

## OVERVIEW

The witness scripts should only be provided to the students who are playing those roles and those who will be participating as student lawyers.

### A. THE PLAYERS (per courtroom)

(The roles will be played by court staff and students.)

Judge - Judge James R. Klindt, United States Magistrate Judge

Robin Marbury, Courtroom Deputy Clerk - \_\_\_\_\_, Student

Morgan Miranda, Court Security Officer - \_\_\_\_\_, Student

Kayce/Casey Scott, Counsel for Plaintiff - \_\_\_\_\_, Student

Jordan Cooper, Counsel for Defendants - \_\_\_\_\_, Student

Peyton Johnson, Court Reporter- \_\_\_\_\_, Student

Sidney Young (Plaintiff) - \_\_\_\_\_, Student

Paul Perez (Plaintiff's cousin) - \_\_\_\_\_, Student

Riley Gardner (Defendant) - \_\_\_\_\_, Student

Alex Williams (Defendant's Neighbor) - \_\_\_\_\_, Student

The Person to read the scenario: \_\_\_\_\_, Student

Alternate 1: \_\_\_\_\_

Alternate 2: \_\_\_\_\_

### B. THE PROPS (per courtroom) (the props will be prepared by the Court)

Photograph of the car after the accident - Plaintiff's Exhibit 1

Medical record from Duval County Medical Center - Plaintiff's Exhibit 2

Certificate of Completion issued to Riley Gardner - Defendant's Exhibit 1

## **SCENARIO - TEXTING WHILE DRIVING**

On May 11, 2015, at approximately 1:30 a.m., four teenagers were riding in a 2015 Honda Accord heading southbound on Wells Gate National Parkway. Suddenly, the vehicle slid into the median and crashed into a light pole. The front-seat passenger, Sidney Young, who was visiting for the weekend from a nearby state, was the most seriously injured. Less severe injuries were suffered by the driver, Riley Gardner, and the other two teens. No other vehicles were involved. Sidney Young was taken to Duval County Medical Center for evaluation and treatment of serious injuries to Sidney's right lower leg and foot. Sidney also suffered less severe injuries to the head, chest, and right arm and hand. According to Sidney Young and another passenger, the driver, Riley Gardner, was texting on a cell phone while driving.

Sidney Young's parents consulted a law firm, which agreed to file a personal injury lawsuit on Sidney's behalf at no cost to the Youngs. The complaint was filed in the United States District Court on January 17, 2016. The lawsuit alleged that Defendant Riley Gardner was negligent by failing to operate the motor vehicle in a reasonable manner. The complaint requested judgment against Riley Gardner.

On February 1, 2016, a copy of the complaint was served on the Gardner family. The next day, Riley Gardner's mother consulted a lawyer about what she should do. Afraid of the high risks of trying to defend against a federal lawsuit without legal assistance, Ms. Gardner decided to hire the lawyer to defend Riley for a non-refundable fee, plus expenses and an additional non-refundable fee if the case failed to settle before trial.

In their written response filed in court on February 23, 2016, Riley Gardner denied that he/she was in any way at fault in this case or liable to Sidney Young. Riley stated that, at all times, he/she exercised reasonable care for Sidney Young and the other passengers. The response claimed that the alleged accident and any injuries and damages suffered by Sidney Young resulted from other causes or acts, including the rainy weather and slippery road conditions. Riley Gardner claimed he/she had no control over these causes and he/she was not liable.

COURT SECURITY OFFICER: All rise. LONG CALL.  
The Honorable James R. Klindt,  
United States Magistrate Judge presiding.  
Please be seated.

JUDGE Good Morning ladies and gentlemen.  
This is Case No. 3:16-cv-125-J-34JRK.  
It is the case of Sidney Young v. Riley Gardner.

I will ask the attorneys to introduce themselves.

Counsel for the Plaintiff.

Counsel for the Defendants.

JUDGE We have previously selected the jury, so at this time, I will  
ask our Courtroom Deputy to please swear the jurors.

COURTROOM DEPUTY: (Swears jury).

JUDGE Preliminary Instructions.

## Preliminary Instructions Before Opening Statements

Members of the Jury:

Good morning, ladies and gentlemen. My name is \_\_\_\_\_. I will be the judge presiding over the trial in which you have been selected as jurors. My job is to maintain order and decide how to apply the rules of the law to the trial. I will also explain various rules to you that you will need to know in order to do your job as the jury. It is my job to remain neutral on the issues of the lawsuit.

