

TOBACCO ON TRIAL:



An Innovative Mock Trial Curriculum for High School Students

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Presented by

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Project Description

A curriculum that puts tobacco industry executives on trial for the death of a person who died from exposure to secondhand smoke (SHS).

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Statistics on Smokefree Workplaces

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- 26 states/commonwealths plus D.C. 100% smokefree workplaces, and/or restaurants, and/or bars, with 5 more state statutes due to go into effect in 2008
- 656 municipalities have 100% smokefree provision in workplaces, and/or restaurants, and/or bars
- 11,305 municipalities covered by 100% smokefree provision in workplaces, and/or restaurants, and/or bars by either a state or local law, covering 58% of U.S. population

Source: Overview List – How Many Smokefree Laws?, Americans for Nonsmokers' Rights Foundation, current as of October 1, 2007, <http://www.no-smoke.org/pdf/mediaordlist.pdf>

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Effects of Secondhand Smoke on Heart Disease

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- 2006 Surgeon General's Report on Secondhand Smoke found a causal relationship between exposure to SHS and increased risk of coronary heart disease morbidity and mortality among men and woman "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General," June 27, 2006, viewed at <http://www.surgeongeneral.gov/library/seconhandsmoke/>
- SHS kills approximately 46,000 adult nonsmokers from coronary heart disease each year, by far the largest number of fatalities as a result of exposure to SHS (next largest is lung cancer at 3,000 deaths). "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General," June 27, 2006, viewed at <http://www.surgeongeneral.gov/library/secondhandsmoke/>
- Centers for Disease Control and Prevention issued a warning for anyone at risk for heart disease to avoid smoke-filled indoor environments completely Terry F Pechacek and Stephen Babb, How acute and reversible are the cardiovascular risks of secondhand smoke?, BMJ 2004;328:980-983 viewed at <http://www.bmj.com/cgi/content/full/bmj%3b328/7446/980>

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The Victim

A stand-up comedian who has performed at various comedy clubs for her entire adult life dies of a heart attack during a performance in a club that allows smoking.

- Non-smoker
- Worked for five years at this club
- No other risk factors such as diet, family history, or general ill health



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The Defendants



- President and CEO of tobacco company
- Scientist in charge of tobacco company's Research and Development Department
- Tobacco Company's Public Relations Representative

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Other Witnesses

- Prosecution:
 - Coworker who witnessed comedian's death
 - Comedian's cardiologist
 - Expert witness to testify about dangers of secondhand smoke
- Defense:
 - Expert witness to dispute alleged general dangers of secondhand smoke and specific causation in the death of the comedian

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Other Participants

- Prosecutors
- Defense Attorneys
- Jury Members
- Judge (teacher)

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The Criminal Charges



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Murder

- Criminally Negligent Homicide (Murder)
 - Failure to perceive a substantial and unjustifiable risk that death will occur
 - Risk must be of such nature and degree that failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation
 - One acts recklessly when he perceives and consciously disregards the risk

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Fraud

- Acting with intent to obtain property or money from persons by false or fraudulent pretenses, representations or promises
- Scheme to defraud must be ongoing and systematic
- Intent to defraud based on a “disregard of or reckless indifference to the truthfulness” of the Defendants’ statements or acts.

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Conspiracy

- Agreement between at least two persons to commit an unlawful act
- Need at least two parties and an agreement
- Causing significant harm to an individual or the general public as to be seriously contrary to the public interest
- Requires intent to commit unlawful act

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Testimony

Direct examination & Cross examination

Testimony will be based on a biographical dossier that each witness has received, providing them with sufficient information to answer questions

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Exhibits

Exhibits introduced during the trial derived from:

- Actual tobacco industry internal documents and memos
- Testimony from real tobacco trials
- Public health reports and studies
- Fact sheets compiled by public health groups

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Additional Materials

- Teacher's guide to facilitate trial
- Suggested additional research assignments on topics such as SHS smoke and the history of tobacco litigation
- Internet links to direct students to helpful resources.

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Issues For Debate on Both Sides

- Prosecution trying to punish tobacco company defendants' bad acts resulting in death of innocent person.
- Tobacco industry knew its product has deadly effects and placed profits above public health.
- What is the duty of the government to regulate smoking in the workplace ?
- Do individuals have to take the initiative to protect themselves from SHS?
- Defense has right to sell a legal product.
- Does SHS really cause heart disease?

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For More Information

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