.

RI.8.9 Analyze a case in which two or more texts provide conflicting information on the same topic and identify where the texts disagree on matters of fact or interpretation.

W.8.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.8.1C Pose questions that connect the ideas of several speakers and respond to others' questions and comments with relevant evidence, observations, and ideas.

SL.8.1D Acknowledge new information expressed by others, and, when warranted, qualify or justify their own views in light of the evidence presented.

GRADE 9-10

RI.9-10.6 Determine an author's point of view or purpose in a text and analyze how an author uses rhetoric to advance that point of view or purpose.

RI.9-10.8 Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is valid and the evidence is relevant and sufficient; identify false statements and fallacious reasoning.

W.9-10.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.9-10.1C Propel conversations by posing and responding to questions that relate the current discussion to broader themes or larger ideas; actively incorporate others into the discussion; and clarify, verify, or challenge ideas and conclusions.

SL.9-10.1D Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented.

GRADE 11-12

RI.11-12.6 Determine an author's point of view or purpose in a text in which the rhetoric is particularly effective, analyzing how style and content contribute to the power, persuasiveness or beauty of the text.

RI.11-12.8 Delineate and evaluate the reasoning in seminal U.S. texts, including the application of constitutional principles and use of legal reasoning and the premises, purposes, and arguments in works of public advocacy.

W.11-12.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.11-12.1C Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

SL.11-12.1D Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

Instructor's Note:

Enter thinker answers into the following chart. Thinkers are likely to come up with self-defense, accidental hitting, or consent as reasons hitting someone would be okay. After completing the chart with 3-4 entries, ask thinkers probing questions about the rules for hitting someone, following up with several "why?" questions to spark deeper thought into the rules.

Instructor's Note:

Have thinkers write the legal rule for battery in the box underneath.

Table 3B

What is the strongest evidence that Brian's act was not done on purpose? (He is only five.)

Why is this a strong piece of evidence?

What is the strongest evidence that Brian's act was done intentionally or on purpose?

Did Brian's act involve contact with another person? Why or why not?

If there was contact, was that contact harmful or offensive? Why or why not? Have you ever had a chair pulled out from under you and fallen on the floor? Did you enjoy that? Why or why not? Does your past experience influence your opinion about whether Brian's act was harmful or offensive?

Did Brian's aunt suffer damages as a result of Brian's act? Why or why not? What is the best argument that Brian's aunt didn't suffer any damages?

Sample chart: (Sample answers in red. The only column filled out in student workbooks is the "Element of Battery" column.)

Instructor's Note:

It is important to emphasize that great lawyers understand when there are no good arguments.

LESSON 3

The Chair and the Stick (Part I): Applying legal rules from multiple perspectives

Objective: Thinkers will use their personal knowledge of rules about unwanted touching to create a rule defining the legal elements of battery, learn the actual rule for battery through real-life battery cases, and apply multiple perspectives of these cases using these battery rules.



Should you ever be able to hit someone without getting in trouble for it? Why or why not?

TABLE 3A

REASON IT IS OKAY TO HIT SOMEONE	WHY SHOULD THIS REASON PREVENT YOU FROM GETTING IN TROUBLE FOR HITTING SOMEONE?
Self-defense	
They gave you permission to hit them	
You hit them by accident	

Summary of thinkStarter

If you hit someone, the person can sue you for battery – which is just a fancy word for hitting someone. If you commit a battery and get sued, you will be the defendant and the plaintiff could win a lawsuit against you. If the plaintiff wins, you will be

liable for battery. In other words, you will have to pay the plaintiff money for the harm you caused.

thinkHypothesis

Based on the discussion in the thinkStarter activity, write a rule for battery in the space below.

A BATTERY HAPPENS WHEN A DEFENDANT:

Legal Rule: Battery

thinkCreatively: Using the names Angel and Brianna, create a set of facts that would allow Brianna to win a lawsuit for battery (proving all of these ele-

ments) against Angel and write it down in the space below. Make sure that your story involves Angel intentionally making harmful or offensive contact with Brianna that causes damages.

Here, we know that Brian's aunt had serious injuries that caused her to go to a hospital. But since we know that Brian's aunt still has to prove three other elements besides the damages, it makes more sense to focus on the elements that are less clear. Thinkers should also reach the conclusion that there is no good argument that pulling out a chair is harmful or offensive contact.

Instructor's Note:

Thinkers may conclude that it is odd for an aunt to sue a child. Push Thinkers to come up with reasons why the aunt would make the interesting choice to sue her 5-year-old nephew. Thinkers might think that there must have been some sort of ongoing family dispute, which is often the case in lawsuits involving family members. In the actual case, Brian's

Now that we know what a simple case of battery looks like, let's take a look at one of the most famous battery cases ever:

The Chair Case

(Garrett v. Daily, 1956, Washington)

Brian is five years old, and his aunt has sued him for battery. His aunt claims that Brian saw that she was about to sit down in a chair and pulled the chair away from her just as she was going to sit down. As a result, she fell on the floor, seriously hurt her hip, and had to pay \$11,000 in hospital bills.

thinkAnalysis

Now, let's consider the checklist of battery elements:

- 1) **Intentional**
- 2) **Contact with another person**
- 3) **Harmful or offensive**
- 4) **Cause damages**

Remember, to prove that a battery occurred, a plaintiff has to prove all four of these elements.

Complete the following chart:

Is Brian liable for a battery? Vote.

TABLE 3B - SUGGESTED LINE OF QUESTIONING

ELEMENT OF BATTERY	EVIDENCE SUPPORTING ELEMENT (PLAINTIFF)	EVIDENCE AGAINST ELEMENT (DEFENDANT)	WHICH EVIDENCE IS STRONGER?
1) Brian's act was intentional	He pulled out the chair right before she sat down, so that shows that he must have known what he was doing.	Brian is only five. He was too young to realize what he was doing.	Plaintiff or Defendant
2) Brian's act involved contact with another person	Brian's actions caused his aunt to fall and make contact with the floor.	Brian did not actually touch his aunt, he just touched the chair. (What if Brian shot his aunt? That would not be actual touching either so would that be okay?)	Plaintiff or Defendant
3) Brian's act was harmful or offensive	His aunt hurt her hip and had to go to the hospital.	It was just a prank that was not meant to be harmful.	Plaintiff
4) Brian's act caused damages	His aunt had \$11,000 in medical bills.	None	Plaintiff

thinkBigPicture

Before we do another poll, let's examine the big picture. In this case, an aunt is suing her five year old nephew because he pulled out a chair from under her and she ended up with \$11,000 in hospital bills. Is there anything strange about this case? Would you sue your 5-year-old nephew if he did this to you? Why do you think she is suing her own family member?

Final vote: Is Brian liable for a battery? Take a poll.

Brian was actually five years and nine months old when this happened. Does this change your thoughts about whether Brian is liable for battery? Why or why not?

Second final vote: Now that we know Brian was actually five years and nine months old, is Brian liable for a battery? Take a poll.

Brian's aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than most other adults do.

Third final vote: Is Brian liable for a battery? Take a poll.

Instructor's Note:

Poll your Thinkers at this point to see how many people believe Brian is liable for a battery if the aunt's story is true. Initial reactions to facts are important, because when a jury hears a case like this, people sitting in a jury may also have emotional reactions.

The aunt's attorney will need to prove all four elements of battery in order to win. Brian's attorney will just need to disprove one element to win.