**Attorneys:** The attorneys who you just met have the job of representing their clients. That is, they speak for their clients here at the trial. They have taken oaths as attorneys to do their best and to follow the rules of their profession.

**Plaintiffs Counsel:** The attorney on this side of the courtroom is Kayce/Casey Scott. (S)he represents Sidney Young and (s)he is the person who filed the lawsuit here at the courthouse. Her/His job is to present his/her client's side of things to you. (S)he and her/his client will be referred to most of the time as "the plaintiff."

**Defendants' Counsel:** The attorney on this side of the courtroom is Jordan Cooper. (S)he represents Riley Gardner, the one who has been sued. Her/His job is to present her/his client's side of things to you. (S)he and her/his client will usually be referred to here as "the defendant. "

**Court Clerk:** This person sitting in front of me, Robin Marbury, is the court clerk. (S)he is here to assist me with the trial, including the numbering and collecting of the exhibits that are introduced in the course of the trial.

**Court Reporter:** The person sitting in front of me, Peyton Johnson, is the court reporter. Her/His job is to keep an accurate legal record of everything we say and do during this trial.

**CSO:** The person over there, Morgan Miranda, is the Court Security Officer, or "CSO." The CSO's job is to maintain order and security in the courtroom. The CSO is also my representative to the jury. The CSO cannot answer any of your questions about the case. Only I can do that.

**Jury:** Last, but not least, is the jury. The jury's job will be to decide what the facts are and what the facts mean. Jurors should be neutral at this point and have no fixed opinion about the lawsuit. At the end of the trial, the jury will give me a written

verdict. A verdict is simply the jury's answer to my questions about the case.

The case you have been selected to hear is a civil case. A civil trial is different from a criminal case, where a defendant is charged by a prosecutor with committing a crime. The subject of a civil trial is a disagreement between people or companies, where the claims of one or more of these parties have been brought to court to be resolved.

The Plaintiff, Sidney Young, is suing Defendant Riley Gardner. The complaint claims that negligence by Riley Gardner was the cause of the injuries suffered by Sidney Young. Plaintiff also claims that Defendant Riley Gardner failed to drive the car in a reasonable manner. The Defendant, Riley Gardner, denies that he/she was negligent and also denies that he/she caused Plaintiff's injuries.

Let me now give you some preliminary instructions to guide you as you listen to the evidence.

You have now been selected as the jurors to try this case. By your verdict, you will decide the disputed issues of fact. I will decide all questions of law that arise during the trial, and before you retire to deliberate together and decide the case at the end of the trial, I will instruct you on the rules of law that you must follow and apply in reaching your decision.

Because you will be called upon to decide the facts of the case, you should give careful attention to the testimony and evidence presented for your consideration during the trial, but you should keep an open mind and should not form or state any opinion about the case one way or the other until you have heard all of the evidence and have had the benefit of the closing arguments of the lawyers as well as my instructions to you on the law.

During the trial you must not discuss the case in any manner among yourselves or with anyone else, and you must not permit anyone to attempt to discuss it with you or in your presence.

From time to time during the trial, I may be called upon to make rulings of law on motions or objections made by the lawyers. You should not infer or conclude from any ruling I may make that I have any opinions about the case favoring one side or the other.

After all the testimony and evidence has been presented, the lawyers will then be given an opportunity to address you and make their summations or

final arguments in the case. The statements that the lawyers throughout the trial, as well as the arguments they present at the end of the trial, are not to be considered by you either as evidence in the case (which comes only from the witnesses and exhibits) or as your instruction on the law (which will come only from me).

I will ask you now to give your attention to the attorneys who will present brief opening statements.

[OPENING STATEMENTS]

[Following openings:] Counsel for Plaintiff - please call your first witness.

### Plaintiff's Opening Statement

This is a case about a seventeen year old who left a party late one rainy evening, got into his/her car with a few friends, and chose texting with his/her girlfriend/boyfriend about meeting at a coffee shop, over the safety of his/her passengers. As a result - - BAM - - the car crashed, leaving my client severely injured.

