

The Case of the Facebook Fiasco

Mock Civil Law Scenario: *Opolsky v. Jaswal and Pasha*

Teacher Resource

Curriculum Links: Understanding Canadian Law (CLU3E), Grade 11, Workplace Preparation

Legal Focus: Civil Law, Torts, Defamation

Estimated Time: 1 period

Overall Expectations:

- Describe the processes for taking a civil case to trial and resolution.
- Examine how tort law supports people who are injured or harmed.

Specific Expectations:

- Define a tort and distinguish between intentional torts (e.g. assault and battery, trespass, libel, and slander) and unintentional torts (e.g. negligence).

Description of the Scenario

Bruce Opolsky is a wrestler for the Burdett Lake High School wrestling team. He is not the best on his team, but has worked hard and recently won the “Most Improved Player Award.” On April 23 Bruce applied to Lani Chu, the Co-Coordinator of Graykes Overnight Camp, for a job as a camp counsellor at their summer sports camp.

Bruce Nicholas is in the same year as Bruce Opolsky. He is a member of the football team at Burdett Lake High.

On May 12 a group of students, led by Tahiya Jaswal, created a Facebook group for their school newspaper, the *Burdett Lake Bugle*. One of the discussion threads on the group’s site was called “Bruce is a Cheater.”

In the initial post, Tahiya Jaswal, the editor of the newspaper, wrote an ‘exposé’ about “Bruce.” In it she wrote:

“Bruce is a cheater. He takes the easy way out of everything. He paid Kiran to finish his English report and he cheated during his Chemistry final. I’m sure he doesn’t come by anything honestly. He doesn’t even know how to work – I bet he’s on steroids.”

After Tahiya’s post, a number of other students commented as well. Jordan Pasha wrote:

“I totally agree. He’s cheated off my work in class. The ‘roids probably make his tackles and flips more forceful but his brain cells useless!”

The Facebook group is open to all students in the Burdett Lake High School Facebook network. The “Bruce is a Cheater” discussion thread came up on the newsfeed for all members of Facebook from Burdett Lake High School.

Burdett Lake is a small high school and most students know both Bruces. Last year Bruce Nicholas was the Prom King and Bruce Opolsky placed second at OFSAA for wrestling. Both Bruces are registered in grade twelve chemistry this year.

The wrestling coach heard about the Facebook posts and made Bruce Opolsky take a urine analysis test. He was benched while the coach waited for the results. In addition, Lani Chu heard about the Facebook posting through her daughter, a student at Burdett Lake. Based on the posting, Lani denied Bruce Opolsky the summer camp counsellor job because she didn’t feel that he was a trustworthy candidate.

After these events (and a clean bill of health from the wrestling coach), Bruce Opolsky sued Tahiya Jaswal and Jordan Pasha for defamation. In his lawsuit, Bruce Opolsky asked for the following in damages:

- \$2,500 for lost wages as a camp counsellor
- \$5,000 for general damages

The Final Judgment

This is a mock scenario. Students will use the information provided to determine a fair judgment.

Teaching & Learning Strategies

1. Ask students to read *The Big Question* and use the *Think/Pair/Share* technique to introduce the topics of defamation, libel, and slander.
2. Using a teacher- or student-centred reading strategy, read *The Facts of the Case*. Clarify any questions and point out any issues that might be unclear.
3. Discuss *The Issues* and *The Relevant Law* and explain how these concepts apply to this particular case. Review with students the difference between civil and criminal law, what a tort is, and the definitions of defamation, slander, and libel. Answer any questions and check for understanding.
4. Using a teacher- or student-centred reading strategy, review *Taking a Closer Look* and have students complete the statement of claim and statement of defence exercises in pairs.

5. Review *The Lawyers' Debate* with students and explain that they will be completing a mini mock trial – a shorter version of a regular mock trial. This strategy encourages progression towards a full mock trial assignment. If you would prefer to complete the full civil mock trial at this point in the course, please refer to the OJEN website for the civil mock trial package, *Opolsky v. Jaswal and Pasha*. This full mock trial package comes complete with witness sheets, statements of claim and defence, and instructions for preparing opening and closing statements and questions. It can be downloaded from the *Resources* section of the OJEN website, www.ojen.ca.
6. In preparation for the mini mock trial, divide students into groups of 7-9 people and assign each person in the group one of the following roles:
 - i. Bruce Opolsky, plaintiff
 - ii. Tahiya Jaswal, defendant
 - iii. Jordan Pasha, defendant
 - iv. Lani Chu, witness
 - v. Plaintiff's lawyer (1-2 students)
 - vi. Defendant's lawyer (1-2 students)
 - vii. Judge

Explain to students that they will be completing a mini mock trial with their groups. Give students 15 minutes to prepare for their roles according to the instructions provided in the *Student Handout*. The plaintiffs, defendants, and witnesses should prepare their testimonies, the lawyers should prepare 2-3 questions for each witness, and the judge should review the relevant law and be prepared to control the sequence of events in the mock trial.