Braincandy Questions:

(3.1) Should you ever be able to hit someone without getting in trouble for it? Why or why not?

(3.2) What do you think is the legal definition of battery?

(3.3) Poll: Is Brian liable for battery?

(3.4) Poll: Which element of battery do you think will be the most difficult for the aunt to prove?

(3.5) New Information: Brian was actually five years and nine months old when this happened. Poll: Is Brian liable for battery?

(3.6) New Information: Brian's aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than other adults. Poll: Is Brian liable for battery?

parents had a home insurance policy that would have covered his aunt's injuries if Brian was found liable for battery. This is probably the major reason why this lawsuit happened.

Additional Probing Questions

Is there any other reason, not based on evidence, that Brian should or should not be liable for the lawsuit?

Would you want to live in a world where it was okay to sue a 5-year-old for damages caused by their pranks? Why or why not?

Would you want to live in a world where an adult could sue for serious medical injuries because the person who harmed him or her was only 5 years old? Why or why not?



The Chair and the Stick (Part I): Applying legal rules from multiple perspectives

Objective: Thinkers will use their personal knowledge of rules about unwanted touching to create a rule defining the legal elements of battery, learn the actual rule for battery through real-life battery cases, and apply multiple perspectives of these cases using these battery rules.



Should you ever be able to hit someone without getting in trouble for it? Why or why not?

TABLE 3A

REASON IT IS OKAY TO HIT SOMEONE	WHY SHOULD THIS REASON PREVENT YOU FROM GETTING IN TROUBLE FOR HITTING SOMEONE?

Summary of thinkStarter

If you hit someone, the person can sue you for battery – which is just a fancy word for hitting someone. If you commit a battery and get sued, you will be the defendant, and the plaintiff could win a lawsuit against you. If the plaintiff wins, you will be

liable for battery. In other words, you will have to pay the plaintiff money for the harm you caused.

thinkHypothesis

Based on the discussion in the thinkStarter activity, write a rule for battery in the space below.

A BATTERY HAPPENS WHEN A DEFENDANT:

Legal Rule: Battery

thinkCreatively: Using the names Angel and Brianna, create a set of facts that would allow Brianna to win a lawsuit for battery (proving all of these ele-

ments) against Angel and write it down in the space below. Make sure that your story involves Angel intentionally making harmful or offensive contact with Brianna that causes damages.

Now that we know what a simple case of battery looks like, let’s take a look at one of the most famous battery cases ever:

The Chair Case

(*Garrett v. Dailey*, 49 Wash. 2d 499, 304 P.2d 681 (1956))

Brian is five years old, and his aunt has sued him for battery. His aunt claims that Brian saw that she was about to sit down in a chair and pulled the chair away from her just as she was going to sit down. As a result, she fell on the floor, seriously hurt her hip, and had to pay \$11,000 in hospital bills.

Is Brian liable for a battery? Vote.

thinkAnalysis

Now, let’s consider the checklist of battery elements:

- 1)
- 2)
- 3)
- 4)

Remember, to prove that a battery occurred, a plaintiff has to prove all four of these elements.

Complete the following chart:

TABLE 3B - SUGGESTED LINE OF QUESTIONING

ELEMENT OF BATTERY	EVIDENCE SUPPORTING ELEMENT (PLAINTIFF)	EVIDENCE AGAINST ELEMENT (DEFENDANT)	WHICH EVIDENCE IS STRONGER?
1) Brian’s act was intentional			
2) Brian’s act involved contact with another person			
3) Brian’s act was harmful or offensive			
4) Brian’s act caused damages			

thinkBigPicture

Before we do another poll, let’s examine the big picture. In this case, an aunt is suing her 5 year old nephew because he pulled out a chair from under her and she ended up with \$11,000 in hospital bills. Is there anything strange about this case? Would you sue your 5 year old nephew if he did this to you? Why do you think she is suing her own family member?

Final vote: Is Brian liable for a battery? Take a poll.

Brian was actually five years and nine months old when this happened. Does this change your thoughts about whether Brian is liable for battery? Why or why not?

Second final vote: Now that we know Brian was actually five years and nine months old, is Brian liable for a battery? Take a poll.

Brian’s aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than most other adults do.

Third final vote: Is Brian liable for a battery? Take a poll.

Summary of Chair Case

The Court decided that Brian was liable for the battery, but the final result does not matter – what matters is the critical thinking the Court went through to reach its decision. The Court explained that even though Brian did not touch his aunt, he pulled out her chair just before she sat down. Therefore, her injury was “substantially certain” to occur. It did not matter that Brian may have not meant to hurt her. All that mattered is that he meant for her to hit the ground instead of her chair. Therefore, Brian was liable for battery.

