

ELEMENTARY SCHOOL - #3 (CRYSTAL METH)

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

HANSEL AND GRETEL :
 :
 Plaintiffs, :
 Vs. : Case No.: 04-323
 :
 CANDY HOUSER, :
 :
 Defendant. :

INTRODUCTION

There are two types of legal proceedings that make up the justice system in the United States. One involves **CRIMINAL CASES** in which the State is the **PLAINTIFF** and in which the **DEFENDANT** is a person charged with having committed a **CRIME**. The other type of case is what is known as a **CIVIL CASE** in which private persons are both the **PLAINTIFF** and the **DEFENDANT** and which is a legal proceeding to resolve a private dispute among people. Criminal cases always involve allegations of crime. Civil cases involve private disputes such as **CONTRACTS** or **TORTS** which are claims for injury to someone's person or property. The State has brought a criminal action against Houser for the manufacture and sale of methamphetamines, and she is currently awaiting trial on those charges. This is a companion **CIVIL CASE** where the plaintiffs have sued Candy Houser seeking a court order (an injunction) to close and padlock her house as a public nuisance, alleging that although Houser claimed the house is a Candy Store, it is a huge kitchen and warehouse facility for the illegal manufacture and sale of methamphetamine. Houser has filed a **COUNTERCLAIM** against Hansel and Gretel for pushing her into her oven, by which she claims she suffered serious bruising of the arms and shoulders.

Legal Definition: a **PUBLIC NUISANCE** is any condition dangerous to health or offensive to community moral standards affecting the rights of a considerable number of people, as an entire community or neighborhood.

BAILIFF: All rise. This Court is now in session.

JUDGE: Please be seated. Ladies and gentlemen of the jury, this is a civil case that the plaintiffs have brought against the defendant Candy Houser, alleging while at her place of residence and business to purchase some candy, that Houser offered to sell them Crystal Meth which she manufactured on the premises, and that her operation is dangerous to the health of the

community and affects the rights of a considerable number of people in the neighborhood.

Accordingly, plaintiffs seek an order from this court that the defendant is operating her house in this community as a facility and warehouse for the manufacture and sale of methamphetamine and seeking that this court close and padlock the house as a public nuisance. The defendant denies that she is manufacturing or selling meth out of her house, but that she is only selling candy and other treats to school children. She, in turn, has filed a counter suit against Hansel and Gretel alleging that Gretel pushed her in a large oven in her kitchen and caused her severe bruising, which Hansel and Gretel deny.

Although cases involving injunctions are usually decided by the court without the benefit of a jury, the fact that the defendant Houser has filed a counterclaim which will require a jury had caused me to decide that I will also ask the jury to sit as an advisory jury on the public nuisance claim, to determine the facts as to whether or not Houser was using her house, known as “The Candy Store,” as a place of illegal manufacture and sale of methamphetamine. If the jury so finds, this court will make a legal determination as to whether it fits the state’s definition of public nuisance. In doing so, you are not to consider whether or not any criminal charges have been brought against Candy Houser.

The first part of the trial is what is called **VOIR DIRE**. Voir Dire means to speak the truth, and it is the time of the trial when the Judge has to determine whether or not each and every juror is free of prejudice and can make a fair and impartial **VERDICT** based solely upon the evidence that they hear in the case, not what they have heard or read in the media. He may, therefore, ask potential jurors if they have read anything or know anything about this case.

Is each and every juror here sure they are willing to take an oath that they will give an impartial verdict based solely on the evidence?

JURORS: Yes, Judge.

JUDGE: All right then, let me explain to the jury the different parts of a trial. Because Hansel and Gretel are pursuing this case, it is up to them to proceed first, so you will first hear the **OPENING STATEMENT** of Hansel and Gretel’s **ATTORNEY**. You will then hear the **OPENING STATEMENT** of counsel for Candy Houser. Then you will hear Hansel and Gretel’s **WITNESSES** and after that, Candy Houser may call any witnesses she chooses. After you hear all of the evidence from the wit-

nesses, you will then hear the **CLOSING ARGUMENTS** from the attorneys of both parties, and because the plaintiff has the burden of proving her case by a **PREPONDERANCE OF THE EVIDENCE**, the plaintiffs are permitted a short rebuttal after the Defendant's **CLOSING ARGUMENT** and that would be the last argument heard in the case. After the **CLOSING ARGUMENTS** are made, I will give you **INSTRUCTIONS** on the **LAW** to help guide you in your **DELIBERATIONS**. Is counsel for Hansel and Gretel ready to proceed?

PLAINTIFF
ATTORNEY:

Yes, Your Honor.

JUDGE:

Is the defendant ready to proceed?