Good morning, ladies and gentleman of the jury. My name is Kayce/ Casey Scott, and I represent the Plaintiff in this case, Sidney Young. We have brought a lawsuit against the Defendant: Riley Gardner.

My client, Sidney Young, is claiming that the driver of the car, Riley Gardner, was negligent in driving, and that Riley Gardner's negligence caused severe injuries to Sidney. You will learn in today's trial that negligence is the failure to use reasonable care to prevent harm. Reasonable care means the amount of care a regular person would use.

So let's talk about the testimony and the facts you will hear and learn today which will show that the Defendant, Riley Gardner, was negligent and that Riley's negligence caused Sidney's injuries. The Plaintiff, Sidney Young, will present two witnesses: (1) Sidney Young and (2) Sidney's cousin, Paul Perez. Through these witnesses, you will learn the following.

On May 11, 2015, Sidney had just arrived in town for the weekend to visit his/her cousin, Paul Perez. The two cousins decided to go to Austin Crosher's house. Austin was having a party because Paul's soccer team had just won the regional championship. While the cousins were

at the party, they hung out and played pool. Sidney started talking to Riley Gardner, who was a friend of Paul's. Sidney and Riley really hit it off. Eventually, Sidney, Riley, Paul, and Riley's friend, Alex decided to go get some burgers. They piled into Riley's car, which was actually owned by Riley's mother. Riley drove, Sidney rode in the front passenger's seat, and Paul and Alex rode in the back seat.

It was raining that night. While they were driving on the divided highway of Wells Gate National Parkway, Riley's phone rang. It was a text message from a person named Taylor Browning. Riley said, "Taylor is driving my crazy," and started texting Taylor back. Riley did not slow the car down; instead, Riley kept going at the same dangerous speed. Sidney told Riley to stop texting, but Riley insisted on texting instead of watching the road. All of a sudden, the car began skidding. Riley tossed or dropped the phone into Sidney's lap. Before Riley could do anything else, the car crashed into a light pole.

Luckily, Riley, Paul, and Alex were able to get out of the car okay and had very minor injuries. For Sidney, it was a different story. The passenger's door was smashed in so badly that Sidney could not move. Paramedics arrived within a few minutes of the accident and they had to pry Sidney out of the car.

Sidney suffered severe injuries to his/her right leg and foot. Both were crushed in the accident. Sidney also had three broken ribs. Sidney had to have surgery to correct the damage to his/her right leg and foot, and metal rods and pins were placed in his/her bones. The rods and pins will eventually have to be replaced. Because of all this damage, Sidney suffers daily pain in his/her back and legs. Sidney cannot sit through classes.



Ladies and gentlemen, the Plaintiff does not dispute that Riley was a good kid. But even good kids make bad choices. That is exactly what happened the night of May 11, 2015: Riley made a bad choice that had consequences for Sidney Young, and should have consequences for Riley as well.

At the end of this trial, after you have heard all the testimony and seen all the exhibits, I will have an opportunity to come back up here and explain what we believe the evidence has shown. And we will ask you to come back with a verdict finding that Riley Gardner was negligent, and that Riley's negligence caused Sidney Young's injuries.

Thank you.

## Defendant's Opening Statement

Ladies and gentleman of the jury, there are two sides to every story. In fact, in some cases, there are even more than two sides to the story. That is what we have here. You will learn that there were four witnesses to this accident, and each one of them has a different version of what happened.

We will talk about these stories in a moment, but first let me introduce myself and my client. My name is Jordan Cooper, and I represent the Defendant in this case: Riley Gardner. Riley is an eighteen year old high school senior. Because Riley's dad died in a car accident six years ago, Riley has lots of responsibilities at home. Riley helps his/her sisters with their homework every day after school. Riley has a part-time job and maintains a 3.5 grade point average at school. Riley never misses his/her curfew.

Turning to the reason we are here today, some facts in this case are not in dispute. Riley, the Defendant, agrees that it was raining on the night of May 11, 2015. The Defendant does not dispute that Riley received a text message from Taylor Browning when Riley was driving the mother's car. What Defendant does dispute is how Riley handled the situation and what happened just before the accident. You will have to determine who is telling the truth and what actually happened that night. You've already heard what Plaintiff's witnesses will say. Here is what the Defendant's witnesses will say.