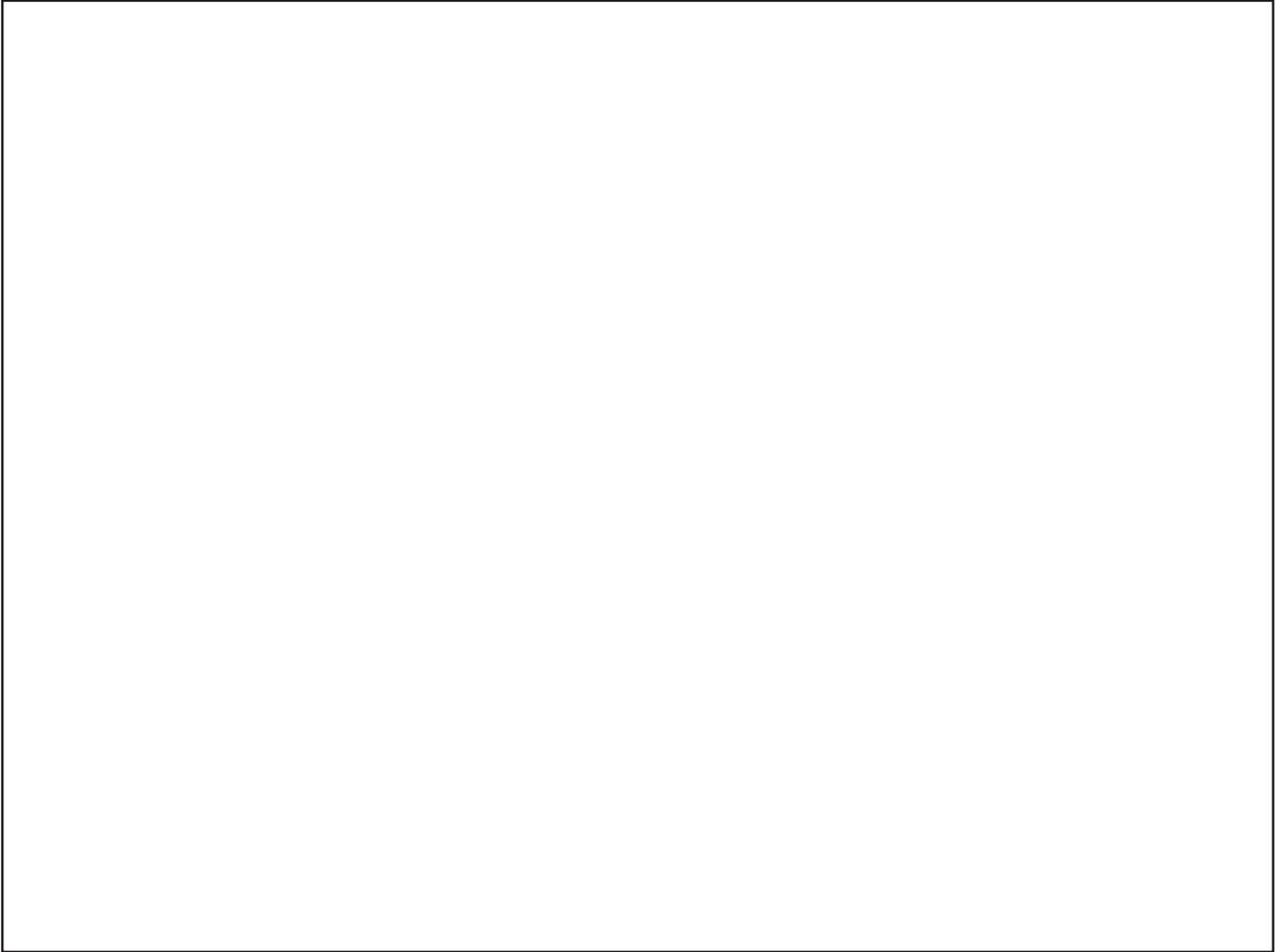
thinkBigger

The Bicycles

(*Menagh v. Breitman*, S.C.N.Y., Case No: 107856/09, Doc. No. 002)

Juliet was 4 years old when she and her 5 year old friend Jacob raced their bicycles down a sidewalk in Manhattan, New York. Juliet’s mother and Jacob’s mother were watching them, and their bicycles still had training wheels on them. They crashed into Claire, an 87 year old woman who was walking on the sidewalk. Claire broke her hip and sued Juliet, Jacob, and their mothers for crashing into her.

- 1) Should Juliet and Jacob be liable for a battery against Claire? Why or why not?
- 2) Are Juliet’s and Jacob’s actions worse than Brian’s in the Chair Case? Why or why not? (Compare specific facts from The Chair Case to the this case in your answer).





THINK
LAW

**SOCIAL JUSTICE
TEACHER'S EDITION**

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Dangerous Poptarts: Legal Synthesis and Rule-Making

Objective: Thinkers will assess the origin, application, and impact of zero tolerance policies in schools.

Lesson Outline

1. Thinkers will brainstorm school safety rules and the consequences for breaking those rules.
2. Thinkers will consider the origin, pros, and cons, of "Zero Tolerance Policies."
3. Thinkers will analyze two real-life cases that relate to weapons at school and Zero Tolerance policies. Additionally, thinkers will consider the impact of the punishments as they relate to the intent of the offender.

COMMON CORE CONTENT STANDARDS

GRADE 5

RI.5.3 Explain the relationships or interactions between two or more individuals, events, ideas, or concepts in a historical, scientific, or technical text based on specific information in the text.

W.5.4 Produce clear and coherent writing in which the development and organization are appropriate to task, purpose, and audience

W.5.8 Recall relevant information from experiences or gather relevant information from print and digital sources; summarize or paraphrase information in notes and finished work, and provide a list of sources.

SL.5.IC Pose and respond to specific questions by making comments that contribute to the discussion and elaborate on the remarks of others.

SL.5.ID Review the key ideas expressed and draw conclusions in light of information and knowledge gained from the discussions.

GRADE 6

RI.6.3 Analyze in detail how a key individual, event, or idea is introduced, illustrated, and elaborated in a text (e.g., through examples or anecdotes).

W.6.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

W.6.8 Gather relevant information from multiple print and digital sources; assess the credibility of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and providing basic bibliographic information for sources.

SL.6.IC Pose and respond to specific questions with elaboration and detail by making comments that contribute to the topic, text, or issue under discussion.

SL.6.ID Review the key ideas expressed and demonstrate understanding of multiple perspectives through reflection and paraphrasing.

GRADE 7

RI.7.3 Analyze the interactions between individuals, events, and ideas in a text (e.g., how ideas influence individuals or events, or how individuals influence ideas or events).

W.7.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

W.7.8 Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.

SL.7.IC Pose questions that elicit elaboration and respond to others' questions and comments with relevant observations and ideas that bring the discussion back on topic as needed.

SL.7.ID Acknowledge new information expressed by others and, when warranted, modify their own views.

4. Thinkers will determine the impact, if any, of these two cases should have on Zero Tolerance policies.
5. Thinkers will learn about Restorative Justice Circles and analyze their potential effectiveness as an alternative to more traditional punishments.

COMMON CORE CONTENT STANDARDS

GRADE 8

ARI.8.3 Analyze how a text makes connections among and distinctions between individuals, ideas, or events (e.g., through comparisons, analogies, or categories).

W.8.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

W.8.8 Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.

SL.8.IC Pose questions that connect the ideas of several speakers and respond to others' questions and comments with relevant evidence, observations, and ideas.

SL.8.ID Acknowledge new information expressed by others, and, when warranted, qualify or justify their own views in light of the evidence presented.

GRADE 9-10

RI.9-10.3 Analyze how the author unfolds an analysis or series of ideas or events, including the order in which the points are made, how they are introduced and developed, and the connections that are drawn between them.

W.9-10.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

W.9-10.8 Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the usefulness of each source in answering the research question; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and following a standard format for citation.

SL.9-10.IC Propel conversations by posing and responding to questions that relate the current discussion to broader themes or larger ideas; actively incorporate others into the discussion; and clarify, verify, or challenge ideas and conclusions.

SL.9-10.ID Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented.

GRADE 11-12

RI.11-12.3 Analyze a complex set of ideas or sequence of events and explain how specific individuals, ideas, or events interact and develop over the course of the text.

W.11-12.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

W.11-12.8 Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation.

SL.11-12.IC Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

SL.11-12.ID Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.



Dangerous Pop Tarts: Legal Synthesis and Rule Making

Objective: Thinkers will assess the origin, application, and impact of zero tolerance policies in schools.

Instructor's Note:

Thinkers may feel that consequences should vary based on the severity of the offense and/or the intent of the offender. If the responsibility of the school is to keep all students safe, how does this impact policy? Is it possible for the school to determine intent? Hindsight is often 20/20 and often intent only becomes clear after an incident occurs. How does this impact their thinking?

Probing Questions:

- What are all the ways schools are expected to keep students safe? (i.g. safe from violence, bullying allergens, exposure to dangers online, etc.)
- Should safety rules be very specific or broad? Is it possible to create a rule for every potential situation?
- Are there safety rules that you school does not currently have in place that you think they should create? What rules would you add?
- What safety rules should be the biggest concern for schools? Why?
- Do all threats need to be taken seriously? Why or why not? Who should determine if a threat is serious?



Many rules in school are written to make sure students are safe. What are some rules at your school that focus on student safety? What are the consequences for students who break those rules?

TABLE 2A

SAFETY RULE	CONSEQUENCE FOR BREAKING RULE
No weapons on school grounds	Suspension/Long term suspension/Expulsion
No fighting at school	Mediation/In school suspension/Out of school suspension
No latex, peanut butter, etc.	Reminder to not bring items to school, place item in backpack or locker to take home at the end of the day

Sometimes there is only one consequence for breaking a rule, but there are many different ways the rule can be broken. One rule that all schools have is that students are not permitted to bring weapons. Usually the consequence of breaking

this rule is suspension. Consider some of the situations below. All of the situations are weapon related. What consequences do you feel would be appropriate?