DEFENSE
ATTORNEY:

Yes, your honor.

PLAINTIFF
ATTORNEY:

Ladies and gentlemen of the jury, I am Attorney _____. As to the counterclaim, Hansel and Gretel will show in this case that Candy Houser has been using her house as a place for the manufacture and sale of meth, that it is a public nuisance, and should be shut and padlocked. Hansel and Gretel didn't push Candy Houser into her oven. She hid there after she tried to sell Hansel and Gretel methamphetamines, (sometimes called meth) and after Hansel and Gretel were smart enough to call the police for help.

JUDGE:

Defense Attorney, you may give your opening statement.

DEFENSE
ATTORNEY:

Ladies and gentlemen of the Jury, I am Attorney _____ and in the opening statement it is my duty to tell you what the evidence will be. I'll tell you what we will prove. We will prove that Ms. Houser, Candy Houser, is a fine citizen who runs a candy store on Main Street, "The Candy House," and that on December 7, 2006, Hansel and Gretel came into the store, got smart with Ms. Houser, made fun of her, caused her to open the door of her oven, and shoved her in, for no apparent reason, causing her to sustain serious bruising on her arms and shoulders. It's a good thing that the oven was not on, because Ms. Houser may have been seriously injured, or killed, as a result of a bad prank of Hansel and Gretel. Ms. Houser had doctor's bills to pay, and is seeking damages from them for all those injuries.

JUDGE: Plaintiff, you may call your first witness.

PLAINTIFF
ATTORNEY: I would like to call Hansel to the stand.

CLERK: Do you swear to tell the truth, the whole truth, and nothing but the truth?

HANSEL: I do.

PLAINTIFF
ATTORNEY: Please state your name.

HANSEL: My name is Hansel, brother of Gretel.

PLAINTIFF
ATTORNEY: Now, I want to take you back to December 7, 2006. Do you remember going to “The Candy House” with your sister Gretel.

HANSEL: Yes, we went to buy candy for our family’s Christmas stockings and something for ourselves.

PLAINTIFF
ATTORNEY: Tell us what happened when you got there.

HANSEL: Well, Ms. Houser was there, and we asked her what the best candy was she had in the store. She said she had something very special for us, but that we would have to keep it a BIG secret, because if someone else learned her recipe, she would be out of business. She told us it would not only taste good, but that it would make us feel good, and then she showed us what she was talking about. It looked like shiny blue-white “rocks”, like small chunks of crystal and it was odorless. She told us she also had this in a powder form, so we became suspicious.

PLAINTIFF
ATTORNEY: What did you do?

HANSEL: I had learned about Meth at school, and so we went outside the store, and I told Gretel I thought she was trying to sell us an illegal drug, so I went to call the police, and Gretel went back in to keep her busy until the police arrived. When they did arrive, I went in with the police and Gretel pointed to the big oven in the kitchen, and when the police opened the door, there was Ms. Houser, in the Oven! When she saw the police, she made up this fairy tale about Gretel pushing her in the oven!

PLAINTIFF
ATTORNEY: (Show Hansel some ingredients like cold tablets, drano, kitty litter and batteries). Let me show you what has been marked Exhibit A. Have you ever seen these things before?

HANSEL: Yes, these ingredients were recovered by the police from the kitchen where she said she made her candy. These are the ingredients Dr. Willobee has seen.

PLAINTIFF
ATTORNEY: (Look at defense attorney and say) - You may inquire.

DEFENSE
ATTORNEY: Now, you were off calling the police and didn't see Ms. Houser get in the oven to hide, did you?

HANSEL: No, that's correct.

DEFENSE
ATTORNEY: So you can't really say if she got in the oven voluntarily, or Gretel pushed her in.

HANSEL: Well, Gretel told me.....

DEFENSE
ATTORNEY: Your honor, please tell the witness he may not testify to HEARSAY!

JUDGE: Yes, Mr. Hansel, you may testify as to what you saw, but not as to what you heard Gretel say.

HANSEL: Yes, Your Honor. Well, what I saw when the police opened the oven door was Ms. Houser stuck in the oven facing the door. Had she been pushed, I would have thought her face would have been facing the back of the oven!

DEFENSE
ATTORNEY: No further questions, Your Honor.

JUDGE: You may step down Mr. Hansel.

PLAINTIFF
ATTORNEY: We call Gretel.

CLERK: Do you swear to tell the truth, the whole truth, and nothing but the truth?

GRETEL: I do.

PLAINTIFF
ATTORNEY: Can you state your name, please?

GRETEL: My name is Gretel.

PLAINTIFF
ATTORNEY: Let me ask you this question. Did you shove Ms. Houser into the oven at her house?