Riley will tell you that he/she received a text message from Taylor Browning saying, "Call me NOW." Riley texted back, "soon." But Taylor texted back, "NOW!" At that point, Riley hit the reply button but tossed the phone to the Plaintiff, Sidney, who was sitting beside Riley. Riley asked Sidney to type "Not now, I'm driving." Before Sidney could text the message, the car started skidding, got out of control, and hit a light pole. Riley will tell you that Riley and the others saw several cars that had spun out of control that night. The road was extremely slippery because of the rain.

The Defendant's second witness, Alex Williams, will also testify that Riley threw the phone to Sidney to text Taylor as soon as Riley realized that the road was slippery and saw the cars spun out on the side of the road.

In the end, we will ask you to return a verdict finding Riley Gardner was not negligent.

Thank you.

## **TESTIMONY OF SIDNEY YOUNG (PLAINTIFF)**

Counsel for Plaintiff: Your Honor, we call our first witness, Sidney Young.

Judge: Sidney Young, please come forward to be sworn.

Clerk Please raise your right hand. Do you solemnly swear that the testimony you are about to give before this Court will be the truth, the whole truth, and nothing but the truth, so help you God?

Sidney Young: Yes.

Clerk: You may be seated. Please state your name for the record and spell your last name.

Sidney Young: Sidney Young. Y-O-U-N-G

Counsel for Plaintiff: How old are you?

Sidney Young: I'm 18 years old now.

Counsel for Plaintiff: Tell us what happened on the evening of May 11, 2015.

Sidney Young: Well, it was a Friday and I had just come to town to spend the weekend with my cousin Paul. We went to a party after their soccer team had just won the regional championship, and everybody was pretty pumped. At one point, some of us decided to go get something to eat. Paul and I decided to go. I had hit it off with one of Paul's friends, Riley. Riley's cool - like the people I hang with at my own school. I got in the front seat of Riley's car, and Paul and Riley's friend Alex got in the back.

Counsel for Plaintiff: What happened then?

Sidney Young: Well, Riley was cruising along when the cell phone rang. Riley looked at it and must have seen a text because Riley said something like, "Taylor is driving me crazy." Riley then started texting- didn't slow down or

anything, and it was raining and at night, which was definitely not cool ... made me edgy. Riley later tossed the phone into my lap ... or dropped it - right before the car crashed.

Counsel for Plaintiff: Tell us what you remember about the accident.

Sidney Young: It's kind of a fuzzy blur, but I remember we skidded, then slammed into a light pole in the parkway median. The paramedics had to pry me out of the car.

Counsel for Plaintiff: Your Honor, may I approach the witness with what has been marked as Plaintiffs Exhibit 1?

Judge: Yes.

Counsel for Plaintiff: Sidney, please identify that photograph for the record?

Sidney Young: That is a picture of Riley's car after the accident.

Counsel for Plaintiff: Your Honor, I request that Plaintiffs Exhibit 1 be admitted into evidence.

Judge: Any objection?

Counsel for Defendant: No, your Honor.

Judge: Plaintiffs Exhibit 1 is admitted into evidence and you may publish.

Counsel for Plaintiff: Sidney, please tell the jury where you were seated at the time of the accident?

Sidney Young: I was sitting in the front, passenger seat.

Counsel for Plaintiff: Describe your injuries from the accident.

Sidney Young: Well, I couldn't feel my right leg and foot, which were crushed in the accident. I couldn't even clench my right fist to bang on the car door to get out. At the ER, I was in so much pain I could barely answer the doctors'

questions. The doctors told me three ribs were broken. That must have been why every breath was a killer. I couldn't move the toes on my right foot. They did surgery on me that night to put a metal rod and pins in my leg, which will have to be replaced later. The whole thing has been extremely painful.

Counsel for Plaintiff: Your Honor, may I approach the witness with what has been marked as Plaintiffs Exhibit 2?

Judge: Yes, you may.

Counsel for Plaintiff: Sidney, could you please identify the documents I have placed in front of you?

Sidney Young: These are my medical records from Duval County Medical Center from the night of the accident.

Counsel for Plaintiff: Your Honor, I request that Plaintiffs Exhibit 2 be admitted into evidence.

Judge: Defense counsel, any objection?

Counsel for Defendant: No, your Honor.

Judge: Plaintiffs Exhibit 2 is admitted into evidence and you may publish.

