

Utah State Bar Committee on Civics Education  
Secondary Lesson Plan for Guest Speakers on Constitution Day  
*Lesson on the Third Branch: The Role of an Independent Judiciary*

Committee Mission

The objective of the Utah State Bar Committee on Civics Education Program is to teach Utah’s high school and junior high school students the significance of the constitutional concepts of separation of powers and the role of an independent judiciary.

General Description

This lesson uses dialogue and an interactive case study to analyze the separation of powers, the rule of law, and our independent judiciary.

Materials Needed

- Lesson Plan
  - 1 for each teacher and guest speaker
- Vocabulary List
  - 1 for each teacher and guest speaker
  - Ask the teacher to review the terms with the students a day or two before you teach the class. This will give the students a foundation for your discussion and will keep your presentation moving quickly.
- Vocabulary Terms Sheet
  - Print 3 copies, double-sided
- Vocabulary Definitions
  - Cut out 3 sets of the definitions and put into 3 envelopes labeled “Vocabulary Definitions”
- 3 Glue Sticks
- Fact Pattern
  - Print 30 copies or ask the teacher how many students are in the class.
- Background of Lawsuit—Appellant (Joel Kimball)
  - Print 15 copies on *green* paper
- Background of Lawsuit—Appellee (Liberty City)
  - Print 15 copies on *pink* paper
- Background of Lawsuit—Judges
  - Print 3 copies on *yellow* paper

Timing of Lesson

Plan for 60 minutes, including time for questions and answers with guest speaker.

### Lesson Plan Objectives

- To support public education by supplementing high school students' classroom education about civics, specifically learning about the judiciary and the rule of law, with an interactive program focusing on analytical and language arts skills.
- To instill a sense of civic responsibility and participation, and appreciation for the rule of law in the students, specifically high school seniors who will be of voting age soon.
- To identify the three branches of government and the role of each.
- To help students understand the concepts of "separation of powers" and "checks and balances," and the role of the courts within these concepts.
- To inform students as to how judges make decisions, whom the other participating parties are within the court system, and how their roles are different.
  - To explore the concept of judicial review and the role of the third branch in examining the constitutionality of written laws and statutes.

### Core Standards

-This lesson meets core standards both in content and in literacy in the social studies classroom. In particular, the literacy standards that require the crafting of argument and the mastery of speaking and listening skills will be easily met with this lesson.

### **FOR CLASSROOM TEACHERS**

#### **BEFORE THE LESSON : SUGGESTIONS FOR INCLUDING THIS LESSON IN YOUR CURRICULUM**

We know that you want the experience of your students and your guest speaker to be as effective as possible. To prepare your students for the topic, it would be useful to introduce them to the vocabulary prior to the lesson if at all possible.

Since the actual lesson is a simulated court scene, it will be helpful to have the court room layout set up before the start of class. It will also be helpful to label as many of the parts of the courtroom as possible, using the chart included in the packet for reference.

## Lesson Plan

(5 Minutes)

1. *Introduce yourself.* You are bringing a special opportunity to the classroom for these students, just by being you. You can offer the students a unique perspective about being a student, going to law school, and why you chose the practice of law for your career. Within your comfort, please tell the class why respecting our court system (and volunteering for a program like this) is so important to you. Consider discussing why you went to law school or wanted to be a lawyer, what you think of lawyers and judges on TV, or who your favorite legal character in a story is.

(10 Minutes)

2. *Vocabulary Speed Round.* Split the class into 3 groups. Give each group:
  - 1 Vocabulary Terms Sheet
  - 1 Envelope with Vocabulary Definitions
  - 1 Glue Stick

Ask the students to glue the definitions onto the term sheet. After 5 minutes, tell them to put the glue sticks down. Discuss the terms they were unable to match—these should be the terms that were the hardest for them to understand. Use this as a starting point for your discussion.

(5 Minutes)

3. *Fact Pattern.* Hand out the Fact Pattern and read it aloud to the class.
4. Ask students how the legislature and executive branches would work together to help form a solution to Liberty City's concerns. For example:
  - How can Liberty City's concerns be translated into law?
  - Do they file a petition with the court?
  - What happens after the legislature proposes new legislation?
  - Does the legislature make it law?
  - Who is the governor of Utah?

