

**To: Idaho YMCA Youth in Government Student Participants**  
**From: The State Committee, Idaho YMCA Youth in Government**  
**Date: October 1<sup>st</sup>, 2018**  
**Re: Co-Counsel Competition for 2018-2019 Youth in Government Program**

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Enclosed you will find the Youth Supreme Court case to be argued at the Regional Co-Counsel Competition to determine which YMCA youth attorneys will represent the appellant and the respondent before the YMCA Youth Supreme Court of the State of Idaho at the State Conference in Boise, Idaho.

This package contains the complete materials you will need to argue for either the appellant or the respondent at the Regional competition. The package includes statement of facts for the case of Jay Senator vs. Bob Blogger. To prepare your argument you should also consider Idaho Supreme Court Case of *Clark v. The Spokesman-Review*, 144 Idaho 427 (2007).

You are not expected to do any other outside research or writing to effectively present an argument at the Regional competition. You are only expected to thoroughly study the statement of facts and the referenced case. Your presentation to the court at the Regional competition will not be judged on any outside research or written product. You will be judged solely on your ability to analyze the facts and law of the cases, and to make a credible argument to the court.

In addition to your ability to apply the facts and law of the cases provided to the instant matter, you will be judged on your ability to speak, reason, and to answer the court's questions. Accordingly, you must be prepared to argue for either the appellant or respondent; know the pertinent facts of the case; be familiar with the pertinent facts and law in the cases provided to you; and form opinions and arguments based on these materials. You will also be judged on your "courtroom demeanor." Therefore, it is imperative that you dress and appear as though you are going to court.

With these guidelines in mind, the Committee estimates that preparation for oral argument at the Regional conference should not take more than 4-5 hours, in addition to the time it takes to argue your case. Please be aware that this problem is not the problem that is ultimately argued before the Youth Supreme Court at the State Session in Boise, Idaho. The youth attorneys who are designated to represent clients before the Youth Supreme Court at State Session in Boise will be provided with another fact pattern assigned to your region. That exercise will require additional research, written preparation and additional oral argument.

If you are not chosen to represent a client before the Youth Supreme Court at State Session remember there are many other ways to continue being involved in the Youth in Government program through the legislative portion.

We hope you enjoy your experience in participating in the Idaho YMCA Youth in Government Youth Supreme Court Program.

Enclosures

**IN THE YMCA YOUTH SUPREME COURT  
OF THE STATE OF YMCA**

JAY SENATOR,

Plaintiff-Appellant,

vs.

BOB BLOGGER,

Defendant-Respondent.

**CASE NO. 2018-01**

**FACTS**

On October 1, 2017, Jay Senator (“Senator”) met for an interview with two reporters. He was discussing his views on various issues in advance of the general election scheduled for November 12, 2017. At the interview was a reporter from YMCA’s local newspaper, *The YMCA Statesman*, and Bob Blogger (“Blogger”), a local individual who posts political information and information about local officials on the Internet. His blog is updated weekly.

After the interview, *The YMCA Statesman* created an article in its daily paper which quoted Senator as stating:

I have been married for thirty years; I am a firm believer in the institution of marriage, and while I believe others have the right to get a divorce, I personally condemn anyone who has ever had a divorce or has ever considered divorce. I have never at any time thought of divorcing my wife.

The article was published on October 10, 2017.

Blogger, on October 15, 2017, in his Internet blog quoted Senator as saying:

I have been married thirty years and I am a firm believer in the institution of marriage. At one time in my life, I contemplated getting a divorce from my wife; however, I saw the error of my ways and now condemn anyone who seeks or even thinks about divorcing their spouse.

On November 12, 2017, the election was held and Senator lost the election to an ultra-conservative, anti-divorce contender. Senator believed that he lost the election due to Blogger's article. After Blogger's article was posted, Senator was blamed for "waffling on the issues" and pointed to an immediate drop in his poll numbers. Had Senator retained his seat for one more term, he would have been entitled to valuable pension benefits which will now be forfeited.

Senator sued Blogger for defamation. During depositions\* prior to trial, Senator testified that (1) Blogger's article was "utterly false," (2) he had never contemplated a divorce from his wife, and (3) he had always been opposed to divorce. Blogger testified that he believed Senator had said during the interview that at one time he had contemplated divorce from his wife and that is the reason he became opposed to divorce. Blogger's handwritten notes did not indicate any reference to Senator stating he had contemplated a divorce. The reporter from *The YMCA Statesman* testified that although he could not remember all portions of the interview, his handwritten notes contained the following quote:

. . . . thought about divorce????? Condemns divorce!

The *YMCA* Reporter could not remember if the quote was a question in his notes or a statement by Senator. Before publication of their "articles," neither *The YMCA Statesman* reporter nor Blogger spoke with Senator's wife to confirm or deny whether there had ever been any discussions of divorce. Neither looked at other articles that had been published regarding Senator's views on divorce. Neither discovered that Senator and his wife had, in 2004 at a public ceremony, renewed their marriage vows. The reason for the renewed vows is not known.

On summary judgment, the District Court held, because Senator was a public figure and Blogger was a "media defendant," Senator could not recover against Blogger unless Senator proved by clear and convincing evidence that Blogger acted with "actual malice," i.e., that Blogger had actual knowledge that his article was false or wrote it in reckless disregard for the truth. The Court also held there was insufficient evidence presented for any jury to find by clear and convincing proof that Blogger had acted with such knowledge or recklessness. The Court therefore dismissed Senator's claim.

### **ISSUES ON APPEAL**

Senator appealed the District Court's decision, arguing that Blogger was not a "media defendant" and that the judge therefore applied the wrong legal standard. He also argues that, in any event, there was evidence or at least questions of fact as to whether Blogger had acted with "actual malice." Senator argues the judge's decision should be reversed and sent back for a trial. Based on *Clark v. The Spokesman-Review*, 144 Idaho 427 (2007), Blogger opposes Senator's argument.

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\* A deposition is a procedure in which an individual is questioned under oath and the testimony is recorded by a court reporter.