TEMPLE BEASLEY SCHOOL OF LAW

NATIONAL TRIAL TEAM

TRY-OUT MATERIALS, FALL 2017

Introduction:

The below packet includes a brief trial problem; an assignment (the tasks to perform at the tryout), and some readings that will assist those who have not yet taken a trial advocacy course. There is also a brief narrated powerpoint lecture on the National Trial Team webpage -

<https://www.law.temple.edu/academics/intellectual-life/trial-team/auditions/>

If your last name begins with the letters **A-M**, your assignment is to prepare the direct examination of the injured bicyclist and prepare a closing argument on behalf of the bicyclist/plaintiff.

If your last name begins with the letters **N-Z,** your assignment is to prepare the cross-examination of the injured bicyclist and then switch sides and prepare a closing argument on behalf of the bicyclist/plaintiff.

TRIAL TEAM 2017 TRY-OUT PROBLEM

Ralph James, 48, was riding his bicycle when it was struck by a car. As a result, he was badly injured, suffering a broken collarbone.

Mr. James has brought a lawsuit against the driver, seeking financial compensation for the time he lost from work, the medical bills he had to pay, and his pain and suffering.

Mr. James’ story, which he provided to police in a signed statement, is as follows:

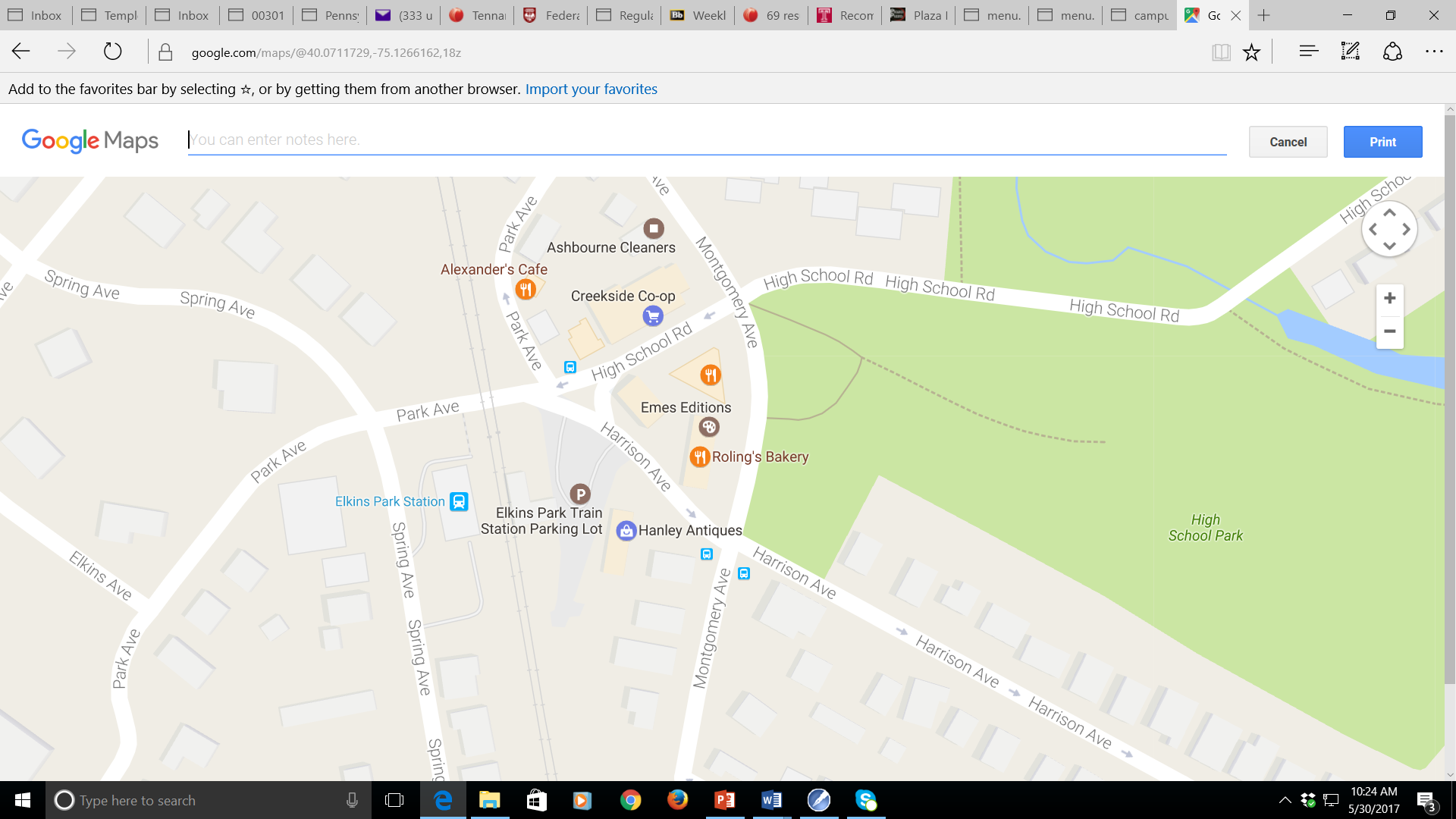
**It was around 7:45 p.m. on November 11, 2016. I was at my home at 7604 Montgomery Avenue. I realized I was hungry and I wanted to rush to the nearby food store, CREEKSIDE COOP, to buy some chocolate.**