(5 Minutes)

5. *The Law.* Ask the students to come up with three examples of laws that would address Liberty City's concerns. Encourage them to be creative.
6. Discuss the two pieces of legislation that were actually signed into law.
  - a) No vehicles will be driven in Liberty City parks.
  - b) Noise is prohibited in Liberty City neighborhoods after 10 pm.

## Lesson Plan (cont'd)

(15 Minutes)

7. *The Case*. Split the class into 3 new groups: appellants, appellees, and judges. There should be 3 judges and the rest of the students should be split evenly between the other two groups.
8. Distribute Backgrounds to each group:
  - Appellant (Joel Kimball)--*green* paper
  - Appellee (Liberty City)--*pink* paper
  - Judges--*yellow* paper
9. Ask the students to read the backgrounds to themselves, then consider the questions at the bottom of the page.
10. Remind the students about the procedural posture of the case. We are at the *appellate* level, so the question is whether the trial court correctly applied the law.
11. Work with each group individually to develop their arguments. Ask the teacher to help with this task. If possible, have the judges work outside the classroom so they don't hear proposed arguments before moot court begins.
12. Ask two volunteers from both the appellant and appellee groups to give oral argument to the judges.

(15 Minutes)

13. *Oral Argument*. Each side gets 5 minutes to make its argument. The judges then get 5 minutes to ask questions. Ask each judge to ask at least one question.

(5 Minutes)

14. Debrief—discuss the activity and answer questions about the process, including what the students can do to help make a better outcome for cases like this in the future.

## Vocabulary List

**Three Branches of Government– Executive, Legislative, Judicial:** The government of the United States is divided into three parts, each with a unique role and separate authority in making the law (legislative); carrying out the law (executive); and interpreting the law (judicial).

**Judicial Independence:** The concept that the third branch, or judicial branch, makes its decisions on the basis of the evidence and the impartial interpretation of the Constitution and law, not on the bases of politics or personal favor. Judges are the custodians of the law.

**Separation of Powers:** The establishment by Constitutional mandate of three distinct and unique branches of the government, each with different roles and powers based on the articles of the Constitution, which shall not be interfered with by the other branches.

**Checks and Balances:** The concept that each of the three branches of the federal government is limited in its respective role and authority by the fact that each branch is vested with the independent authority to amend or void the acts of the other branches which fall within the reviewing branch's purview.

**Rule of Law:** The United States is governed by the principle that all individuals and institutions are subject to and accountable under the law fairly applied and enforced, even when they disagree with that law. A law can be changed by citizens' involvement in the government to enact, amend and revoke the law.

**The Bar:** A professional association of lawyers which oversees and regulates the practice of law and serves its members. Graduation from an accredited law school and a license to practice law within the state of Utah is required to be a member of the Utah State Bar. Further, admission to the Utah State Bar is required in order to practice law in the state of Utah. *(Consider discussing "the bar of the court," the divider between gallery and well of the court, as relating to the naming of this organization.)*

**District Court, Court of Appeals, Supreme Court:** The three levels of court in the federal court system established pursuant to Article III of the U.S. Constitution, in order of their respective reviewing authority. Most state court systems, including Utah, follow the same pattern.

**Attorney/Lawyer/Counselor/Advocate:** A professional who is educated in the law, history, traditions, and rules of the legal system, and who is licensed to practice to law.

**Prosecution:** The government lawyers who bring the charges and evidence to court in a criminal lawsuit, and bear the burden of proving all material facts beyond a reasonable doubt.

**Plaintiff:** The party who initiates a civil lawsuit.

**Defense:** In a criminal lawsuit, the person who responds to the allegations brought by the government that his/her conduct was criminal. In a civil lawsuit, the person or organization who responds to allegations of a Plaintiff that his/her conduct damaged the Plaintiff.

**Appellant:** The person who appeals an lower court decision to an appellate court.

**Appellee:** The person who won judgment in a lower court, against whom an appeal is taken to an appellate court.

**Criminal Lawsuit:** A claim filed in court by the government to impose a fine, imprisonment and/or other sanction against a person for violation of a criminal law.

**Civil Lawsuit:** A claim filed in court by a Plaintiff to recover money damages or equitable relief against a person or organization who has injured the Plaintiff by its conduct, or who has breached a contract, violated the common law, or a civil statute.