Once students have had time to prepare, ask them to complete a mini mock trial in their groups using the following sequence:

1. Judge calls court to order
 2. Plaintiff lawyer questions Bruce Opolsky
 3. Defence lawyer questions Bruce Opolsky
 4. Plaintiff lawyer questions Tahiya Jaswal
 5. Defence lawyer questions Tahiya Jaswal
 6. Plaintiff lawyer questions Jordan Pasha
 7. Defence lawyer questions Jordan Pasha
 8. Plaintiff lawyer questions Lani Chu
 9. Defence lawyer questions Lani Chu
 10. Plaintiff lawyer summarizes main arguments
 11. Defence lawyer summarizes main arguments
 12. Judge gives final ruling
7. Ask students to complete *The Final Judgment* exercise and discuss the answers as a class.
 8. Have students complete the *Reflecting* and *Check for Understanding* exercises either in class or for homework. Take up the answers as a class. This strategy moves the students towards

completing of a full mock trial assignment. If you would prefer to do a full civil mock trial at this point in the course, please refer to the OJEN website (www.ojen.ca) for full packages on holding a mock trial and the teacher resource, *Making the Case: Mock Hearing Toolkit*.

Assessment & Evaluation

- Class discussion
- *Think/Pair/Share*
- *Taking a Closer Look* activity
- *The Lawyers' Debate* mini mock trial
- *The Final Judgment* activity
- *Reflecting* activity
- *Check for Understanding* worksheet

Resources

Ontario Justice Education Network
www.ojen.ca

- Civil Law Mock Trial Scenario: *Opolsky v. Jaswal and Pasha*
- Civil Law Mock Trial Role Preparation Package
- Civil Law Mock Trial Justice Sector Volunteer Package
- *Making the Case: Mock Hearing Toolkit*

The Case of the Facebook Fiasco

Mock Civil Law Scenario: Opolsky v. Jaswal and Pasha

Student Handout

The Big Question

What do you think should happen if one person writes a nasty comment about another person on Facebook that can be seen by the public? Should the author be suspended from school? Should the author have to pay money to the person whose reputation was damaged?

Think about your response for 30 seconds. Discuss your thoughts and opinions with a partner and share your conclusions with the class.

The Facts of the Scenario

Bruce Opolsky is a wrestler for the Burdett Lake High School wrestling team. He is not the best on his team, but has worked hard and recently won the “Most Improved Player Award.” On April 23 Bruce applied to Lani Chu, the Co-Coordinator of Graykes Overnight Camp, for a job as a camp counsellor at their summer sports camp.

Bruce Nicholas is in the same year as Bruce Opolsky. He is a member of the football team at Burdett Lake High.

On May 12 a group of students, led by Tahiya Jaswal, created a Facebook group for their school newspaper, the *Burdett Lake Bugle*. One of the discussion threads on the group’s site was called “Bruce is a Cheater.”

In the initial post, Tahiya Jaswal, the editor of the newspaper, wrote an ‘exposé’ about “Bruce.” In it she wrote:

“Bruce is a cheater. He takes the easy way out of everything. He paid Kiran to finish his English report and he cheated during his Chemistry final. I’m sure he doesn’t come by anything honestly. He doesn’t even know how to work – I bet he’s on steroids. ”

After Tahiya’s post, a number of other students commented as well. Jordan Pasha wrote:

“I totally agree. He’s cheated off my work in class. The ‘roids probably make his tackles and flips more forceful but his brain cells useless!”

The Facebook group is open to all students in the Burdett Lake High School Facebook network. The “Bruce is a Cheater” discussion thread came up on the newsfeed for all members of Facebook from Burdett Lake High School.

Burdett Lake is a small high school and most students know both Bruces. Last year Bruce Nicholas was the Prom King and Bruce Opolsky placed second at OFSAA for wrestling. Both Bruces are registered in grade twelve chemistry this year.

The wrestling coach heard about the Facebook posts and made Bruce Opolsky take a urine analysis test. He was benched while the coach waited for the results. In addition, Lani Chu heard about the Facebook posting through her daughter, a student at Burdett Lake. Based on the posting, Lani denied Bruce Opolsky the summer camp counsellor job because she didn’t feel that he was a trustworthy candidate.

