



FOR YOUTH DEVELOPMENT®  
FOR HEALTHY LIVING  
FOR SOCIAL RESPONSIBILITY

# SUPREME COURT

## WISCONSIN YMCA YOUTH IN GOVERNMENT\*\*

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# YOUR STEPS AS A COURTS MEMBER

## **YOUR MISSION:**

Defending a position or decision in the Supreme Court by interpreting the Constitution and creating a persuasive case.

## **THINGS YOU WILL DO AS A COURT MEMBER**

- Compose the required Brief document summarizing the arguments for the assigned case
- Meet all deadlines
- Be aware and informed of the responsibilities and duties of Court officials and knowledgeable of the facts involved in the assigned case
- Be prepared to argue the assigned case more than once
- Study your case, apply the existing law and prepare a court document
- Attend the Pre-Gov training session
- Adhere to the Code of Conduct

Along the way, you will also have the chance to become a better speaker. And as an added benefit, you may even find out a little more about what is going on in the world around you!

Your whole position revolves around studying case law, discussing them, reviewing them, applying them to your case fact pattern, and writing arguments based on them.

# WHAT ARE THE COURTS?

## HOW THE COURTS WORK

The role of the courts is to interpret the law. Sounds easy, right? WRONG! The law can be very complicated depending on the situation at hand. The way the judicial system operates and how a court hearing runs is different from what you see on TV; you will learn this through your participation. Here is a very basic description of how the courts operate in the United States.

### THE TYPES OF COURTS:

In the United States, the court system is divided into two parts:

#### 1. TRIAL COURTS

These courts handle serious criminal cases and divorce cases. They can also handle civil arguments, such as trying to figure out who is responsible for an auto accident.

#### 2. APPELLATE COURTS (Supreme Court for WI YIG)

The Supreme Court is where people go when they don't agree with the decision of the lower court.

The Supreme Court doesn't hear many cases—the cases they hear usually involve important issues of the law and that's why you hear about them on the news. When the Supreme Court hears a case, it will usually change the way a law is interpreted; this is called *setting precedent* and is considered Constitutional Law.

## THE COURTS AT YIG

As a participant in the court program, you will participate as an attorney appearing before the Supreme Court AND you will serve as a Supreme Court Justice.

As an **ATTORNEY**, you will work with a partner to write a Brief for Supreme Court. A brief is simply a written argument and is similar to a research paper summarizing your stance on the issues of the case.

Your team will also prepare oral arguments to deliver before court. Each attorney team will make oral arguments several times during the conference and will be responsible for arguing BOTH sides of the case as the schedule dictates. As a **JUSTICE**, you will serve on a panel of Justices that will decide the case. Each Justice will be responsible for reading the parties' briefs, preparing for and participating in oral arguments, deliberating and helping to issue a final written opinion and decision.



It is highly recommended that participants find a local attorney or law office to help them with questions regarding procedure and past decisions that have established precedents in such cases.

# PREPARING FOR THE COURTS

## PRE-GOV SESSION

As a court member, your work will begin at Pre-Gov. You will have the opportunity to spend time with other court delegates to learn about the court system. Your Program Specialists and Officers will assign or confirm attorney partners and cases. You will have the opportunity to ask questions about the case/case law.

Attending Pre-Gov is vital to your success at Youth in Government. This information will also be posted on the Center for Youth Voice website. You will receive the following:

Preparation is the key to a fun and productive court experience. We look forward to working with you during the upcoming YIG conference.

## READING A CASE

Reading case law is a lot like putting together a puzzle. Sometimes you have to be persistent to find which pieces connect together. Sometimes you don't have all of the pieces, so the puzzle is impossible to solve. It is a rare occasion when you are able to fit together the pieces quickly! What we're trying to tell you is that patience is a big part of this program area.

In the appellate courts, there are no facts to be decided, no jury, and no witnesses. The difference between the lower courts and appellate courts is that while there isn't a dispute about the facts of the case, the disagreement is in how the law was interpreted and applied to the facts. The attorneys argue how they feel the law SHOULD be interpreted and applied to a panel of Justices. The Justices listen to the presentations, possibly ask questions of the attorneys, deliberate, and then either uphold or overturn the decision of the lower court. Justices are allowed to interrupt the attorneys to ask questions, mostly to clarify a point in the case they are uncertain of.

On the following pages, this packet offers a sample case.

## 1<sup>st</sup>: READ THE FACT PATTERN

Every case starts with a fact pattern. This is the chain of events that leads to the two parties going to court. When a case is heard by the Supreme Court, it has been already decided once by a lower court (limited or general jurisdiction courts). Usually the party bringing the case to the Supreme Court is not satisfied with the decision of the lower court and wants to change or overturn the decision.