## Vocabulary Terms

---

Three Branches of Government– Executive, Legislative, Judicial	
Judicial Independence	
Separation of Powers	
Checks and Balances	
Rule of Law	
The Bar	

## Vocabulary Terms

---

District Court, Court of Appeals, Supreme Court	
Attorney/Lawyer/ Counselor/Advocate	
Prosecution	
Plaintiff	
Defense	
Appellant	
Appellee	

## Vocabulary Terms

---

Criminal Lawsuit	
Civil Lawsuit	

## Vocabulary Definitions

The government of the United States is divided into three parts, each with a unique role and separate authority in making the law (legislative); carrying out the law (executive); and interpreting the law (judicial).

The concept that the third branch, or judicial branch, makes its decisions on the basis of the evidence and the impartial interpretation of the Constitution and law, not on the bases of politics or personal favor. Judges are the custodians of the law.

The establishment by Constitutional mandate of three distinct and unique branches of the government, each with different roles and powers based on the articles of the Constitution, which shall not be interfered with by the other branches.

The concept that each of the three branches of the federal government is limited in its respective role and authority by the fact that each branch is vested with the independent authority to amend or void the acts of the other branches which fall within the reviewing branch's purview.

The United States is governed by the principle that all individuals and institutions are subject to and accountable under the law fairly applied and enforced, even when they disagree with that law. A law can be changed by citizens' involvement in the government to enact, amend and revoke the law.

A professional who is educated in the law, history, traditions, and rules of the legal system, and who is licensed to practice to law.

A professional association of lawyers which oversees and regulates the practice of law and serves its members. Graduation from an accredited law school and a license to practice law within the state of Utah is required to be a member of the Utah State Bar. Further, admission to the Utah State Bar is required in order to practice law in the state of Utah.

The government lawyers who bring the charges and evidence to court in a criminal lawsuit, and bear the burden of proving all material facts beyond a reasonable doubt.

The party who initiates a civil lawsuit.

In a criminal lawsuit, the person who responds to the allegations brought by the government that his/her conduct was criminal. In a civil lawsuit, the person or organization who responds to allegations of a Plaintiff that his/her conduct damaged the

Plaintiff.

The person who appeals an lower court decision to an appellate court.

The person who won judgment in a lower court, against whom an appeal is taken to an appellate court.

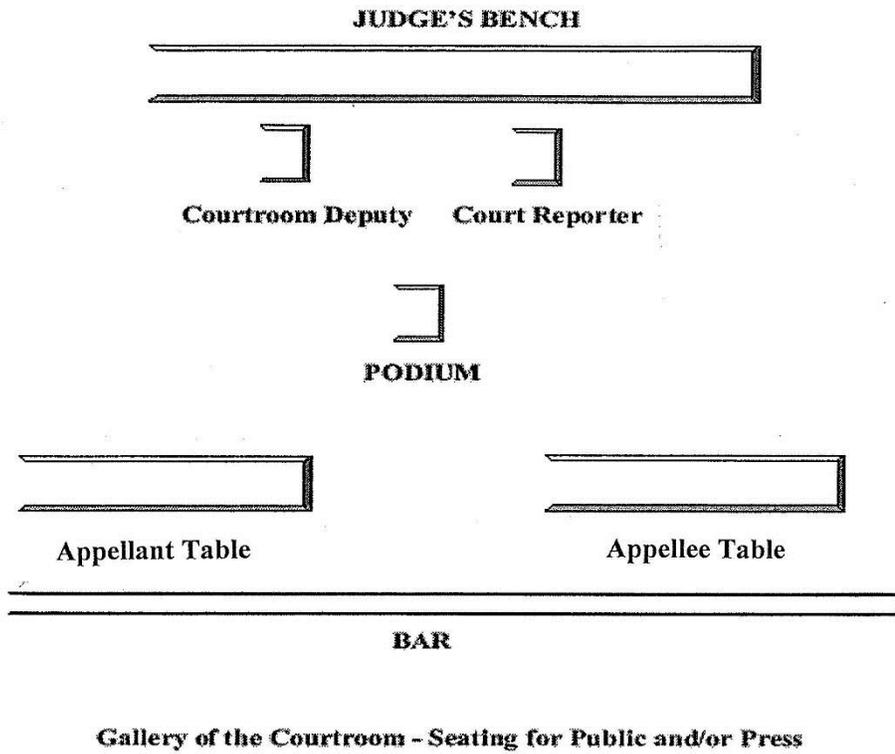
The three levels of court in the federal court system established pursuant to Article III of the U.S. Constitution, in order of their respective reviewing authority. Most state court systems, including Utah, follow the same pattern.

