

# Puttin' on the Robes

## Exploring the Legal Process



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# Overview of Puttin' on the Robes

## Introduction

This simulation is designed to be very flexible. It is organized in easy-to-use sections, each of which can be done as a stand-alone activity. Also included is a timeline, a chart to help you assign students to roles, flowcharts of “How a Case Goes Through the Court System,” and samples of court forms with annotations (Tab #1), as well as courtroom arrangement diagrams (Tab #2). The simulation takes your students through the trial, appellate, and supreme-court levels of our court systems. The binder provides the forms you need in sample, blank-for-fill-in and interactive PDF format.<sup>1</sup> Cases 1 and 2 below are “venued” (take place) in the federal courts, and the mock trials are in state (California) courts. You can use either state or federal court whichever works best for you.

## Trials (Tab #2)

Everyone has a role: lawyer, judge, witness, bailiff, clerk, juror, artist and newspaper reporter. The binder has a Teacher’s Guide and Student Instructions; court and lawyer forms; trial scripts, jury instructions, and verdict forms, for three different trial ideas, as follows:

- 1 A classroom-/school-related happening called “Make Your Own Trial,” or “MYOT.”
- 2 *Hopwood v. Texas* (an actual case about affirmative action/reverse discrimination in law school admissions).
- 3 A mock criminal trial from the Constitutional Rights Foundation. CRF writes a fictitious criminal case each year. The case of *People vs. Brunetti* is included here, but you can buy additional cases through CRF’s website: [www.crf-usa.org](http://www.crf-usa.org) or through Social Studies School Service, [www.socialstudies.com](http://www.socialstudies.com).

## Appellate Level (Tab #3)

At this level, all your students (except for the nine Supreme Court justices) are either lawyers or circuit court judges. Circuit court judges hear cases in groups of three, hence the name “three-judge courts.” Some of your students will sit on these courts and hear two or three cases. The rest will be lawyers who will write briefs (using the format provided) and then argue them—either singly or in pairs—in front of one of those courts. You have three options for cases:

- 1 **Case Packets:** The binder has 10 well-known court cases that focus on broad constitutional issues such as religion in schools, abortion, gender equality in college sports, flag-burning and gay rights. These cases focus mostly on First Amendment rights and the Equal Protection clause of the Fourteenth Amendment.
- 2 **CRF Packets:** The CRF materials consist of 10 fictitious criminal cases, each of which contains a constitutional rights argument. Excerpts from actual USSC and other court cases are provided (including case citations). The issues are topical (defendants making statements to the police, profile searches and the like), and focus on the criminal constitutional rights found in the Fourth, Fifth and Sixth Amendments, as well as on the First and Second Amendments.

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<sup>1</sup> For PDFs go to our website at [www.cesqd.org/place](http://www.cesqd.org/place).

3 The third option is to request our Moot Court materials.<sup>2</sup>

After the cases have been briefed and argued, the circuit courts render their opinions in writing, using the opinion format. Then it's time to head to the U. S. Supreme Court.

### **The United States Supreme Court (Tab #4)**

In this part of the simulation, nine students portray the actual sitting justices. Each attorney *who lost* at the appellate level files a "Petition for a Writ of Certiorari" (sur-shee-oh-RAH-rye), which is a request to the USSC to hear your case.<sup>3</sup> The nine Supreme Court justices get together (with you) and decide which cases to accept. The USSC then issues the writs to hear only those cases. The lawyers on those cases must re-brief their cases based on the original arguments, and also on what was written by the appellate court.

After the briefs have been filed, the arguments begin. The rest of the class listens to the arguments and also listens in while the justices discuss and debate their decision on each case. The justices then write their opinions. The opinions must bear some relation to what their chosen justice might decide.

### **Other Materials (Tab #5)**

This section contains the case materials, with instructions, sample student-written briefs and opinions, and assessment and evaluation tools and standards.

#### CASES AND SAMPLES

- The 10 case excerpts (**Case Packets**)
- The student-written sample briefs and opinions
- The 10 CRF constitutional arguments (**CRF Packets**)

#### ASSESSMENT TOOLS

For each level (trial, appellate and supreme-court) there are:

- Grade sheets – Teacher
  - Assessing: work product, performance, logs, summary of judicial process
  - Providing: grading rubrics for all roles and activities
- Self-grade (self-assessment) sheets
- An activity and learning evaluation

#### STANDARDS

- Center for Civic Education
- California
- Common Core<sup>4</sup>

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2 Send an email to: [jud-mootcourt@cesqd.org](mailto:jud-mootcourt@cesqd.org) with your name and school. Teachers who purchase Puttin' on the Robes can receive a free PDF copy of these materials.

3 Or, you can just do the USSC level (see both sets of USSC instructions, Tab #4 for more details).

4 Please go to our website, [www.cesqd.org](http://www.cesqd.org) and click the *Standards* link.

## **\*Student Instructions for Appeals – Civil**

### **Typical Civil Appeals**

In the United States, when one side loses or is unhappy with the outcome of their case, they have the right to appeal.<sup>1</sup> Appeals at both the state and federal level are heard by three-judge courts. For example, in *Hazelwood School District v. Kuhlmeier* (a school newspaper First Amendment case where the principal blocked publication of Kuhlmeier’s article), the trial court found in favor of the school district. Kuhlmeier appealed, arguing that even though the article in question was to appear in a school newspaper (as opposed to a regular one), the First Amendment still applied. The case was heard by one of the three-judge courts in the Eighth Circuit, sitting in Missouri. The Eighth Circuit found in favor of Ms. Kuhlmeier and reversed the trial court’s decision.