### KAUFMANN V. INDEPENDENT SCHOOL DISTRICT #84

**Parties:**        **Appellant – Justin Kaufmann by and through his parents**  
                      **Respondent – Independent School District #84**

**Facts:**

Johnson Senior High School, one of two high schools in Independent School District #84, has a racially mixed student body—the school population is 47% white, 23% African American, 15% Latino, 11% Asian/Pacific Islander, and 4% mixed-race or other. The school has never had problems with race-related incidents and both the school and student organizations actively promote diversity. The surrounding community is also politically diverse. Approximately 45% of the district’s registered voters identify as Republicans, 45% as Democrats, and 10% as independents.

One day in the fall of 2015, Johnson High School senior Justin Kaufmann arrived at school wearing a sweatshirt bearing a large confederate flag on the back. After several students complained, Kaufmann’s homeroom teacher, Mark Hanner, ordered Kaufmann to take the sweatshirt off. When Kaufmann refused, he was immediately sent home. As the day went on, the school received calls from parents stating that they did not feel their students were safe at school. The school assured the parents that they had dealt with the issue and had a “zero-tolerance policy” for harassing or threatening apparel or behavior in the school community. The school also sent a letter to that same effect home with students at the end of the day.

The next day, Kaufmann received a letter from Johnson High principal Kathryn James, informing him that he was suspended for five days for violating the “Appropriate Dress” provision of the Code of Conduct.

The code provides, in relevant part:

Appropriate Dress. At all times, students shall dress appropriately for classes and activities. Students shall not wear clothing that is revealing or provocative. Students are prohibited from wearing or displaying any article of clothing or symbol that is likely to offend or threaten another, interfere with education, or disrupt Johnson High activities.

Upon learning of their son’s suspension, the Kaufmanns sought an injunction, prohibiting the district from suspending Justin. The Kaufmanns claimed that the Code itself and the school’s action had violated Justin’s right to free speech.

At trial, Principal James testified about the district’s attempts to promote diversity in a climate of increasing racial and political tension. James stated that the school’s values include accommodating a diverse student body and making sure each student feels secure, both emotionally and physically, at school. James referenced social science research which shows that mental and emotional trauma inhibits learning capacity.

Kaufmann’s teacher, Mr. Hanner, also testified that, while he understood that Kaufmann’s sweatshirt could be interpreted as expressing a political viewpoint, he did consider the flag to be both “offensive” and “threatening” to other students. He testified that both white and black students complained to him about the sweatshirt. He stated that, when he asked Kaufmann to remove the sweatshirt, Kaufmann said, he had answered “No, I don’t feel like it, and besides, I don’t have anything else warm to wear.” According to Hanner, Justin Kaufmann has poor grades and has shown difficulty with school authority. He is often in trouble for minor disciplinary problems.

On cross-examination, however, Hanner stated that, to the best of his knowledge, Kaufmann did not have particularly strong political views and had never participated in any organized activities related to race or politics. He also mentioned that he requested Justin remove the sweatshirt because he feared how other students might react. Hanner concluded by saying that on at least one previous occasion, another teacher had asked a female student to change clothes, for wearing what that teacher thought was a too-revealing blouse. That student

## 2<sup>nd</sup>: READ THE AUTHORITIES (OR CASE LAW)

These are other cases that may have been decided on similar facts in Wisconsin or other jurisdictions. Your job is to pick out the facts in these cases that are most important to your case. Remember, it's the way the law was applied to the facts that is in dispute, not the facts themselves. The important piece is that the interpretation of that case agrees with your position, the decision in that case does not have to be the same.

You will be given several authorities in your case file. These are the **ONLY** cases you may use in preparing your presentation.

Sample Authorities/Cases and Related Materials:

United States Constitution, Amendment 14, §1  
Board of Regents v. Roth, 33 C.Ed.2d 549 (1972)  
Hazelwood v. Kuhlmeier, 484 U.S. 260  
Morrissey v. Brewer, 33 C.Ed.2d (1972)  
Tinker v. Des Moines, 393 U.S. 503

Restriction:

Participants may not refer to or rely upon Gross v. Lopez in preparing their written or oral arguments for this case.

## 3<sup>rd</sup>: READ THE CASE SUMMARIES

The following is a brief summary of some things you should think about and keep in mind when you read the cases and as you prepare your briefs and arguments. You are not limited to these points. Instead, consider them good starting questions to think about. You will also notice some cases attached. No further research is necessary.

### Summary:

Issue #1 – Whether the school district impermissibly suspended Kaufmann for expressing “purely political speech” in violation of his First Amendment rights.