After these events (and a clean bill of health from the wrestling coach), Bruce Opolsky sued Tahiya Jaswal and Jordan Pasha for defamation. In his lawsuit, Bruce Opolsky asked for the following in damages:

- \$2,500 for lost wages as a camp counsellor
- \$5,000 for general damages

The Issues

- Opolsky suffered financial loss and damage to his reputation because of a Facebook thread that people assumed was about him.

- Should he be entitled to compensation from Tahiya Jaswal and Jordan Pasha? If yes, how much money should he receive?

The Relevant Law

Unlike criminal law, which consists of crimes against society or the general public, **civil law** is concerned with disputes between private individuals.

A **tort** is committed when one individual does not fulfill an obligation that is owed to another person. This results in a loss to the victim. A civil action can be brought against the wrongdoer in order to get compensation for the loss. Usually, if the victim's civil action is successful, money will be awarded as compensation. Civil actions do not result in jail time. In civil proceedings, the party bringing forward the action is known as the **plaintiff**, and the party being sued is known as the **defendant**.

Defamation is an attack on the good reputation of a person, by slander or libel. Defamation is written or spoken injury to a person or organization's reputation.

- Slander is verbal defamation.
- Libel is printed defamation (i.e. published words or images which injure reputation).

Taking a Closer Look

The case of *Opolsky v. Jaswal and Pasha* is a civil trial. Civil trials revolve disputes between two (or sometimes more) parties called the plaintiff and the defendant. The courts try to resolve these private disputes. The goals of civil law are to:

- compensate (with money) a victim of a private wrong;
- condemn unfair or unjust conduct;
- hold accountable the person that injured the other person; and
- deter other people from acting this way in the future.

Unlike criminal law, which addresses the innocence or guilt of someone accused of a crime, at a civil trial the issue is whether one party is *liable*, or responsible, for the injury of the other party. In determining whether a party is liable the judge or jury must be convinced *on a balance of probabilities*. This standard is not as high as criminal trials, where the standard is *beyond a reasonable doubt*. To meet the “balance of probabilities test,” the judge or jury must think it is more likely than not that the party is responsible for the damage caused.

The person who is bringing the action (the plaintiff) must fill out a statement of claim, a legal document which contains all of the important facts and information about the plaintiff’s case and sets out the allegations against the defendant.

Suppose you are the lawyer for Bruce Opolsky. In the spaces below, list three facts, or pieces of information, that you would include in your statement of claim to prove Bruce’s case against Tahiya Jaswal and Jordan Paswal.

1. _____

2. _____

3. _____

After a defendant is served with a statement of claim, there are several options for how to proceed. If the defendant agrees to pay the plaintiff some or all of the requested damages, both parties may agree to settle the case before it gets to court. Most cases get settled outside of court because going to trial is very expensive. If the defendant chooses to contest the allegations, a statement of defence must be prepared explaining why the defendant is not responsible (liable) for the damages being requested by the plaintiff.

Suppose you are the lawyer for Tahiya Jaswal and Jordan Pasha. List three facts, or pieces of information, that you would include in your statement of claim to prove that Bruce Opolsky’s claims are not justified.

1. _____

2. _____

3. _____

The Lawyers' Debate

In groups of 7-9, you will be completing a mini mock trial to decide the outcome of the case. Once you have divided up into groups, assign each person one of the following roles:

- i. Bruce Opolsky, plaintiff
- ii. Tahiya Jaswal, defendant
- iii. Jordan Pasha, defendant
- iv. Lani Chu, witness
- v. Plaintiff's lawyer (1-2 students)
- vi. Defendant's lawyer (1-2 students)
- vii. Judge

You will be given 10-15 minutes to prepare for your roles. Review the instructions below on how to prepare for your role. When ready, complete your mini mock trial in the following sequence:

1. **Judge** calls court to order
2. **Plaintiff** lawyer questions Bruce Opolsky
3. **Defence** lawyer questions Bruce Opolsky
4. **Plaintiff** lawyer questions Tahiya Jaswal
5. **Defence** lawyer questions Tahiya Jaswal
6. **Plaintiff** lawyer questions Jordan Pasha
7. **Defence** lawyer questions Jordan Pasha
8. **Plaintiff** lawyer questions Lani Chu
9. **Defence** lawyer questions Lani Chu
10. **Plaintiff** lawyer summarizes main arguments
11. **Defence** lawyer summarizes main arguments
12. **Judge** gives final ruling

Witnesses

- Review the facts of the case and your testimony outlined below.
- Be prepared to answer questions about your version of what happened.