A claim filed in court by the government to impose a fine, imprisonment and/or other sanction against a person for violation of a criminal law.

A claim filed in court by a Plaintiff to recover money damages or equitable relief against a person or organization who has injured the Plaintiff by its conduct, or who has breached a contract, violated the common law, or a civil statute.

Suggested Classroom Set-Up\*

## COURTROOM LAYOUT



\*Ask the teacher to set up the classroom before your arrival.

## Fact Pattern – HOW LAWS ARE WRITTEN, ENFORCED, and INTERPRETED

Liberty City, Utah is a wonderful, quiet place to live. Liberty City is just outside one of Utah's metropolitan areas, but not part of its downtown bustle.

It is a small enough city to be comfortable and unhurried, without being out of touch with technology, jobs, and opportunity. Families that have grown up there are grateful to come from there, and many new families are beginning to relocate to Liberty City because of its charm and ease.

One of the greatest assets of Liberty City is its parks. The community has preserved a handful of parcels of land throughout the city to prioritize tranquility and environmental consciousness. The residents and leaders of Liberty City do not want pollution from their cars, noise from unruly behavior, or garbage from inconsiderate people to change their lifestyle or the environment in which they live. Lately, the parks have been places where late-night parties have taken place, and this has been a concern to the community.

Liberty City residents are active in their government, so many have emailed their state legislators to voice their concerns. These residents do not want cars driving over protected areas like parks, they do not want late-night noise to disrupt the quiet peace of their small town, and they do not want busy city dwellers to change the cleanliness of their local environment.

- 
- 1) What could a legislature do to assist with these community concerns?
  - 2) What law(s) could be passed to resolve the community concerns?

## Background of Lawsuit--Appellant (Joel Kimball)

There are two laws in Liberty City relating to parks:

- a) No vehicles will be driven in Liberty City parks.
- b) Noise is prohibited in Liberty City neighborhoods after 10 pm.

You work for Good Care Ambulance Company. On a late evening about ten days ago, you were driving near the City Park when you saw a person collapse suddenly. The situation seemed without explanation to you, and your instincts and training kicked in.

You were returning the ambulance to the hospital for the night, so you just raced into the Park. You transported the resident to the hospital for care.

You were given a citation from Liberty City for violation of the Liberty City law which states that there shall be no vehicles driven through Liberty City parks. The possible fine/penalty for this offense is \$500 - \$5000 for first offense, or up to 365 days in county jail.

Liberty City charged and convicted you in Twelfth District Court with this offense and the trial court sentenced you to 365 days in jail.

Liberty City also charged and convicted you with being inside the park and causing a neighborhood commotion after 10 pm. In addition to your vehicle-related sentence, you were ordered to pay a \$1000 fine for the disturbance.

You have decided to appeal the trial court's rulings. What are your best arguments?

- 
- 1) Is the law clear? Is the law constitutional?
  - 2) What were the original charges? Did you understand them?
  - 3) Are the charges fair? Does the punishment suit the crime committed?
  - 4) Was the process by which you were tried fair? Did you have a lawyer? Did you understand what was happening as it was occurring?
  - 5) Does the law allow for reasonable exceptions to the rule?

## Background of Lawsuit--Appellee (Liberty City)

There are two laws in Liberty City relating to parks:

- a) No vehicles will be driven in Liberty City parks.
- b) Noise is prohibited in Liberty City neighborhoods after 10 pm.

Joel Kimball works for Good Care Ambulance Company. On a late evening about ten days ago, Mr. Kimball was driving near the City Park when he saw a person collapse suddenly. He raced into the Park in his ambulance and transported the resident to the hospital for care.

Mr. Kimball was given a citation for violation of the Liberty City law which states that there shall be no vehicles driven through Liberty City parks. The possible fine/penalty for this offense is \$500 - \$5000 for first offense, or up to 365 days in county jail.

Liberty City charged and convicted Mr. Kimball in Twelfth District Court for this offense and the trial court sentenced him to 365 days in jail.

Liberty City also charged and convicted Mr. Kimball with being inside the park and causing a neighborhood commotion after 10 pm. For this offense, Mr. Kimball was fined \$1000 for the disturbance.

Mr. Kimball has appealed the trial court's rulings. You must defend the trial court's rulings.