- Is the school’s dress code policy too broad “on its face” (by itself)? That is, does it potentially cover speech which is protected by the first amendment such as offensive, but ultimately harmless, viewpoints?
- Was Justin expressing political speech by wearing his sweatshirt? Does it matter if he was just wearing the sweatshirt to wear it?
- To what extent can a symbol be a threat if it is not accompanied by any violent or intimidating conduct? Does this calculus change in the school environment or where children are concerned?

Issue #2 – Whether the school district impermissibly suspended Kaufmann because his sweatshirt did not cause a “substantial disruption” nor did it “materially collide with the rights” of other students.

- To the extent that Justin’s sweatshirt can be viewed as a “protest” or an expression of political views, is it “passive” like the armbands in *Tinker*? Or is it hurting people?
- How many students or teachers need to be affected before the sweatshirt becomes a substantial disruption? Or is enough that the school can forecast a substantial disruption due to the history and context surrounding the Confederate flag?
- If wearing the Confederate flag can be construed as speech related to a political or social issue, is it disruptive enough or inconsistent enough with the mission of schools—promoting discourse *and* keeping students safe—for the school to regulate it?
- What other types of symbols or speech (particularly those represented on or by clothing choices) might a school be able to regulate?

The summaries are provided to jump start your thinking about the case and let you know what issues you need to address while preparing you court materials

Now that you have learned the elements of your case file, it's time to write your presentation!

## **PREPARING YOUR COURT MATERIALS**

You've read through the fact pattern, statute(s), and authorities and now you're ready to do some puzzle solving! As an advocate, the lawyer exercises persuasion to achieve results favorable to their side in a variety of ways.

A brief is a formal document a lawyer uses both to convince a court that the client's argument is sound and to persuade a court to adopt that position. A brief must honestly state the law, the facts of the case (as the client sees them) and the reasons for the conclusions in a clear and concise manner. The brief writer is submitting a legal argument to the opposing counsel and a Justice or panel of Justices, all of whom will subject it to close scrutiny. The brief writer must attempt to make the client's position seem as strong as possible, emphasizing favorable arguments and minimizing the force of opposing arguments. It is not enough that the client's position appears logical or even desirable—it must seem compelling.

The brief writer knows their basic conclusions in advance. Their work involves a search for arguments and materials to support those conclusions and that show their client's position is stronger and should prevail.

 In Youth in Government, Supreme Court Delegates complete a brief. They must prepare arguments for both sides of their assigned case, as they will be representing both the Appellants and the Respondents at various points throughout the conference.

### **THE STEPS IN WRITING YOUR COURT MATERIALS ARE THE FOLLOWING:**

- Step #1: KNOW THE FACTS
- Step #2: APPLY THE LAW
- Step #3: SUPPORT YOUR CASE
- Step #4: WRITE YOUR MATERIALS
- Step #5: SUBMIT YOUR MATERIALS TO REGY

## Step 1 – KNOW THE FACTS

Your job is to know the important facts of the case! Let's look at our sample fact pattern through the eyes of both sets of attorneys. What are the important facts in this case?

<b>APPELLANT</b> (wants decision changed)	<b>RESPONDENT</b> (wants decision to stay same)
Kaufmann wore a sweatshirt with the confederate flag on the back	Gang activity in school system at an all-time high.
Kaufmann was suspended for 5 days	School adopted amendments to the Code of Conduct (COC)
Kaufmann did not believe the flag resembled any gang colors or symbols	Asked Kaufmann to remove the sweatshirt

What are the big issues that need to be discussed during your presentation?

- Free Speech
- Rights of Students/Public Schools

## Step 2 – APPLY THE LAW

Even though the facts are not in dispute, it's also important to know the law so that you can interpret and apply it to your case. For the purpose of this example case, let's assume that the appellant wants the charge of being suspended for violating the C.O.C. reversed, and the Respondent wants the consequences to stay the same.

<b>APPELLANT</b> (wants decision changed)	<b>RESPONDENT</b> (wants decision to stay same)
Tinkler v. Des Moines- wasn't gang related, it was simply protest	Bard v. Roth - The school did not violate any rights by suspending Kaufmann.
Hazelwood v. Kuhlmeier- the right of free speech was violated when not allowed to print the article	Morrissey v. Brewer - Written finding of facts
US Constitution-14 <sup>th</sup> Amendment	

## WHAT IS A PRECEDENT?

A precedent (otherwise known as an 'authority') is essentially any act or decision that serves as a guide/reference for future similar cases. They are a reference that merely directs the reader to a decision of the U.S. Supreme Court or Wisconsin Supreme Court.