TABLE 2B

SITUATION	CONSEQUENCE
A student has a paintball gun in his or her backpack	Phone call home/parent pick up of paintball gun
A student has a pocket knife on his or her keychain	Office holds pocket knife until the end of the day/student warned not to bring it back
A student draws pictures of guns and other weapons on his or her paper	Student speaks with principal or counselor. Student is asked to stop drawing weapons

Braincandy Questions:

- (2.1) Identify one safety rule at your school.
- (2.2) What consequences do students face for breaking safety rules?
- (2.3) What consequence would you give the student who had the paintball gun his or her backpack?
- (2.4) What consequence would you give the student who had the pocket knife on his or her key chain?
- (2.5) What consequence would you give to the student that drew pictures of guns or other weapons?

thinkStarter Summary

When people write rules or laws, they have to consider many different possibilities. Lawyers do the same thing using a concept called legal synthesis. Legal synthesis is when lawyers look at Constitutions, laws, and cases to create legal rules and use these rules to help them argue.

When it comes to weapons in school, many schools

use “zero tolerance” policies. Zero tolerance means that anyone who breaks the rule will receive a harsh punishment, no matter what.

Let’s look at two cases surrounding school safety and zero tolerance policies.

thinkAnalysis

Dangerous Pop Tarts (2016, Maryland)

In 2013, Josh was eating a Pop Tart at school. Josh was a seven-year-old second-grader who had some behavior problems in the past, including disrupting his class. Josh chewed his Pop Tart into the shape of a gun and said, “Look! I made a gun!” He began to aim and point Pop Tart at his classmates who were at their desks or in the hall and said, “Bang, Bang.”

The school district suspended Josh for two days. Josh’s family felt this punishment was unfair, but the school maintained that Josh’s behavior was disruptive and the two day suspension was fair. What arguments could both sides make to support their positions?

TABLE 2C

SUSPENSION WAS APPROPRIATE	SUSPENSION WAS INAPPROPRIATE
Josh had been in trouble at school recently. He wasn't just in trouble for the Pop Tart gun.	There was no real weapon. It was just a Pop Tart which cannot hurt anyone.

thinkBigPicture

What impact could this decision have on Josh and his future?

Josh has a suspension related to weapons on his permanent school record. This may cause future teachers or administrators to judge him unfairly.

Instructor’s Note:

Thinkers may fixate exclusively on the frivolity of making a Pop Tart gun. Ask them to consider the big picture of the entire classroom environment. How could this make other students feel? How would they feel if someone took the image of a gun, pointed it at them, and said “Bang, Bang?”

Instructor Note:

At this point in the lesson, thinkers might place all of the blame in the situation on the building principal. If this is the case, ask thinkers to recall what a zero tolerance policy means? Does this leave the administrator any other options to handle the situation?

Court Decision:

Josh’s family asked his school district and two different courts to review Josh’s suspension. However, the district and both courts found that the school’s decision to suspend Josh was proper. His parents fought the decision and the suspension was

Braincandy Questions:

- (2.6) Poll: Should Josh have been suspended for the Pop-Tart gun?
- (2.7) What are reasons Josh’s suspension was appropriate?
- (2.8) What are reasons Josh’s suspension was not appropriate?
- (2.9) What impact could this decision have on Josh’s future?

upheld. They continued their appeal to the court system, where the punishment was again upheld. The school district maintained that Josh had a series of behavior infractions, and the suspension was a culmination of all of these incidents. Josh’s family requested that the suspension be removed from Josh’s record, but this request was also denied. The judge ruled that Josh received due process and the punishment was an appropriate response to his escalating behaviors.



Instructor's Note:

Alyssa's case went all the way to the Minnesota State Supreme Court. Her hearing focused intently on the words "intent" and "endanger." The court ruled in favor of Alyssa, saying that the knife did not pose a real danger to the student body as no one, including Alyssa, was aware that the knife was in the locker. Alyssa had graduated by the time the case was heard but continued in order to have an impact on school discipline policies. Alyssa had a lot of local support. Her punishment received a lot of backlash from her community, and many online sites were created to show support for her.

Probing Questions:

- Is there anything odd about this situation? What is it? Why is it odd?
- How would you feel if you were Alyssa's parents? Why?
- How would you feel if you were the parent of a child that attended school with Alyssa? Why?
- What else do you wish you knew about the situation? Why?
- Alyssa said she didn't know the gun was in her purse. Is there any way you could prove that she was telling the truth? Why or why not? Should you automatically believe someone in that situation? Why or why not?

Pocket Full of Trouble (2016, Minnesota)

Alyssa was a junior when she brought a small pocket knife to school. She claimed that she used the knife at home for farm chores and had simply forgotten it was in her purse. The purse with the knife was left in her locker and was found by a drug-sniffing dog. Alyssa said that no one, including herself, knew the knife was in the locker. Alyssa's school also had a zero tolerance policy and she was expelled for the remaining six weeks of the school year. Under school policy, if Alyssa had told the

officers she was in possession of the knife she would not have been expelled.

Alyssa's family strongly disagreed with her punishment and decided to take legal action. The school maintained that bringing the knife to school was a violation of the zero tolerance weapon policy. What arguments could both sides make to support their positions?

SUSPENSION WAS APPROPRIATE	SUSPENSION WAS INAPPROPRIATE
Knives are clearly in violation of school policy. Someone else could have gotten a hold of the knife and caused injury to students/staff. She should have been more careful when handling a knife.	No one, not even Alyssa, knew it was there so it was not a threat. She did not intend harm, it was a simple mistake. It's a tool she uses on her farm not a weapon. She could not have told the officers she had the knife because she didn't know she had it.

What impact could this decision have on Alyssa and her future?

Alyssa was not permitted to finish her Junior year of high school. That could have serious implications for her GPA and college plans. If she has a weapon-related offense on her record that could impact her opportunities when applying for colleges

thinkApplication

Thinking back to the concept of **legal synthesis**. How could these two cases be used to shape

a district's no tolerance policy when it relates to weapons at school?

Intent must be considered when punishing students

Braincandy Questions:

- (2.10) Poll: Should Alyssa have been suspended?
- (2.11) What are reasons Alyssa's suspension was appropriate?
- (2.12) What are reasons Alyssa's suspension was not appropriate?
- (2.13) What impact could this decision have on Alyssa's future?
- (2.14) What policy would you create when it comes to weapons in school?

thinkBigger

Now that we've examined zero tolerance policies and the impact they have on student consequences, let's look at a different way some schools are handling student misbehavior.

Restorative Justice Circles began in Native American communities as meetings that were held within in the community. In the 1980's, the First Nations People of the Yukon began to use them formally within their justice system. The process is now used all over the world for both juvenile and adult offenders in a wide variety of offenses. Many schools have also adopted Restorative Justice Circles within their buildings.

Restorative Justice Circles involve a victim, offender, and other members of the community. The

participants gather together to talk through the situation. Everyone takes a turn talking. Members cannot speak unless they are holding the "talking piece." The group decides together what the resolution will be. Will the offender be punished? What does the offender need to do to make the situation right? These are the tough questions the circles are designed to address. They are designed to build relationships and strengthen the community.

Should schools use Restorative Justice Circles instead of zero tolerance policies when it comes to serious problems like bringing a weapon to school? Why or why not?

I do not think justice circles would be effective because people could just go to the circle and lie about being sorry./ I do think they would be effective because the circle gives them an opportunity to learn and grow as a person. If the incident was simply a mistake the situation can be resolved without a lengthy punishment.