- 
- 1) How might Liberty City defend the ruling on appeal?
  - 2) Was it clear what behavior the law allowed/disallowed in this situation?
  - 3) Did Mr. Kimball follow the law? Why or why not?
  - 4) Can you demonstrate what was wrong with the behavior?
  - 5) Can you show that the trial court was fair?

## Background of Lawsuit--Judges

There are two laws in Liberty City relating to parks:

- a) No vehicles will be driven in Liberty City parks.
- b) Noise is prohibited in Liberty City neighborhoods after 10 pm.

Joel Kimball works for Good Care Ambulance Company. On a late evening about ten days ago, Mr. Kimball was driving near the City Park when he saw a person collapse suddenly. He raced into the Park in his ambulance and transported the resident to the hospital for care.

Mr. Kimball was given a citation for violation of the Liberty City law which states that there shall be no vehicles driven through Liberty City parks. The possible fine/penalty for this offense is \$500 - \$5000 for first offense, or up to 365 days in county jail.

Liberty City charged and convicted Mr. Kimball in Twelfth District Court for this offense and the trial court sentenced him to 365 days in jail.

Liberty City also charged and convicted Mr. Kimball with being inside the park and causing a neighborhood commotion after 10 pm. For this offense, Mr. Kimball was fined \$1000 for the disturbance.

Mr. Kimball has appealed the trial court's rulings. You must determine whether to uphold those rulings or overturn them.

- 
- 1) How will you come to your decision?
  - 2) Can you follow the law as it is written, in prior decisions of the court and in the Constitution?
  - 3) Are you assessing the proof provided or the people providing the proof?
  - 4) Can you listen with an open mind to both sides' evidence and both points of view?
  - 5) Can you work together as a group, listen to the evidence and argument, and come to a group conclusion?
  - 6) What if you disagree with the majority view?

## Debriefing

1. Talk to the students about the case.
  - a) Were the results of the trial court fair?
  - b) Was the result at the appellate level fair?
  - c) How did each of the branches of government work together in this case?
  - d) What changes could be made to help bring about a better outcome?
  - e) What can the students do as citizens to ensure a more fair outcome?
  - f) Can judges just change the law from the bench?
  - g) Can judges make a suggestion that the legislature who drafted the law revisit the law?
2. Discuss the concept of judicial review. Why would the Constitution and Supreme Court precedent (Marbury v Madison) afford federal appellate judges the role of reviewing pieces of legislation/written laws?

“But where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured has a right to resort to the laws of his country for a remedy.” Marbury v Madison (1803).

“It is emphatically the duty of the Judicial Department to say what the law is.”  
Marbury v Madison (1803)

3. Writing Assignment to Conclude the Lesson:
  - a. Write whether or not you agree with the appellate court decision in this case. Do you agree with the court’s majority? Or do you agree with the dissenting opinion, if there was such an opinion in your case?
  - b. Write two reasons why you agree/disagree.

## Follow-Up Resources

- Utah State Courts: [www.utcourts.gov](http://www.utcourts.gov)
- American Bar Association: [www.abanet.org](http://www.abanet.org)
- Liberty City law Related Education: [www.lawrelatededucation.org](http://www.lawrelatededucation.org)
- Voter Registration: <http://vote.utah.gov/register-to-vote/>
- Utah Education Network (UEN) / GettyReady site: [www.gettyready.org](http://www.gettyready.org)
- Utah Commission on Civic & Character Education [www.civics.utah.gov](http://www.civics.utah.gov)

FOR CLASSROOM TEACHERS

AFTER THE LESSON: FOLLOW UP ONCE YOUR GUEST SPEAKER LEAVES

This year marks the 800<sup>th</sup> anniversary of the Magna Carta, a foundational document to our constitutional structure of government. In fact, it was the drafting of the Magna Carta, both its language and its design, that inspired our United States Constitution. Celebrating writing as a process and the value of how rules are drafted and enforced in our Nation makes a wonderful follow-up lesson for our youngest citizens.

One possible extension lesson would be the drafting of a class constitution. There are numerous versions of this lesson plan idea. Here is one example:

[http://www.congresslink.org/print\\_lp\\_classconstitution.htm](http://www.congresslink.org/print_lp_classconstitution.htm)

Allowing students a chance to craft their own version of the rules for their classroom may prove useful both for classroom management goals as well as a tangible expression of the power of the rule of law.