## Step 3 – SUPPORT YOUR CASE

Attorneys will try to convince the court to rule in their client’s favor on the basis of how well you support your case using the authorities. When reading through the case authorities, there are five things to watch for and understand:

1. **FACTS:** although the facts are not in dispute, there may be some information that doesn’t apply to your case. Your job is to pick out the most important pieces of information that support your position.
2. **ISSUE:** In one sentence you should be able to pick out the major question that the court must decide in the case. In some cases, there may be more than one, but remember to keep it as simple as possible.
3. **RULE OF LAW:** Most authorities will clearly state what part and type of law is in question in the specific case (i.e., Wisconsin Statutes, Constitution, federal codes/statutes, etc.).
4. **APPLICATION:** How does the rule of law (what the law says) apply to the authorities?
5. **CONCLUSION:** The decision of the court.

You should apply each of these elements to all of your case authorities. Knowing these five things will help you have a complete package of the cases without all of the “legal jargon.” Let’s go back to our example case and see how each of the authorities supports their case.

### TIPS FOR PERSUASION IN YOUR ANALYSIS

- **BE SUBTLE.** Remember that you should maintain an objective tone in your facts. A Justice should find your statement of the fact’s candid and reliable. In persuading, rely on organization, writing, careful selection and juxtaposition of facts and detail, and storytelling.
- **HAVE A THEME.** Make sure your statement of the facts always reflects your theory of the case.
- **TELL A STORY.** Your facts should read like a novel or short story. The story should have a clear beginning, middle and end. Instead of summarizing trial testimony or exhibits in the order in which they were entered, it should focus on the underlying story.
- **ORGANIZE YOUR FACTS TO MAXIMIZE PERSUASION.** Often, but not always a chronological organization is effective. It is often useful to begin even a chronological account with a short introduction that summarizes the key facts or highlights a particularly explosive fact that favors your side.
- **INCLUDE DETAILS THAT ADVANCE YOUR THEORY.** Details, especially vivid or sensory ones, will help the reader understand, feel and remember your story. Details enable you to show, rather than tell, and allow your reader to reach his or her own conclusions.
- **EMPHASIZE FAVORABLE FACTS.** It goes without saying that the facts that favor your side should be emphasized. You can do this by placing favorable facts in prominent locations and by providing details about them. As in any writing, there are certain places in the structure where

information receives the greater emphasis. Syntax is important! You should point out and emphasize any absent facts that favor your side.

- **DE-EMPHASIZE UNFAVORABLE FACTS.** Avoid unimportant or unfavorable detail. While you must include all determinative facts, you need not include all detail. Edit out detail that is not important or distracting. Any detail you include will be presumptively considered important by the reader.
- **AVOID SARCASM, HYPERBOLE, AND ARGUMENT.** You don't want to sound unprofessional, it is extremely important that you maintain an intriguing and professional style, Justices will NOT take you seriously if you use sarcasm, hyperboles and an argumentative style.

## Step 4 – WRITE YOUR BRIEF

As stated above, at YIG, Supreme Court delegates prepare a legal brief to get ready for the conference, primarily designed to help them design their presentation and remarks for the conference.

On the following pages are outlines for the Supreme Court Brief. Delegates may reference these outlines as they prepare their materials.

### SUPREME COURT CASE ANALYSIS OUTLINE

#### THE LAW

The question presented should include a reference to the governing law. For example, the issue might begin, "Whether the First Amendment prohibits...." It can be helpful to put the reference to the law early in the question, for context. You will be required to write how the law applies to your case.

#### THE FACTS

Facts should be persuasive as well as definitive. However, don't overload your analysis with facts, it can potentially make your case harder to understand and be unpersuasive. An account of the facts that is accurate, complete, compelling, and subtly persuasive are your best bet of having the decision ruled in your favor. Material facts should be **COMPLETE** and **ACCURATE**. Choose your facts based on importance and quality, which ones best help your case.

- Do the facts support your theory/story, and show the impossibility of your opponent's?
- Are there any facts in the Statement (argument) that are redundant or otherwise unnecessary?
- Is the Statement of Facts sufficiently accurate and objective to qualify for adopting by the court as the facts portion of a judicial opinion (precedent)?

**\*\* USE THEM TO YOUR ADVANTAGE\*\***

#### THE ARGUMENT

The argument is your base, it is the entirety of the case and needs to be a **CLEAR, CLEAN, LOGICAL** analysis of the applicable law. Be mindful of the **TONE** in your argument; you don't want to blatantly say that your side is completely and absolutely right. Appearing overly biased can hurt your argument and can determine the outcome of the decision. As a delegate, you will be asked to write an argument for both sides, keep in mind your client's wants and/or needs.

# WISCONSIN YMCA YOUTH IN GOVERNMENT

## Case Brief – Supreme Court

Case #:

Case Name

Attorney #1:

Attorney #1 Delegation:

Attorney #2:

Attorney #2 Delegation:

### **BACKGROUND**

Who is the Appellant?