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Web Link:

The following link

<https://bit.ly/2f2p1e1>

connects to a PBS News story about the effect of Restorative Justice Circles in a Colorado high school.

Braincandy Question:

•(2.15) Poll: Should restorative justice circles be used in schools?

Instructor's Note:

For more information thinkers can visit

<http://restorativejustice.org/>

The Centre for Restorative Justice provides an online tutorial to serve as an introduction to restorative justice. This online resource also provides a library of articles, research, and videos. A possible extension activity could be for thinkers to design a presentation for their school administrators about the concept of Restorative Justice circles and the impact they could have for the school community.

Probing Questions:

- Are Restorative Justice Circles a realistic alternative to traditional methods of punishment?
 - In the real world, will people have this kind of opportunity to "talk it out"?
 - In a school setting, who should be invited to participate in a Justice Circle?
 - What would happen if the offender disagreed with the consequence decided in the circle?
 - What accountability should be in place to ensure the offender follows the directions of the circle?•
- Is it appropriate for other students to have a say in the discipline/consequences of another student?

Dangerous Pop Tarts: Legal Synthesis and Rule Making

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TABLE 2A

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A student has a paintball gun in his or her backpack	
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TABLE 2C

SUSPENSION WAS APPROPRIATE	SUSPENSION WAS INAPPROPRIATE

thinkBigPicture

What impact could this decision have on Josh and his future?

Pocket Full of Trouble (2016, Minnesota)

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Alyssa’s family strongly disagreed with her punishment and decided to take legal action. The school maintained that bringing the knife to school was a violation of the zero tolerance weapon policy. What arguments could both sides make to support their positions?

SUSPENSION WAS APPROPRIATE	SUSPENSION WAS INAPPROPRIATE

What impact could this decision have on Alyssa and her future?

thinkApplication

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Should schools use Restorative Justice Circles instead of Zero Tolerance policies when it comes to serious problems like bringing a weapon to school? Why or why not?





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VOLUME 3
SPORTS & ENTERTAINMENT
TEACHER EDITION

Sample Lesson

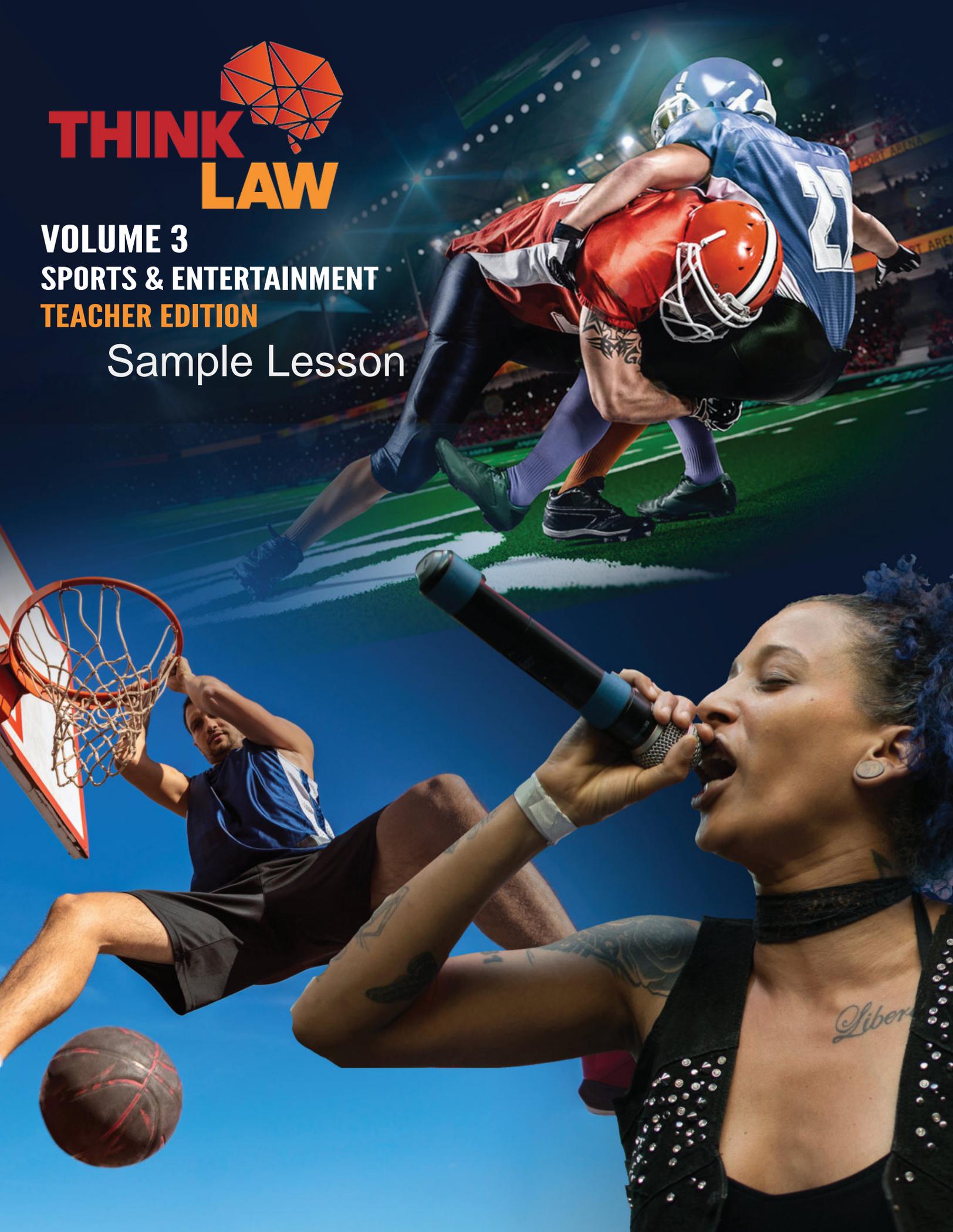


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Teaching thinkLaw

Teaching critical thinking requires a lot of time, preparation, and skill. This thinkLaw Volume 3 Teacher's Edition, PowerPoint Presentations, and Student Workbook simplify this process by providing a turnkey system for engaging learners and building crucial critical thinking skills. thinkLaw is a loosely-scripted program that allows skilled facilitators the flexibility for learner-based instruction. thinkLaw also provides beginning facilitators with a clear guide for rigorous critical thinking instruction.

There are 4 key principles to keep in mind through this curriculum:

1. You are a facilitator, not a teacher

thinkLaw is a learner-centered curriculum. For thinkLaw to work, instructors must avoid the urge to simply teach the information presented in each lesson. Instead, instructors should facilitate discussions, relying on the Socratic method or teaching by asking questions. This requires a great deal of patience, listening, and redirection to make sure thinkers are focused on the issues presented in each lesson. Fortunately, this thinkLaw Teacher's Edition contains several suggested responses, probing questions, and discussion pointers to make facilitation easier. Encourage thinkers to lead discussions as often as possible. Whenever text needs to be read out loud, have a thinker read it rather than you. Conduct small group discussions to change the pace of lessons. Ask thinkers to vote on their opinions multiple times in each lesson. Keep thinkLaw learner-focused.

2. thinkLaw is about critical thinking, not the law

thinkLaw is not a legal education program, mock trial program, or a mini version of law school. thinkLaw merely uses real-life cases as a tool for teaching a wide variety of critical thinking skills. As an instructor, you

should instruct thinkers to focus on the facts and laws involved in each lesson, and redirect questions and comments about other areas of the law that are not relevant to the case under consideration. The Instructor's Notes are designed to address the most common questions thinkers may have about the law in each case. There is no need for instructors to independently research thinkLaw cases or legal concepts.