Bruce Opolsky, Plaintiff

- On April 23, you applied to Graykes Overnight Camp at their summer sports camp for a job as camp counsellor.
- You noticed one day that there was a Facebook group discussion thread called “Bruce is a Cheater” and that it said “Bruce” was taking steroids and cheating off others in class.
- You felt embarrassed and angry about the things said about you on the thread.
- A few days after the Facebook group thread was created, people at school started to laugh at you and called you a cheater. Students do not want to work with you because they think you will cheat off of them.
- Your wrestling coach asked you to take a urine test and you were benched while the coach waited for the results.
- Lani Chu, the Co-Coordinator of Graykes, denied you your summer job because she didn’t feel that you were a trustworthy candidate.
- You do not know why Tahiya Jaswal said you were a cheater. You have never lied about her or hurt her in any way.

Tahiya Jaswal, Defendant

- One day at school, your friend Kiran told you that Bruce Nicholas paid her \$25 to finish his English report. You also heard a rumor that Bruce cheated on his Chemistry final exam.
- You also know that Bruce is member of the Burdett Lake High School football team.
- You believe cheating is wrong and wanted everyone to know that Bruce cheated.
- You created a discussion thread on the school newspaper’s Facebook group entitled “Bruce is a Cheater.” You wrote an exposé on Bruce which stated that he cheats in school and that he is dishonest. You also said that you bet he was on steroids.
- You did not know that there were two students named Bruce in the school. You did not specify Bruce’s last name in the title of the group or in your posting.

- In your message, you were referring to Bruce Nicholas, not Bruce Opolsky.
- After your exposé, a number of students made comments on your thread.

Jordan Pasha, Defendant

- When you read the Facebook discussion thread “Bruce is a Cheater”, you assumed that it was referring to Bruce Nicholas because he cheated off of you during the final Chemistry exam.
- A day after you saw the posting by Tahiya Jaswal, you posted a comment on the same thread saying that you agree that Bruce is a cheater because he cheated off of you on your Chemistry exam. You also wrote that his brain cells were useless.
- When you wrote that Bruce cheated off of you, you were talking about Bruce Nicholas.
- Bruce Opolsky has never cheated off of your work.

Lani Chu, Witness

- On April 23, 20**, you received a resumé from Bruce Opolsky seeking a position as a camp counsellor at your summer sports camp.
- You were originally going to hire Mr. Opolsky because he was very interested in the job and you believed that he was responsible and enjoyed sports.
- Your daughter told you one night about a Facebook discussion thread that stated Bruce was taking steroids and that he cheated on his work.
- After your daughter told you about the Facebook discussion, you changed your mind about Mr. Opolsky because you did not believe that he was a trustworthy candidate. You gave the job to someone else.
- You have concerns that Bruce may have taken steroids and is dishonest and don’t think he would be a good candidate for the position if these are true.

Plaintiff and Defence Lawyer(s)

- As the plaintiff’s lawyer you represent the victim who is suing.
- As the defendant’s lawyer you represent the person who is being sued.
- Create 2-3 questions that you would like to ask each of the witnesses (Bruce Opolsky, Tahiya Jaswal, Jordan Pasha). Remember that your questions should help you prove your case.

Judge

- Be a referee and explain the law to the jury.
- If a lawyer objects to a question by another lawyer, decide whether or not the witness must answer the question.
- At the end of the trial, summarize what the law and evidence is relating to this case.
- Decide whether the accused is liable and, if so, how much the plaintiff will be awarded in damages.

Check for Understanding

This is a matching quiz based on terms found in civil law. Match the words in the left hand column with the meanings in the right hand column by placing the appropriate letter in the brackets.

- | | | |
|-----------------------|-----|--|
| A. statement of claim | () | body of law that creates and provides remedies for disputes between two private parties. |
| B. civil law | () | money awarded by the courts to successful plaintiffs in civil trials. |
| C. defendant | () | what is committed when one individual does not fulfill an obligation that is owed to another person. |
| D. plaintiff | () | form filled out by the plaintiff in a civil trial outlining their allegations and demands. |
| E. tort | () | defamation in the form of a verbal statement. |
| F. defamation | () | defamation in the form of written words or images. |
| G. slander | () | the party who begins the civil action. |
| H. libel | () | the party who is sued in a civil trial. |
| I. compensation | () | written or spoken injury to a person's or organisation's reputation. |