What outcome does the Appellant want?

Who is the Respondent?

What outcome does the Respondent want?

### **ISSUES**

In 1-2 sentences, describe the issues from the Appellant and Respondent points of view.

Issue #1 – Appellant Point of View

Issue #1 – Respondent Point of View

Issue #2 – Appellant Point of View

Issue #2 – Respondent Point of View

### **FACTS**

Look at the fact pattern of the case and determine and determine the important points for both sides of the case.

Fact Highlights for Appellant

Fact Highlights for Respondent

### **APPLY THE CASE LAW (AUTHORITIES)**

Using 2 – 3 sentences for each case, interpret the Authorities and Related Materials in the case packet and apply the law to each side of this case.

## ARGUMENTS

The argument is the foundation of your oral arguments and is the heart of your presentation. List at least 3 key arguments each side should make to build the foundation of the case.

Appellant Argument #1

Appellant Argument #2

Appellant Argument #3

Respondent Argument #1

Respondent Argument #2

Respondent Argument #3

## QUESTIONS

List the three questions you would hope the “other side” would not ask and the answers you would give if the other side did ask them.

“Tough Question” #1 Appellant Might Ask & Respondent Answer

“Tough Question” #2 Appellant Might Ask & Respondent Answer

“Tough Question” #3 Appellant Might Ask & Respondent Answer

“Tough Question” #1 Respondent Might Ask & Appellant Answer

“Tough Question” #2 Respondent Might Ask & Appellant Answer

“Tough Question” #3 Respondent Might Ask & Appellant Answer

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## Step 5 – SUBMIT YOUR COURT MATERIALS

It is recommended that you prepare a draft of your brief in order to make it easier to get feedback from peers and leaders. Compose your brief or case analysis in your word processing program of choice, referencing the template provided. Once you have completed your first draft, pass it along to some peers, your Delegation Director, and/or your advisors. Ask them to edit it and give you feedback. The more people who can read your materials and give you suggestions, the clearer it will be for Youth in Government!

After gotten feedback on a draft, you should complete your final draft and submit it via the template provided. The template will have a variety of text boxes. Copy the content, section-by-section, from your text document and paste it into each corresponding text box.

Please be prompt in completing your court materials so you and the entire courts team can be well-prepared for Youth in Government. Plan ahead in case of technical difficulties.





IF YOU DO NOT 'FINALIZE' YOUR MATERIALS AND SEND IT TO YOUR DELEGATION DIRECTOR, IT WILL NOT MAKE IT TO THE CONFERENCE.

Please take care that you fully complete the process.

It is strongly encouraged that you bring a printed and digital version of your court materials with you to Youth in Government, just in case something goes wrong.

## **PRESENTING YOUR ARGUMENT**

Once your court materials are written and submitted, you must figure out how to convince everyone that your brilliant argument should be the law of the land.

At Youth in Government, you and your partner will present your argument in front of a bench of Justices multiple times throughout the weekend. Each time, you may be arguing a different side of the case and you may be arguing against completely different legal teams, so the outcome may be completely different each time you present your case. You need to prepare for anything the Justices may ask you, address the other side's argument, and focus the court on the three or four things that should decide the case in your favor.

As such, it is important that you and your partner(s) prepare your argument in advance and practice it! If your team is all from the same delegation, ask your delegation for time to present your argument to fine-tune it and make it MAGNIFICENT!

If your partner is not in your delegation, use online collaboration tools to prepare your argument.

### **TIPS FOR PREPARING YOUR ARGUMENT:**

1. Your argument should be written out in detail for your presentation at Youth in Government. Be creative!
2. A good argument will cover all facets. Use facts and reasoning from your own experiences.
3. Do not argue about facts – they are fixed by the lower court. However, you should use the most important ones to support your arguments.
4. Remember who is being blamed for what – be sure to keep the facts straight.
5. You not only need to use those authorities that help your case but distinguish or dispute those which hurt your case. Cite them in your argument; be sure to quote particularly good portions.
6. Divide your time between the two layers (look back to Step 1 – Know the Facts). Most cases are easily divided by arguments.
7. Always cite the Authorities – they are your argument's base and support. In YIG, you may not introduce any outside authorities aside from those included in the case materials. This is done so that the arguments are balanced.

**OKAY! YOU'VE DONE YOUR RESEARCH AND WRITTEN YOUR PRESENTATION  
NOW ON TO THE COURT HEARING!**

# AT THE CONFERENCE

## TRAINING

Much of first day of Youth in Government is devoted to the final preparation of youth lawyers and case preparation. The Supreme Court procedures and the appellate process are explained, reviewed and practiced at that time.