3. Answers are not right or wrong- they are supported or unsupported

Unlike most content-based subjects, very few thinkLaw problems have actual right or wrong answers. This mirrors real life, and may cause some discomfort at first. Some thinkLaw lessons require you to tell thinkers the outcome of cases decided by a judge or jury. But even then, thinkers are pushed to evaluate the outcome of these cases.

4. Emphasize the DRAAW+C framework for all discussions and writings

Push thinkers to use the DRAAW+C (Decision, Rule Argument for Plaintiff, Argument for Defendant, World/Public Policy implications, and Conclusion) framework in all thinkLaw lessons, assignments, and writing exercises. This framework is outlined in the grading rubric in Lesson 1 and explicitly taught to thinkers in Lesson 3.

Note: You may want to post the DRAAW+C framework in your classroom so you can regularly reference it throughout the course. Printable posters of DRAAW+C are available for download on IntraLinks.



Using the Teacher's Edition

The thinkLaw Volume 3 Teacher's Edition is exactly like the corresponding Student Workbook except for two key differences:

1. All text written in red is seen in the Teacher's Edition only. Red text is used to explain legal rules, case explanations, and suggested answers.
2. All Instructor's Notes, probing questions, Braincandy questions, and background information in the margins of the Teacher's Edition do not appear in the Student Workbook.

Using thinkLaw Volume 3 PowerPoint Presentations

thinkLaw Volume 3 PowerPoint presentations are an optional tool that you can use to incorporate visual components into your lesson. These slides contain legal rules and case explanations.

Using the Instructor's Notes

Instructor's notes are spread throughout this book. These notes help explain commonly asked questions, provide tips about organizing lessons, and offer several "probably questions" to help thinkers get a deeper understanding of the material. You do not need to ask thinkers every probing question suggested in the Teacher's Edition. Pick and choose the best questions for your class.

Using the Student Workbook

The thinkLaw Volume 3 Student Workbook is designed to help thinkers learn applicable legal concepts for each lesson, organize their thoughts, and structure their writing. Thinkers should use the Student Workbook as often as possible while completing thinkLaw lessons.

Using Braincandy

thinkLaw has partnered with Braincandy to create an opportunity for you to use pre-made probing questions electronically

with the thinkers in your classroom. All available pre-made Braincandy questions will be indicated in the margins of this Teacher's Edition for each lesson. For more information about how to use Braincandy, contact your thinkLaw representative.

Planning thinkLaw Lessons

thinkLaw lessons are designed to allow for deep discussion. Depending on your thinkers, some parts of certain lessons may take more time than others. Because thinkLaw is not about teaching content, thinkers do not lose value if it takes more time than expected to complete a thinkLaw lesson.

Aligning thinkLaw with Content Standards

Every thinkLaw lesson (excluding the assessments and the introductory lesson) starts with a table showing the lesson's alignment with Common Core English and Language Arts Standards for grades 5-12.

Discussing Controversial Topics

thinkLaw is based on real-life legal cases that sometimes involve controversial social issues. To help maintain respectful discussions, have thinkers agree to follow the ground rules below, as well as any other ideas you may have for maintaining a civil and respectful discussion:

1. **Criticize the idea, not the person.**
2. **Use "I" statements. (When talking about an idea say "I think" or "I disagree" rather than "people think," "we think," or "you think.")**
3. **Don't interrupt.**
4. **Agree to disagree.**
5. **Listen, even if you disagree.**

Note: Doodle Notes and an accompanying PowerPoint presentation on these guidelines are available for download on Intralinks.

Lesson 0: Introduction to thinkLaw

Instructor's Note:

This lesson provides an orientation to the thinkLaw program. It may be tempting to skip this lesson, but explaining what thinkLaw is and going through the “Tips for thinkLaw Success” will make thinkLaw much clearer.

Depending on your time constraints, there are a few options with Lesson 0:

- Complete the “Guidelines for Civil Conversations” doodle note lesson.
- Complete the thinkLaw student pre-survey.
- Complete the Lesson 1 Diagnostic Writing Assessment.

Lesson 0

Introduction to thinkLaw

About thinkLaw

It's not surprising that 24 US Presidents, 35 of our country's founding fathers, countless leaders in government, business, and industry, and visionary leaders like Nelson Mandela and Mahatma Gandhi have all been lawyers. Law is a universal language that controls almost every aspect of the world we live in. So just imagine how powerful your mind could be if you learned to think like a lawyer!

thinkLaw builds critical thinking skills through real-life legal cases. In thinkLaw lessons, you will learn how to argue both sides of cases, conduct investigations, settle disputes, make difficult decisions based on evidence and the law, and write persuasively.

thinkLaw is not designed to teach you the law. Some laws are important to certain thinkLaw lessons, but thinkLaw's purpose is to teach you the critical thinking skills you need to succeed in your academic, professional, and personal lives.

Tips for thinkLaw Success

To get the most out of thinkLaw, follow these 4 important tips for success:

1. It's okay not to be 100% sure

The words “I don't know” should NEVER be spoken in thinkLaw. For most thinkLaw problems, there is no clear right or wrong answer. So you should not worry about being “right.”

2. Stick to the facts

In a real case, you can only deal with the facts in front of you until you get more information. Almost all thinkLaw lessons are based on real life cases. Do not create your own facts. Do not look up laws, cases, or do your own research on thinkLaw cases. (Unless you are very interested and want to learn more after a thinkLaw lesson.)

3. Read and listen closely

Little details may be very important to a case. Pay attention to every sentence and every word. Also, be sure to look out for missing information. Your thinkLaw instructor will be asking you several questions and giving you a lot of information. Listen closely so you do not miss any of these important details. Also, listen to other students completing these lessons with you. Together, a group of students will have a lot more to offer than you alone.

4. Use the workbook

The thinkLaw student workbooks are designed to make it easy for you to organize your thoughts and ideas for each lesson. For that reason, be sure to use the tables, boxes, and other tools that you receive from your instructor.

Have fun building your critical thinking skills with thinkLaw!

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Probing Questions:

- Do you think that the questions raised by legal cases have only one right answer? Why or why not?
- Is the decision reached by the Court automatically correct? Why or why not?
- Can you think of examples of times the Court's rulings have been wrong? What things used to be legal in the United States that are no longer legal today?
- Why do we take time in class to discuss issues and problems that do not have a correct answer? How does that help you to become a stronger thinker?

Lesson 23

That Looks Alike:

Making and Evaluating Tough Decisions



Objective:

Thinkers will analyze multiples cases to determine if an original work was transformed to become something new. .