### **What You’ll Be Doing**

You and your classmates will write and/or argue constitutional law, using actual court cases (mostly U. S. Supreme Court) on issues like abortion, gay rights, the college admission process, and religion in schools. You’ll be either an appellate judge or a lawyer.

You’ll receive:

- These instructions on how to do an appeal
- A Case Packet (information needed to write your briefs and opinions)
- A set of sample forms to use as a formatting guide
- Some blank and/or PDF forms to use when typing your brief

### **LAWYER PREPARATION AND ROLE**

Begin by reading your Case Packet to learn what happened in the lower court and what issues and questions you’ll be dealing with. Now begin to frame your arguments and counter arguments.

As a lawyer, you’ll write a brief explaining why your side should win. The lawyer representing the appellant (the one who lost in the lower court) writes the Appellate Brief, which explains what went wrong in the lower court and why the appellate court should reverse the lower court’s decision. The winner writes a Reply Brief, which explains why the lower court’s decision should be upheld (kept in place). Then you’ll argue your case (oral argument) before a three-judge court. Be ready to respond to the judges’ questions, and to counter your opponents’ arguments.

### **THE JUDGE’S JOB**

You’ll sit in one of the 12 circuits in the U. S. and hear cases. You’ll prepare for oral argument by reading the Case Packets and the briefs written by your classmates. You’ll write out some tough, probing questions to ask the attorneys appearing before you. After the oral arguments, the three of you will discuss the cases and see where you stand. When two or three judges agree on the outcome (who won), one of those judges volunteers to write the opinion. A judge who disagrees with the outcome can write a “dissenting” opinion.

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<sup>1</sup> In a criminal case, only the defendant can appeal a conviction. The state cannot appeal an acquittal, as this would violate the Fifth Amendment’s “double jeopardy” provision.

\* *Excerpted and abbreviated*

## List of Cases

Case Packets (Excerpts from actual—mostly USSC cases)

*Ohio v. Akron Center* (parental notification for abortion)

*Boy Scouts of America v. Dale* (gay boy scouts)

*Cohen v. Brown University* (Title IX and sports in college)

*Good News Club v. Milford Central School* (religious clubs using schools)

*Hopwood v. Texas* (white students suing for discrimination in admissions)

*Texas v. Johnson* (flag-burning)

*Department of Defense v. Meinhold* (gays in the military)\*

*Romer v. Evans* (Colorado constitutional amendment about gays)\*

*Schenck v. Pro-Choice Network* (abortion clinic protests)\*

*Lee v. Weisman* (graduation prayer)

Constitutional Rights Foundation (CRF) Packets – Mock Criminal Cases<sup>1</sup>

*People v. Terry Bell* (1st)

*People v. Shawn Brunetti* (2nd)

*People v. Madison Casco* (4th)

*People v. Casey Clevenger* (4th)

*People v. Chris Donovan* (5th, 6th)

*People v. Beck Martin* (5th, 6th)

*People v. Syd Price* (4th)

*People v. Sam Rose* (4th)

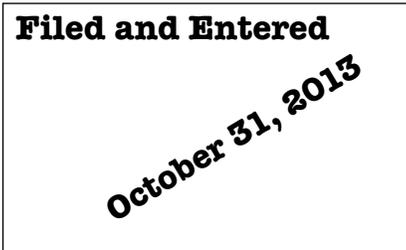
*People v. Jan Stover* (1st)

*People v. Alex Whitman* (5th)

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<sup>1</sup> ( ) Denotes Constitutional Amendment number

**Appellate Brief Format**



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6 IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
7 SEVENTH APPELLATE DISTRICT

8 THE PEOPLE )  
 )  
9 Plaintiff and Respondent ) NO. 13-444  
vs )  
10 )  
 ) APPELLATE BRIEF  
11 SHAWN BRUNETTI, )  
 )  
12 Defendant and Appellant )  
\_\_\_\_\_ )

14 Defendant, Shawn Brunetti appeals his/her conviction on the grounds that it was  
15 obtained in violation of his/her Second and Fourteen Amendment rights.

16 **Facts**

17 Shawn Brunetti acknowledges ownership of an AK-47 rifle which is not registered as  
18 required by California Penal Code §12280.

19 **Legal Argument**

20 The California registration and assault ban statutes (PC §12280) are unconstitutional  
21 as they violate Shawn Brunetti’s individual right to bear arms as protected by the Second  
22 Amendment. In the case of *Printz vs U. S.* 117 S.Ct. 2365 (1997) Justice Thomas indicates “the  
23 right to keep and bear arms is, as the Amendment’s text suggests, a personal right.”

24 Wherefore, Appellant prays that his/her conviction be reversed.

26 Dated: October 31, 2013

LaKisha Johnson  
LaKisha Johnson  
Attorney for Appellant

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