Counsel for Plaintiff: Sidney, I am showing you your admittance record from the night of the accident. Could you please read the assessment section on page 2?

Sidney Young: Broken right leg. Several broken bones in right foot. Severe bruising to cranium. Three broken ribs. Contusions to right arm and hand.

Counsel for Plaintiff: And, what does the first line of the plan section indicate?

Sidney Young: Immediate surgery is required for the broken leg and foot.

Counsel for Plaintiff: Thank you, Sidney. Any long-term consequences from these injuries you sustained in the car accident?

Sidney Young: The worst thing is the pain in my back and legs. I can't sit through a class period - so college is out. I can't take a desk job, let alone go to a movie or a game.

Counsel for Plaintiff: Thank you, Sidney. Nothing further.

Judge: Does the defense have any questions for this witness?

Counsel for Defendant: We do, Your Honor. Sidney, it was raining hard the night of the accident, wasn't it?

Sidney Young: Yes that's true.

Counsel for Defendant: Isn't it true that you passed two other cars that had spun out of control on Wells Gate National Parkway that night?

Sidney Young: That's why Riley should have been driving even more carefully.

Counsel for Defendant: Move to strike as non-responsive.

Judge: Granted. The jury will disregard. Sidney, you need to answer the question. You are certainly free to explain your answer but you do have to answer the question asked. Counsel you may ask the question again.

Counsel for Defendant: I'll move on, your Honor. Sidney, you testified that Riley tossed the phone or dropped it into your lap. Did Riley say anything to you then?

Sidney Young: Not that I remember.

Counsel for Defendant: Thank you, Sidney. No further questions.

Judge: Redirect?

Counsel for Plaintiff: Yes, very briefly. Sidney, did you see other cars that had crashed before your accident?

Sidney Young: Yes, we did. That's why I thought Riley should be driving even more carefully.

Counsel for Plaintiff: All right, Sidney, within how many seconds of the collision was Riley texting?

Sidney Young: I don't know. It was right before - like, just a few seconds.

Counsel for Plaintiff: Did you ever tell Riley to stop texting?

Sidney Young: I did, but Riley played it off. I didn't want to press the point because I didn't want to distract Riley even more when we were already in a bad driving situation.

Counsel for Plaintiff: Nothing further.



## **TESTIMONY OF PAUL PEREZ (WITNESS FOR PLAINTIFF)**

Judge: Sidney, you may step down. Next witness, counsel?

Counsel for Plaintiff: Next, we would like to call Paul Perez.

Judge: Paul Perez, please come forward and be sworn.

Clerk: Please raise your right hand. Do you solemnly swear that the testimony you are about to give before this Court, will be the truth, the whole truth, and nothing but the truth, so help you God?

Paul Perez: Yes.

Clerk: You may be seated in the witness stand. Please state your name for the record and spell your last name.

Paul Perez: Paul Perez. P-E-R-E-Z

Counsel for Plaintiff: Please state your age for the record.

Paul Perez: I'm 17.

Counsel for Plaintiff: Could you please tell us what happened on the evening of May 11, 2015?

Paul Perez: My cousin Sid was visiting from out of state for the weekend. We ended up over at Austin Crasher's ...hanging out and playing pool. Around 10:30, we decided to go grab some burgers. We piled into Riley's car. Riley was driving and Sid rode shotgun. Alex and I were in the back seat.

Counsel for Plaintiff: What happened next?

Paul Perez: Well, as soon as we got out of the driveway, Riley got a text from Taylor Bowling, and they were going back and forth. We were on the Parkway, a four lane divided highway. The next thing I know, we were skidding. Riley must have slammed on the brakes and

lost control of the car.

Counsel for Plaintiff: Then what happened?

Paul Perez: The front passenger door must have hit the light pole in the median first, because the car was wrapped around it. Alex and I were able to get out and so was Riley, but Sid's door was all bent out of shape. Sid was pinned inside and couldn't move. Somebody driving by must have called 911 because in a few minutes, the ambulance arrived. The paramedics took Sid to the hospital. The rest of us pretty much walked away with bruises, but Sid was in really bad shape.

Counsel for Plaintiff: Thank you, Paul. No further questions.

Judge: Any questions on cross-examination?

Counsel for Defendant: Yes, Your Honor. Paul, what is your relationship to the Plaintiff in this case?