COMMON CORE CONTENT STANDARDS

	Grade 5	Grade 6	Grade 7
RI1	Quote accurately from a text when explaining what the text says explicitly and when drawing inferences from the text	Cite textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.	Cite several pieces of textual evidence to support analysis of what the text says, explicitly as well as inferences drawn from the text
RI3	Explain the relationships or interactions between two or more individuals, events, ideas, or concepts in a historical, scientific, or technical text based on specific information in the text.	Describe how a particular story's or drama's plot unfolds in a series of episodes as well as how the characters respond or change as the plot moves toward a resolution.	Analyze how particular elements of a story or drama interact
W1	Explain the relationships or interactions between two or more individuals, events, ideas, or concepts in a historical, scientific, or technical text based on specific information.	Describe how a particular story's or drama's plot unfolds in a series of episodes as well as how the character responds or changes as the plot moves toward a resolution.	Write arguments to support claims with clear reasons and relevant evidence.
W9	Draw evidence from literary informational text to support analysis, reflection, and research.	Draw evidence from literary or informational texts to support analysis, reflection, and research.	Draw evidence from literary or informational texts to support analysis, reflection, and research.
SL3	Summarize the points a speaker makes and explain how each claim is supported by reasons and evidence.	Delineate a speaker's argument and specific claims, distinguishing claims that are supported by reasons and evidence from claims that are not.	Delineate a speaker's argument and specific claims, evaluating the soundness of the reasoning and the relevance and sufficiency of the evidence.

Lesson Outline

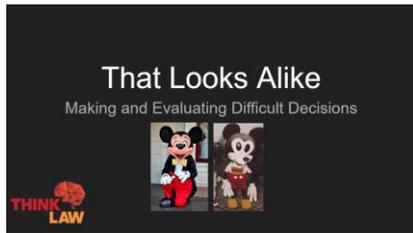
1. Thinkers will consider who has permission to wear costumes of licensed characters for children's parties.
2. Thinkers will read about a photographer's lawsuit against Nike and compare and contrast the two Jumpman images to determine if Nike should pay the photographer.
3. Thinkers will organize their thinking using the DRAAW+C framework to explain who should win the Jumpman lawsuit.
4. Thinkers will extend their thinking to consider a lawsuit about a tattoo and its use in a major film franchise.

COMMON CORE CONTENT STANDARDS

	Grade 8	Grades 9-10	Grades 11-12
RI1	Cite textual evidence that most strongly supports an analysis of what the text says explicitly as well as inferences drawn from the text.	Cite strong and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.	Cite strong and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text, including determining where the text leaves matters uncertain.
RI3	Analyze how particular lines of dialogue or incidents in a story or drama propel the action, reveal aspects of a character, or provoke a decision.	Analyze how complex characters develop over the course of a text, interact with other characters, and advance the plot or develop the theme.	Analyze the impact of the author's choices regarding how to develop and relate elements of a story or drama.
W1	Write arguments to support claims with clear reasons and relevant evidence.	Write arguments to support claims in an analysis of substantive topics or texts using valid reasoning and relevant and sufficient evidence.	Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.
W9	Draw evidence from literary or informational texts to support analysis, reflection, and research.	Draw evidence from literary or informational texts to support analysis, reflection, and research.	Draw evidence from literary or informational texts to support analysis, reflection, and research.
SL3	Delineate a speaker's argument and specific claims, evaluating the soundness of the reasoning and relevance and sufficiency of the evidence and identifying when irrelevant evidence is introduced.	Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric, identifying any fallacious reasoning or exaggerated or distorted evidence.	Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric, assessing the stance, premises, links among idea, word choice, points of emphasis, and tone used.

Lesson 23: That Looks Alike

Making and Evaluating Difficult Decisions



Instructor's Note:

Companies will pursue legal action against businesses that provide licensed costumed characters without permission to children's parties.

There have been several lawsuits filed by Disney over party companies that provide *Frozen*, *Star Wars*, and more traditional characters for children's parties, trade shows, and other events. Disney even has a special e-mail address where people can send tips about copyright infringement. tips@disneyantipiracy.com

Lesson 23

That Looks Alike

Making and Evaluating Tough Decisions

thinkStarter

Little kids love birthday parties. Sometimes at children's parties, parents hire a character to make an appearance. A princess or superhero might surprise children at a party and take pictures with the party goers. Most of the time the characters parents hire for parties are just someone the family knows, like a teenager. So, for example, a family might pay their teenage neighbor to come to a birthday party in a Spiderman costume.

Do you think you could create a business where you charge parents to show up at parties dressed like characters from movies? List arguments for both sides.

The Business Would Be Okay	The Business Would NOT be Okay
<ul style="list-style-type: none"> - It's just something that you're doing for kids that you know, and it makes the kids really happy. - You're not making a lot of money. 	<ul style="list-style-type: none"> - Those characters are licensed, and you don't own the right to them. You can't make money off of characters that you don't own without permission.

thinkStarter Summary

Specific princesses and superheroes are licensed by companies. This means you would need permission to use the characters in a way that is making money. But what if you change the image just a little?

Slam Dunk

(Rentmeester v. Nike, 2015, Oregon)

In 1984, photographer Jacobus Rentmeester did a photoshoot with basketball star Michael Jordan for LIFE Magazine. Jacobus took a picture of Jordan in his Olympic warm-ups. In the photo Jordan is jumping up to make a slam-dunk. Jordan's legs are spread. His arm is reaching up and holding a basketball. This was not the normal way Jordan jumped when making a slam dunk. The jump was actually inspired by a ballet technique called a "grande jete." Using this technique to pose was Jacobus's idea.

Nike later recreated the same shot of Michael Jordan. In the photo, Jordan is jumping up to make a slam-dunk. Nike actually even paid Jacobus \$150 for a slide of the photo. Jordan's legs are spread. His arm is reaching up and holding a basketball. The primary

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thinkStarter Probing Questions:

- Why do you think companies don't want businesses to use their characters without permission? Do you think it's a big deal? Why or why not?
- What if a business was using a children's character without permission at an event that was questionable? Like a gun show or a party with alcohol? Would that change your mind? Why or why not? How might a child react to seeing the character in a questionable situation?
- How is this issue similar to the cases we analyzed regarding the right of publicity? Should companies be able to control the business use of their characters even though they aren't real people? Why or why not?

difference in the photos is that in the Nike photo, Jordan is wearing a Bulls uniform and the Chicago skyline can be seen in the background.

The Nike photo later served as the inspiration for the famous logo used on Jordan products such as shoes, hats, jackets, pants, shorts, and socks. In the icon, Jordan is jumping up to make a slam-dunk. Jordan's legs are spread. His arm is reaching up and holding a basketball.



In 1985, Jacobus was paid \$15,000 by Nike for permission to use the Jumpman image on billboards and posters for 2 years.

In 1987, Nike modified the logo. They no longer paid Jacobus money nor asked his permission for the logo to be used.

The Jordan brand continued to grow. In 2014, the Jordan brand made \$3.2 billion in sales.

Jacobus sued Nike in 2015, saying they created the logo from his photograph and owed him money. Jacobus's image is on the left, and the Nike image is on the right.

Compare the two images

Similarities	Differences
<ul style="list-style-type: none"> - Both figures are jumping. - Both figures are holding a basketball with the same arm/hand. - The images are both solid black. - Both figures have bald heads. 	<ul style="list-style-type: none"> - The legs are different. In one image they're bent. - The arms are different. In the Nike image the arms are very straight, but in the other image, the arms are bent.

Do you think they are similar enough for Jacobus to claim that Nike stole his image? Why or why not?

