

Clarifications & Corrections

- 1) Any suggestion of a specific witness gender is an error.
- 2) Page 26: Jordan Reddick is given the title “MD” at the top of the page. This is an error. Please omit “MD.”
- 3) On page 38, in Exhibit D, the name of the student should be “Sarah Perez.”
- 4) On page 32, in Interrogatory 4, the month should be April, not March.
- 5) On page 42, at the very bottom of the page, please disregard the following case citation: Windesheim v. Larocca. This case law was originally included in the casebook, but later omitted.
- 6) On page 18, in number 36, the first statement should read, “At the beginning of the season, in the fall of Sarah’s senior year, I filled out the same standard disclosure forms for the SCLC. (Exhibit D) There was a question that asked, “Does your child suffer from any medical condition that might pose a health or safety risk to her or her teammates.” I wrote “no.”
- 7) (The following language should replace the Pretrial Conference section from the casebook, on page 14)

Pretrial Conference – Additional Clarification:

The Circuit Court requires that all parties attend a pretrial conference, to see if the case can be settled or the issues narrowed for trial. As you might imagine, there are a number of potential issues that the fact pattern suggests. It is not uncommon for lawyers at these conferences to negotiate how the case will be tried, and what issues will be presented to the jury. In this case, the parties reached the following agreement:

1. The Plaintiffs waive the right to the jury trial they requested, which means the case would be tried by a judge. In exchange, the Defense gave up the right to argue contributory negligence. This concession by the Defense limited it to arguing assumption of risk.
2. The case would be bifurcated. What this means is that liability – fault - would be the only issue tried. If the Plaintiffs prevailed, and the case could not be settled, at a different jury would hear the issue of damages at a later date. When a case is tried on the issue of liability only, the issue of damages, the nature and extent of Sarah’s injury, are not an issue for trial. Not only does this type of arrangement shorten the trial, but it saves the parties the expense of having to call medical experts to prove damages.
3. An issue that might remain, even though the case is bifurcated, is whether the first head injury played any role in the severity of the second. To avoid any confusion, the parties stipulated that Sarah’s current complaints are related to the second concussion, and that the injuries from that concussion are substantially worse than they would have been, had she not had the 2013 head injury. This agreement bars anyone from arguing that the first head injury played no role in the severity of the second one.
4. The trial judge will decide the following issues:
 - a. Was Defendant Dempsey Negligent?
 - b. Was Defendant SCLC Negligent?
 - c. Did the Plaintiffs Assume the Risk of Injury?