## COURT HEARINGS

This is where all the magic happens! As soon as your case is called in the courtroom, you'll become an attorney and/or the Justice. This is your moment to shine, and all your practice and hard work will be put to the test. Some of your time will be spent either listening to presentations by other divisions of the court or making your own presentation. Listen carefully and be respectful towards everyone's presentation so they will do the same for you.

## A NOTE ON FACILITIES

We are the only teen program to be permitted to use the prestigious chambers and our relationship with the courts and the Capitol are very important to the future of the program. We expect that all property the YMCA is allowed to use during the course of the program will be treated with respect. The YMCA has always been known as a great organization to work with because of the caliber of its participants. Keep up the great work and thanks for your cooperation!

## TIPS ON PRESENTING

- The number one thing to remember while presenting your case is to be **CONFIDENT**. With confidence comes smooth, well-worded arguments.
- Be **PREPARED** - nothing looks worse to a panel of Justices than a delegate scrambling through notes to answer a question.
- Be a **MASTER** of the case. If you know the case inside and out, upside and down, you will be beyond ready to adjust to your opponent, answer questions and win.
- Know as much as you can about both sides of the argument, even if one partner is "specializing" on either side. **QUESTIONS THAT ARE ASKED CAN BE ANSWERED BY EITHER MEMBER OF YOUR TEAM**, meaning that if one person does not know how to answer, the other might.
- **PERSUADE YOURSELF**. At Youth in Government, each team is required to argue both sides of a case, even if you don't agree with one side. This means that you need to convince yourself that what you are saying is **100% CORRECT, JUST, AND LEGAL**, even if in reality you do not. By doing this, you will not only convince yourself that you are right, but the Justices as well.
- Cut to the chase. Just because an argument is long, often this can distract 'readers' from the central and most important part of your case. You are limited in speaking time so everything you say should have meaning. Cut out the fluff, get to the point and hit it hard.
- **RELAX**. This is supposed to be fun!

## SUPREME COURT HEARING PROCEDURE:

1. Presentation of the Justices – Follow the administrator’s instructions.
2. Introductions
3. The Presiding Justice will ask if each of the attorney teams is ready.
4. The appellant attorneys will deliver their arguments.
  - Each side gets 20 minutes to present their argument. Each attorney on your team **MUST** deliver a portion of the presentation; typically, teams split the time in half. Remember that the Justices may interrupt at any time with questions and it is wise to prepare only about 7-10 minutes of material to present.
  - Be courteous when addressing the court. Before beginning your arguments say, “Thank you your honor, may I address the court?” Each member of the attorney team should say that before their presentation.
  - One more suggestion: If you are the appellant attorney, you get time for rebuttal after the Respondent attorneys have presented their case. Rebuttal is just telling the Justices **ONE MORE TIME** why your interpretation of the case is correct. Teams have 20 minutes for their presentation in total. Most teams save five minutes for their rebuttal, leaving 15 minutes for their main argument.
  - Justices and justices own their courtrooms; it is their domain to do with as they please. They can interrupt the speaker at any time to ask questions. They may ask one, or several in a row. When a Justice or justice asks a question, try to answer it as briefly and directly as possible, as this counts towards your time. If your co-counsel is going to touch upon the question, tell the Justice this. Never argue with the Justice, simply “respectfully disagree” and listen to what they have to say.
5. The Respondent attorneys deliver their arguments. (The process is the same. See #4 for details)
6. The appellant attorneys deliver rebuttal statements (if they have any **AND** if they have time left).
7. The Presiding Justice thanks the attorneys and the panel of Justices leaves the chamber to deliberate the case in private.
  - The Justices will argue the case among themselves to determine points of law and how it should be interpreted and applied.
  - The Justices base their decision on both the authorities/case law, and the persuasiveness of the arguments of the attorneys.
  - Often times, the Justices cannot agree on a decision and the will have “majority” and “minority” opinions (you see this A LOT with the real-life Supreme Court). Or they will agree with the result, but not the reasoning. In these cases, each side of the ruling will write an opinion (a paper that states how they came to their conclusion). The reasons are very important since they will be the authority, or precedent, for later cases. The opinions are posted.