Paul Perez: I'm his first cousin. Our mothers are sisters.

Counsel for Defendant: Tell us, isn't it true that just before the accident in this case, you saw two cars that had skidded off the road on the Parkway?

Paul Perez: Yes, that's true. All the more reason Riley should have been paying more attention - with both hands on the wheel - keeping the car under control.

Counsel for Defendant: Thank you, Paul. No further questions.

Judge: Redirect?

Counsel for Plaintiff: No, Your Honor.

Judge: Paul, you may step down. Next witness, counsel?

Counsel for Plaintiff: We have no other witnesses, Your Honor. The plaintiff rests.

## **TESTIMONY OF RILEY GARDNER (DEFENDANT)**

Counsel for Defendant: We call Riley Gardner.

Judge: Riley, please come forward to be sworn.

Clerk: Please raise your right hand. Do you solemnly swear that the testimony you are about to give before this Court will be the truth, the whole truth and nothing but the truth so help you God?

Riley Gardner: Yes.

Clerk: Please state your name for the record and spell your last name.

Riley Gardner: Riley Gardner. G-A-R-D-N-E-R.

Counsel for Defendant: Please state your age for the record.

Riley Gardner: I'm 18.

Counsel for Defendant: Could you tell us about yourself and your family?

Riley Gardner: I'm a high school senior now. I live with my mom and three younger sisters. I watch my sisters after school until Mom gets home from work, then I go to my job and get back by 10 p.m. I do homework, then go to bed. My dad died in a car accident about six years ago, so it's just the five of us at home.

Counsel for Defendant: Tell us what happened on the evening of May 11, 2015.

Riley Gardner: Well, our soccer team had just won the regionals. Mom let me have the car, so my next-door neighbor Alex Williams and I picked up my friend Paul and his cousin Sid, and we all went to a party. I promised to meet Taylor Bowling -- another friend of mine -- for coffee later at The Wireless Cafe. I figured Taylor would be doing homework there, like usual, and

wouldn't care when I showed up.

Counsel for Defendant: What happened at the party?

Riley Gardner: We played pool and hung out and, at one point, a couple of us decided to go get something to eat at BW3's. Paul, his cousin Sid, and my friend Alex were in my car, and we were on the Parkway when my phone rang with a text from Taylor. It said, "Call me NOW."

Counsel for Defendant: What did you do then?

Riley Gardner: I texted back: "soon." But a minute later, my phone rings again and Taylor's texting, "NOW!" -in all caps. I'd had it. Taylor was driving me crazy. It was late, and raining. So I just hit reply, then tossed the phone to Sid and asked Sid to type "Not now, I'm driving." I wanted Taylor to get the picture that I'd be in touch as soon as I could.

Counsel for Defendant: What happened after that?

Riley Gardner: Next thing I know, the car is skidding out of control and hits a pole. I'm very sorry about Sid getting hurt, and I know Sid and his parents and Paul will always blame me for everything, but I don't think it really was my fault. That's why they call them accidents. The road was slippery -and actually, we saw several cars that had skidded out of control that night.

Counsel for Defendant: Your Honor, may I approach the witness with what has been marked as Defendant's Exhibit 1?

Judge: You may.

Counsel for Defendant: Riley, what is that in front of you?

Riley Gardner: This is a certificate I received for completing a safety course as part of my drivers' education class.

Counsel for Defendant: Tell us about that course.

Riley Gardner: Well, it was not required as part of our drivers' education class, but I, and of course, my Mom, thought it would be a good idea especially since my Dad died in a car accident. So, I spent four hours on a Saturday morning at the class with only about four other people. I guess no one else wanted to give up part of their Saturday.

Counsel for Defendant: Your Honor, I ask that Defendant's Exhibit 1 be admitted into evidence.

Judge: Any objection from counsel for Plaintiff?

Counsel for Plaintiff: No, Your Honor.

Judge: Defendant's Exhibit 1 is admitted into evidence and you may publish if you so choose.

Counsel for Defendant: Thank you. Nothing further, Your Honor.

Judge (to Counsel for Plaintiff): Counsel?

Counsel for Plaintiff: Riley, how many times in your life would you estimate that you have sent text messages while driving?

Riley Gardner: I have no idea.