**I ran outside and grabbed my bicycle and bicycled down Montgomery Avenue. I reached the corner of Montgomery and High School, where I have no stop sign but traffic on High School does. I turned left onto High School to go to the COOP when my bike was hit by a car. I was knocked off the bike and landed on my shoulder. That is when my collarbone broke.**

**The driver of the car got out and came over to me. He leaned over me, real close to my face, and said “this is awful. I feel terrible.” I could smell alcohol on his breath.**

**People in the store saw this and called the police, who took me to the nearby hospital. I was there for several hours until x-rays showed I was fine except for the broken collarbone. I had to wear a sling on my arm for 6 weeks; and was in pain for most of that time. My medical bills that were not covered by insurance totaled $1,248.69. I lost one week of work, and thus lost $4,000 in salary.**

A video from the COOP’s outside security camera shows that the driver slowed to a speed of fifteen (15) miles per hour as it approached the stop sign but that it did not stop. The below map, created with the police detective, shows the relevant locations. **The video will have been admitted at trial, and thus may be referenced in closing argument.**



Mr. James’ home

Corner where Mr. James turned left

Corner where Mr. James turned

accident

Figure 1 accident route

Investigation by the driver’s insurance company ascertained the following addition facts regarding the incident:

1. Mr. James was wearing all black clothing.
2. His bicycle was black
3. His bicycle had no headlight on it
4. It was dark, with no moon
5. As Mr. James approached the corner he was going down the hill at a high rate of speed
6. Mr. James has a 2012 Perjury conviction
7. Mr. James taught a course on bike safety
8. Mr. James has had no alcohol to drink since 1973
9. When the police first came Mr. James told police “maybe it was my fault.”

**All of these facts are not in dispute, and will be acknowledged by Mr. James if asked about them.**

Pennsylvania law regarding contributory negligence is as follows:

**(a)  General rule.--**In all actions brought to recover damages for negligence resulting in death or injury to person or property, the fact that the plaintiff may have been guilty of contributory negligence shall not bar a recovery by the plaintiff or his legal representative where such negligence was not greater than the causal negligence of the defendant or defendants against whom recovery is sought, but any damages sustained by the plaintiff shall be diminished in proportion to the amount of negligence attributed to the plaintiff. **[EXPLANATION: PLAINTIFF WINS THE TRIAL AS LONG AS PLANTIFF WAS NO MIORE THAN 50% RESPONSIBLE FOR THE INJURIES; IF PLAINTIFF WAS 50.1% RESPONSIBLE, PLAINTIFF LOSES ENTIRELY.]**

**VERDICT SHEET**

**The Jury is directed to answer each of the following questions:**

1. **Did driver operate the vehicle in a negligent manner at the time of the event?**
2. **If the answer to question 1 is “yes,” was that negligence a cause of the bicyclist’s injuries?**
3. **If the answer to questions 1 and 2 are “yes,” was the bicyclist negligent at the time of the event?**
4. **If the answer to questions 1, 2 and 3 are “yes,” assign a percentage to each side as far as how much that side caused the event and resulting harms.**

**TRY-OUT ASSIGNMENTS**

1. **LAST NAME BEGINS WITH THE LETTERS A-M:** Prepare a direct examination of the bicyclist in light of the police statement and the information discovered by the driver’s insurance company. **Regarding the latter, decide whether you want to bring out all or some of that information as part of your direct examination and, if so, *where* in the direct you will place it. You will have 5 minutes for the direct – do not worry about completing the examination but focus on making it a strong 5 minutes.**
2. **LAST NAME BEGINS WITH THE LETTERS N-Z:** Prepare a cross-examination of the bicyclist, based on the premise that the witness testifies to the police interview on direct but to none of the information discovered by the insurance company. **You will have 5 minutes for the cross - do not worry about completing the examination but focus on making it a strong 5 minutes.**
3. **ALL:** Prepare a closing argument on behalf of the bicyclist, assuming that the jury was shown the COOP security video and heard all facts in the bicyclist’s police statement and in the insurance company’s investigation. The closing must be constructed in light of the controlling law on contributory negligence and the verdict sheet. **You will have 5 minutes to give a closing argument. Do not focus on compressing an entire closing into 5 minutes; rather, present the first 5 minutes of your argument.**