# COURT SCRIPT

Below is an example of what a Court Hearing will look like. 77777774

## SUPREME COURT SCRIPT

1. CALL TO ORDER Administrator/Bailiff  
  
"ALL RISE FOR THE HONORABLE JUSTICES OF THE  
**WISCONSIN SUPREME COURT, THE HONORABLE  
JUSTICE \_\_\_\_\_ PRESIDING"**
2. "YOU MAY BE SEATED" Presiding Justice
3. "ARE THE APPELLANTS READY?" Presiding Justice
4. "YES, YOUR HONOR" Appellant's Attorneys
5. "ARE THE RESPONDENTS READY?" Presiding Justice
6. "YES, YOUR HONOR" Respondent's Attorneys
7. "APPELLANTS, DO YOU WISH TO RESERVE TIME FOR  
REBUTTAL?" Presiding Justice
8. "YES YOUR HONOR, WE WISH TO RESERVE FIVE MINUTES  
FOR REBUTTAL." Appellant's Attorneys
9. "APPELLANTS, YOU MAY BEGIN" Presiding Justice
10. "MAY IT PLEASE THE COURT, MY NAME IS \_\_\_\_\_ AND  
MY PARTNER'S NAME IS \_\_\_\_\_. WE REPRESENT THE  
APPELLANT, \_\_\_\_\_ IN THE CASE OF \_\_\_\_\_ VS.  
\_\_\_\_\_."
- (Then proceed to give the overview of facts and then address each issue  
    interweaving the law and the facts. You have a total of 10 minutes to present).
11. **JUSTICES ASK QUESTIONS** Justices/Justices  
(STOP. Listen to question and answer it. Then move on with your  
argument.)
12. At the end of 10 minutes, state - "WE WOULD LIKE TO RESERVE THE  
REMAINDER OF OUR TIME FOR REBUTTAL" Appellant's Attorneys
13. "RESPONDENTS, YOU MAY PROCEED" Presiding Justice

- 14. RESPONDENT STANDS AND ADDRESSES THE COURT**
- “MAY IT PLEASE THE COURT, MY NAME IS \_\_\_\_\_ AND MY PARTNER’S NAME IS \_\_\_\_\_. WE REPRESENT THE RESPONDENT, \_\_\_\_\_”**
- Respondent’s Attorneys
- (Address each issue interweaving the law and the facts. There is no apparent need to restate the facts unless they help you clarify your arguments. You have a total of 15 minutes to present your argument).
- 15. JUSTICES ASK QUESTIONS**
- (STOP. Listen to question and answer it. Then move on with your argument.)
- Justices/Justices
- 16. RESPONDENT CONCLUSION**
- (At end of argument, Respondents conclude by telling the court what they want the court to do; i.e., to affirm the lower court’s decision.)
- Respondent’s Attorneys
- 17. APPELLANT REBUTTAL**
- (Address questions raised by Respondents and conclude by telling the court what they want the court to do, i.e., Reverse the decision of the lower court).
- Appellant’s Attorneys
- 18. “THANK YOU, COUNSEL, THIS COURT WILL TAKE THE MATTER UNDER ADVISEMENT AND ISSUE AN OPINION SHORTLY.”**
- Presiding Justice
- 19. “ALL RISE”**
- Administrator/Bailiff
- 20. JUSTICES ADJOURN TO DISCUSS CASE IN DELIBERATION AND DRAFT COURTS OPINION.**

# RESOURCES

## JUDICIAL TERMS

**ACQUITTED:** Found by a jury to be cleared from a charge of a crime.

**ACTUAL OR CONSTRUCTIVE:** Actual implies a real and concrete existence: one which can be directly experienced; Constructive implies a secondhand experience established in the mind of the law through arrangement, interpretation and inference.

**ADJUDICATE:** To settle or determine the outcome of something through the use of the judicial authority; to litigate.

**ADMISSION:** A Statement made by a person affirming a fact or circumstances from which guilt may be concluded.

**ADVERSE RULING:** An order made by a court, which is contrary to your interests.

**ADVOCACY:** The art of pleading or defending a case.

**AFFIDAVIT:** Sworn, written statement.

**AFFIRM:** Generally, an affirmation is an approval of something. In the appellate court, to affirm a judgment is to declare that it is correct and that the decision of the lower court is still in effect.

**AMBIGUOUS:** Capable of being understood in two or more possible ways.

**ANSWER:** To answer is an attempt to resist a set of alleged facts introduced by Plaintiff.

**APPEAL:** The complaint made to an appellate court of an error committed by a lower court whose judgment the appellate court is called upon to reverse or affirm.

**APPEAR:** To be physically before the court, to be in evidence.

**RESPONDENT:** The party who won in the trial court or lower court who is answering a petition or appellant's case in the appellate court.

**APPELLANT:** The party who brings an appeal to a higher court because they lost in the lower or trial court.

**ARBITRARY:** An action not based on any rational factors.

**ARRAIGNMENT:** The arraignment of an accused consists of calling the prisoner by name, reading the charge and asking for the entry of a plea.

**ARGUE:** To debate on a side of a case before the court.

**AUTHORITIES:** The body of works, statutes, precedents, judicial decisions or textbooks of the law which deal with questions of law.