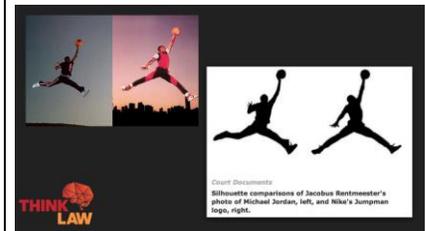
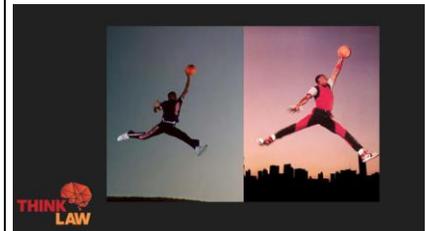
Some thinkers might feel that the images are very close and that the ballet pose had been Jacobus's idea rather than the natural way Michael Jordan dunks.

To win this case, Jacobus would have to prove that his image was stolen. Copyrights protect just the actual work and not the ideas behind them. So proving that Nike stole his idea would not be enough. He would have to prove the image from his photograph was used without permission. Look at the images again.

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Instructor's Note:

The lesson 23 PowerPoint presentation contains a slide with a side-by-side comparison of the photos and the logos. Have thinkers analyze the photographs before the logos.



Instructor's Note:

Have thinkers vote. Did Nike steal Jacobus's image? Yes or No? Allow thinkers from each side to share their rationales.

Probing Questions:

- Do you think Nike should pay Jacobus more money? Do you think the \$15,000 is enough? Why or why not?
- We've talked about "transforming" a piece of art into something else? Do you think the Jumpman logo is a transformation from the photograph? Why or why not?
- Do you think that Jacobus would be as upset about the situation if the Jordan brand was not as financially successful? Why or why not?

Braincandy Questions:

(23.1) Poll: Should anyone be allowed to dress up like a licensed character for a party or other event?

(23.2) How are the two Jumpman logos similar?

(23.3) How are the two Jumpman logos different?

Instructor's Note:

The Court ruled in 2018 that the photographer's picture was not substantially similar to Nike's Jumpman logo.

Jacobus was told that his 1984 photograph of Michael Jordan displays a different setting, alternative lighting and other elements that makes it different from it from Nike's creation.

Instructor's Note:

Have thinkers vote. Should Warner Brothers need Victor's permission to use the tattoo in the film? Allow thinkers from each side to share their rationales.

Should Jacobus win this lawsuit? Use the DRAAW + C framework in your response.

D- Jacobus should not win his lawsuit.

R- The rule is that the image must be transformed. It can't be the same as the original. It needs to have noticeable differences.

A- Jacobus will argue that the concept of the image is the same and that the two images have a lot of his similarities. The original pose was his idea.

A- Nike will argue that the icon has changed over time. The current logo is different from the original photo that was taken in 1984 by Jacobus.

Who Owns a Tattoo?

(Whitmill v. Warner Brothers, 2011, Missouri)

Missouri tattoo artist Victor Whitmill designed a tattoo. That tattoo was placed on boxer Mike Tyson's face. Mike Tyson had retired from fighting and decided to appear in The Hangover movie franchise. In the second movie, actor Ed Helm's character woke up with the same face tattoo as Mike Tyson. The movie was a comedy, but Victor wasn't laughing.

Victor claimed that he designed the tattoo. Victor also had the design copyrighted. He sued Warner Brothers for not getting his permission to use the design in the film.

What arguments will both sides present?

Victor's Arguments	Warner Brothers' Arguments
<ul style="list-style-type: none"> - Victor created an original design that he copyrighted. - He owns the image. - The image in the movie was not just included on Mike's face; the movie put the same image on a different character's face. 	<ul style="list-style-type: none"> - The tattoo is on Mike Tyson's face, and Mike is in the movie. If Mike is in the movie, they should not have to get special permission to use the image of the tattoo.

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Probing Questions:

- Do you agree with the Court's decision in the Nike case? Why or why not?
- Do you think Nike would sue you if you made a similar jumping logo? Why or why not?
- What do you think is odd about the tattoo case?
- Would your opinion about the tattoo being featured in the movie be different if Mike Tyson was not in the movie? Why or why not?
- Do you think tattoos should be copyrighted? Why or why not? Who should own the copyright? Should Victor own the copyright? Should Mike Tyson own the copyright? Why or why not?

Should Victor win this lawsuit? Use the DRAAW + C framework in your response.

D- Victor should win his lawsuit.

R- The rule in this case is about copyright. Victor created the image and owned the copyright, so the studio would need his permission to use the design.

A- Victor will argue that he owns the design and that the movie studio cannot put the image on a character's face without his permission.

A- The movie studio will argue that the tattoo is permanently featured on Mike Tyson's face, and Mike Tyson is in the movie. The character who gets the tattoo in the movie is copying Tyson.

thinkBigger

Victor Whitmill designed Mike Tyson's face tattoo and copyrighted the design. If you wanted to get the same tattoo on your face, do you think you would need Victor's permission to get the same tattoo as Mike Tyson? Why or why not?

Responses will vary. Some thinkers may feel that Victor sued the movie company because they were using his design in a movie that would make a lot of money. He may not care about an individual getting the tattoo.

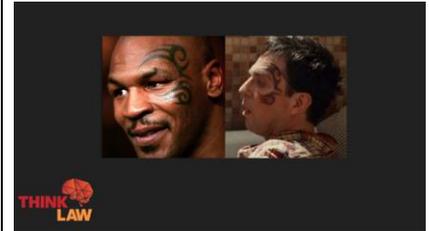
Does this seem reasonable? Why or why not?

Thinkers may argue that it would be unreasonable to have to get permission because people get tattoos of licensed characters all of the time without permission from the companies that own the characters.

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Instructor's Note:

The lesson 23 PowerPoint presentation contains a slide with a side-by-side comparison of Tyson's tattoo and the tattoo in the movie.



Braincandy Questions:

(23.4) Poll: Do you think the tattoo should be allowed in the movie?

(23.5) In the tattoo case, what evidence do you think is the strongest?

Instructor's Note:

Warner Brothers settled with Victor for an undisclosed amount. The tattoo was used in the movie.

Probing Questions:

- If you were a lawyer for Warner Brothers, how much money would you offer Victor to use the tattoo? If you were Victor, how much money would Warner Brothers need to offer you to use your tattoo design? Why?
- Do you think someone should be able to get a trademarked image as a tattoo? The McDonald's arches? The Nike Swoosh? Why or why not? Would there be any way to regulate these types of tattoos? Why or why not?

Lesson 23

That Looks Alike

Making and Evaluating Tough Decisions

thinkstarter

Little kids love birthday parties. Sometimes at children's parties parents, hire a character to make an appearance. A princess or superhero might surprise children at a party and take pictures with the party goers. Most of the time the characters parents hire for parties are just someone the family knows, like a teenager. So, for example, a family might pay their teenage neighbor to come to a birthday party in a Spiderman costume.

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The Business Would Be Okay	The Business Would NOT be Okay

thinkStarter Summary

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Compare the two images

Similarities	Differences

Do you think they are similar enough for Jacobus to claim that Nike stole his image? Why or why not?

To win this case, Jacobus would have to prove that his image was stolen. Copyrights protect just the actual work and not the ideas behind them. So proving that Nike stole his idea would not be enough. He would have to prove the image from his photograph was used without permission. Look at the images again.

Should Jacobus win this lawsuit? Use the DRAAW + C framework in your response.

Should Victor win this lawsuit? Use the DRAAW + C framework in your response.

thinkBigger

Victor Whitmill designed Mike Tyson's face tattoo and copyrighted the design. If you wanted to get the same tattoo on your face, do you think you would need Victor's permission to get the same tattoo as Mike Tyson? Why or why not?

Does this seem reasonable? Why or why not?