Counsel for Plaintiff: Would it be fair to say that you've sent at least 100 text messages while driving?

Riley Gardner: I don't keep count, but yeah, that's probably true. I've got a lot going on. It's not a big deal, because I can text without looking down at the phone.

Counsel for Plaintiff: Isn't it true, Riley, that texting requires glances at the screen—even for people who are really good at it?

Riley Gardner: Well, yeah, but I can glance down and back real quick.

Counsel for Plaintiff: Did your mother ever see you texting while driving?

Riley Gardner: Maybe a few times?

Counsel for Plaintiff: Did she approve of it?

Riley Gardner: She just said that I should focus on the road.

Counsel for Plaintiff: Riley, you've just admitted that you have sent more than 100 text messages while driving, I would remind you that you are under oath. Do you expect us to believe that, right before the accident in question, you asked Sidney Young, whom you'd just met, to take over and text Taylor "Not now, I'm driving"?

Counsel for Defendant (standing, outraged): Objection, Your Honor!

Counsel for Plaintiff: I withdraw the question. Nothing further.

Judge: Any redirect?

Counsel for Defendant: Yes, Your Honor. Riley, were you sending a text at the time the vehicle collided with the light pole?

Riley Gardner: No. I was not. By then, I had already tossed Sid the phone.

Counsel for Defendant: Thank you. No more questions.

Judge: Riley, you may step down. Defense counsel, your next witness?

## **TESTIMONY OF ALEX WILLIAMS (WITNESS FOR THE DEFENDANT)**

Counsel for Defendant: The defense calls Alex Williams to the stand.

Clerk: Please raise your right hand. Do you solemnly swear that the testimony you are about to give before this Court will be the truth, the whole truth and nothing but the truth so help you God?

Alex Williams: Yes.

Clerk: Please state your name for the record and spell your last name.

Alex Williams: Alex Williams. W-I-L-L-I-A-M-S.

Counsel for Defendant: Please state your age for the record.

Alex Williams: 17.

Counsel for Defendant: Where were you on the evening of May 11, 2015?

Alex Williams: I was playing pool at Austin Crasher's with Riley, Paul and his cousin Sid. Around 10:30 or so, we headed over to BW3's in Riley's car to get something to eat. Sid was up front with Riley. Paul and I were in the back seat.

Counsel for Defendant: Then what happened?

Alex Williams: Riley was texting something to Taylor Bowling. Riley was dating Taylor, and I guess Taylor was getting clingy—calling and texting Riley a lot. Taylor and I used to be friends and Taylor tends to smother people. The roads were slick and when Riley saw a couple of cars on the side of the road, Riley threw the phone to Sid and asked Sid to text Taylor. Riley is actually a really safe driver. We go a lot of places together.

Counsel for Defendant: What happened next?

Alex Williams: Well, everything seemed to go into slow motion. We skidded toward the median, then there was a terrible sound when we crashed. I'll never forget the horrific noise. The next thing I know Sid is yelling about his hand and leg. Paul, Riley, and I managed to get out of the car, then we all tried to get Sidney out. Sidney looked pretty messed up.

Counsel for Defendant: Thank you. No further questions.

Judge: Cross?

Counsel for Plaintiff: Is it fair to say that, because you were in the back seat, you couldn't see everything that actually happened in the accident?

Alex Williams: Well, things did happen pretty fast. But I know the crash wasn't because Riley was texting, because Riley handed off the phone to Sid before that.

Counsel for Plaintiff: How long have you known Riley Gardner?

Alex Williams: Since first grade. We're next-door neighbors.

Counsel for Plaintiff: Is it fair to say that you are good enough friends that you would do just about anything to help Riley?

Alex Williams: Absolutely. We're tight. We always say we've got each other's back.

Counsel for Plaintiff: Would you be willing to lie under oath to protect Riley?

Counsel for Defendant (standing up, outraged): Objection, Your Honor!

Judge: Overruled. The witness will answer the question.

Alex Williams: No, I wouldn't do that.

Counsel for Plaintiff: We have nothing further, Your Honor.



Judge: Any redirect?

Counsel for Defendant: No, Your Honor. The defense rests.

Judge: Okay, The witness may step down. Ladies and gentleman of the jury, we are going to take a short break, and when we return, we will hear the parties' closing arguments. I will then provide you with some instructions on the relevant law and how you should conduct your deliberations. The Court stands in recess.