**CIVIL LAW:** That branch of law that relates to private rights as opposed to public wrongs.

**CLAIMANT:** One who claims or asserts.

**COERCION:** To be compelled in action or thought against one's will.

**COMPLY:** To obey or act within the boundaries of a law.

**CONCLUSIVE:** Beyond question or further inquiry.

**CONCUR:** To agree; to act together. In the appellate courts, a concurring opinion is one filed by a justice who agrees with the decision stated in the majority opinion but wishes to set forth a separate view of the case.

**CONSENT:** Implies a voluntary agreement in which one party accepts an action of another.

**CONTENTION:** Something that is maintained or asserted as truth.

**CONTRACT:** An agreement between two or more parties.

**CONTRAVENES:** To oppose or to counter.

**CONVICT:** To be found guilty.

**DECISION:** Finding made by a court.

**DEFENDANT:** The party who stands accused of a civil or criminal wrong.

**DISSENTING OPINION:** An opinion filed by a justice which disagrees with the majority opinion and sets forth that justice's differing points of view.

**DOCTRINE:** A rule or well-established principle.

**ENACT:** To establish by law.

**EN BANC:** The entire court sitting.

**ESTOPPEL:** Estoppel is an action that bars a person from saying or doing something because in the past that person had said or done something which contraindicates the new action or words.

**EVIDENCE:** Anything that is introduced to a court to establish something as a fact.

**EVIDENCE, DIRECT:** Proof of facts by a witness who saw or heard something relevant to the case, such as an eyewitness.

**EVIDENCE, CIRCUMSTANTIAL:** Evidence based on a presumption an inference.

**EXIGENCY:** Calling for immediate action.

**EXTRINSIC:** From outside sources.

**FELONY:** A crime punishable by imprisonment in the state prison.

**FINDING:** After deliberation, the result decided upon.

**FINDING OF FACT:** A conclusion based on evidence arrived at.

**FRAUD:** An intentional action done by one party against another which deceived the party.

**FUNDAMENTAL LAW:** The basic law, like the constitution.

**GENERAL LAW:** Laws that affect the community at large.

**HABEAS CORPUS:** A formal writ aimed at stopping an illegal detention.

**HYPOTHETICAL:** A made up set of facts.

**IMMUNITY:** A privilege that exempts a person from a charge.

**IN RE:** Concerning the affair.

**INAPPLICABLE:** Not suitable; cannot be applied.

**INCORPORATE:** To write or make a part of.

**INDICIA:** Signs or indications.

**INFERENCE:** To draw conclusions from already established facts.

**INHERENT:** Involved with the essential character of something.

**INTEND:** To plan on something but not to have yet completed it.

**INTERALIA:** Among other things.

**INTRODUCED INTO EVIDENCE:** Presented to a court for finding of fact.

**IPSO FACTO:** By the fact itself.

**JUDICIAL NOTICE:** Official recognition of certain facts which are universally accepted.

**NEXUS:** Latin for the link or band.

**OBJECTION:** The act of a party taking exception to a matter.

**OBJECTION OVERRULED:** The courts ruling considering an objection insufficient.

**OBJECTION SUSTAINED:** To consider the objection sufficient and grant it.

**OPINION:** Written explanation filed by the court at the close of a hearing listing the reasons and authorities used.

**ORDINANCE:** An enactment by a city or country of a law.

**OVERRULED:** To void judgment or decision.

**PER SE:** By himself, taken alone.

**PETITIONER FOR CERTIORARI:** Bring the records of a trial court before the appellate court for review by special writ.

**PETITIONER:** The party presenting the request stated in a petition.

**PRESUMPTION:** An assumption that something is true without proof.

**PREVAIL:** To win.

**PRIMA FACIE:** Latin for a first sight.

**PROBABLE CAUSE:** A reasonable belief that an allegation is probably true.

**PRO SE:** By himself.

**PROCEEDINGS:** The general format used to conduct judicial business.

**PROSECUTE:** To charge an individual with a crime and follow the case through to end.

**QUASH:** To make void.

**RATIONALE:** An explanation of how an opinion was arrived at based upon authorities.

**REMAND:** To send a case back to the court of origin.

**RENDER:** To render judgment is to announce the decision.

**Response:** An allegation made by a defendant in which certain facts are admitted to be true, but are considered by the defendant to be insufficient enough to stop plaintiff from continuing his action.

**REVERSE:** to overrule; to make void.

**SHOW CAUSE:** To present a court with reasons why any intended course of action should not be carried out.

**SUBPOENA:** A command to appear before a court.

**SUPRA:** Latin for above.

**SUSTAINED:** A judgment made in a superior court that maintains the decision of a lower court to uphold.

**TENET:** A principle.

**TO WIT:** That is to say.

**TRIBUNAL:** A judicial court; fact finder.