### Plaintiff's Closing Argument

Ladies and gentleman of the jury. You have had the opportunity to listen to all of the witnesses and to see all of the exhibits. Now you must ask yourselves whether Riley Gardner was negligent in operating the vehicle, and whether Riley's negligence caused severe injuries to Sidney Young.

The Judge has instructed you that negligence is the failure to use ordinary or reasonable care to prevent harm. That means if Riley was not as careful as a regular person would be, then you should find in favor of my client, Sidney.

Now let's go through the evidence you just heard which will help you determine whether our allegations are true. First, you heard from the Plaintiff, Sidney Young. Sidney told you that when Riley's phone rang, Riley said, "Taylor is driving me crazy." Immediately, Riley started texting Taylor back, despite Sidney telling Riley not to text and drive. Riley did not slow down, even though it was raining outside and the road was slick. Just as the car started skidding, Riley tossed or dropped the phone in Sidney's lap. Riley did not say anything as the phone landed in Sidney's lap, and Riley certainly did not tell Sidney to text anything back to Taylor. What does that mean? That means Riley only threw the phone or dropped it in Sidney's lap when Riley knew the car was in trouble, and by that time it was too late.

Then, you heard from Sidney's cousin, Paul Perez. Paul confirmed that Riley and Taylor were texting back and forth shortly before the accident occurred.

Ladies and gentleman, we have proved to you that it is more likely than not that Riley Gardner was less careful than a regular person because Riley was texting while driving at night on slippery, rainy roads – Riley was negligent. We ask that you return a verdict in favor of the Plaintiff.

Thank you.

### Defendant's Closing Argument

Ladies and gentleman of the jury, at the beginning of this trial, I told you that there are at least two sides to every story. In this case, there are four sides because there were four witnesses to the accident that occurred on May 11, 2015. You have heard all of the sides, and shortly it will be up to you to decide who to believe.

The Defendant in this case, Riley Gardner, is being blamed for an accident that was not caused by him/her. In fact, Riley was using good judgment just before the accident occurred. Riley knew it was raining outside. He/she had just seen other cars spun out on the side of the road. So when Riley received multiple texts from Taylor, Riley did what was safe: handed the cell phone to Sidney Young and asked Sidney to write back to Taylor. What did Riley ask Sidney to write? "Not now, I'm driving." Riley knew it was dangerous to text and drive — Riley even wanted Taylor to know he/she was driving and Riley was not willing to risk an accident for texting. Unfortunately, even though Riley did everything right, the car started skidding, got out of control, and hit a light pole. What caused the car to skid? The road was slippery because of the rain.

How do you know that Riley was using good judgment that night? First, consider that Riley is a great kid. Riley is an eighteen year old high school senior. Because his/her dad died in a car accident six years ago, Riley has lots of responsibilities at home. Riley helps his/her sisters with their homework every day after school. Riley has a part-time job and maintains a 3.5 grade point average at school. He/she never misses his/her curfew. Riley even took a special safety course through his/her driver's education class which was not required.

Second, the night of the accident, Riley was not willing to take a chance by texting while driving on dangerous roads, so Riley tossed the phone to Sidney and asked Sidney to text Taylor. Remember that Alex Williams confirmed this.

If you believe that Riley tossed the phone to Sidney so that Riley could focus on driving, rather than texting, then you should return a verdict for Defendant.

Thank you.

### Plaintiff's Rebuttal

Ladies and gentlemen, I am not going to go through all of the Plaintiff's evidence again. I am just going to take this opportunity to tell you why you should not believe the Defendant's story.

First, when you are considering Riley's testimony, do not forget that Riley admitted to texting more than 100 times while driving! On the night in question, Riley tried to explain to you that after sending one text to Taylor while driving, Riley received another text, hit the reply button, and tossed the phone to Sidney. The only reason that the phone got tossed to Sidney's lap was because Riley realized that the car was in trouble. But by then, it was too late.

When you consider all the evidence, you will come to one conclusion: we have proved to you that Riley Gardner was negligent in driving the vehicle, and that Riley's negligence caused the severe injuries suffered by the Plaintiff, Sidney Young. As such, we ask that you return a verdict in favor of the Plaintiff.

Thank you.