GRETEL: No, when I went back in, she had put away what she was trying to sell us, and when she heard the police siren, she just climbed into the oven and shut the door behind her. It was the oddest thing I ever saw!

PLAINTIFF
ATTORNEY: Are you the one that pointed out the oven to the police when they came?

GRETEL: Yes.

PLAINTIFF
ATTORNEY: No further questions!

CROSS-EXAMINATION

DEFENSE
ATTORNEY: You say you didn't push Ms. Houser in the stove?

GRETEL: That's correct.

DEFENSE
ATTORNEY: Then how do you explain the bruises on her shoulders and arms?

PLAINTIFF
ATTORNEY: Objection, it would be speculation!

JUDGE: Yes, I will sustain that objection. Move on, counsel.

DEFENSE
ATTORNEY: No more questions.

JUDGE: Call your next witness, please.

PLAINTIFF
ATTORNEY: I call Mr. Policeman.

CLERK: Do you swear to tell the truth, the whole truth, and nothing but the truth?

MR.
POLICEMAN: I do.

PLAINTIFF
ATTORNEY: Can you state your name, please?

MR.
POLICEMAN: My name is Herbert Policeman.

PLAINTIFF
ATTORNEY: When you arrived at Ms. Houser's residence, what did you observe?

MR.
POLICEMAN: Well, that gentleman (pointing to Hansel) was waiting outside the "Candy" house and when I got out of the police car he took me into the house where Gretel was waiting and pointing to the big oven in the kitchen.

PLAINTIFF
ATTORNEY: What did you see in the oven?

MR.
POLICEMAN: To my surprise, when I opened the oven door, that lady over there, (point to Candy Houser) just climbed out of the oven.

PLAINTIFF
ATTORNEY: What happened next, Mr. Policeman?

MR.
POLICEMAN: Well, after she got out of the oven, this bag dropped from her apron pocket and she looked scared to death. When I asked her what was in the bag, she told me it was just some of the "candy" she sells. When I went to look in the bag, she tugged and tugged and appeared very nervous, so I suspected it was really not candy. I took it and ordered it to be tested by Dr. Willobee, suspecting that it could be something illegal. Also, under the table were boxes and boxes of cold tablets, many cans of drain cleaner,

kitty litter, and by the way, no cat to be seen, and other ingredients that I knew could manufacture meth.

JUDGE: Any cross-examination?

DEFENSE
ATTORNEY: No, Your Honor.

JUDGE: Thank you Mr. Policeman, now call your next witness, counsel.

PLAINTIFF
ATTORNEY: Dr. Marcus Willobee.

CLERK: Do you swear to tell the truth, the whole truth and nothing but the truth?

DR. WILLOBEE: I do.

PLAINTIFF
ATTORNEY: Please state your name.

DR. WILLOBEE: My name is Marcus Willobee

PLAINTIFF
ATTORNEY: And can you tell the jury your occupation?

DR. WILLOBEE: Yes, I am a physician and pharmacologist licensed to practice medicine in the State of West Virginia. A pharmacologist is a person who is trained in the composition and use of drugs.

PLAINTIFF
ATTORNEY: Were you not involved locally in a case heard in this same court last year known as Snow White vs. The Evil Queen?

DR. WILLOBEE: Yes, I testified in that case as an expert as well.

PLAINTIFF
ATTORNEY: Your Honor, I object to Dr. Willobee testifying unless a foundation is laid that he is an expert witness.

JUDGE: Dr. Willobee has been qualified in this court to be an EXPERT WITNESS and give his opinions, so I will overrule the objection.

PLAINTIFF

ATTORNEY: Dr. Willobee, Can you tell me the chemical composition of crystal meth?

DR. WILLOBEE: Yes, of course. Methamphetamine is a compound that contains cold medicines, drain cleaner, battery acid, kitty litter and other very nasty ingredients.

PLAINTIFF

ATTORNEY: Doctor, can you tell us a little bit about meth?

DR. WILLOBEE: It is a powerful, highly addictive drug that is really toxic—a poison—to humans, but can stimulate the nervous system to give someone a brief feeling of well-being. It is only a "feeling," because in the meantime it is doing serious damage to an individual's body and mind.

PLAINTIFF

ATTORNEY: Is it addictive?

DR. WILLOBEE: Yes, very addictive, and it can cause brain damages which results in personality changes and other problems, such as with a person's ability to remember things.

PLAINTIFF

ATTORNEY: How does it affect the body or mind?

DR. WILLOBEE: It affects both the body and the mind. First time users say they feel great, but may not even realize they are high. It makes you feel good for a short period of time, but then you just have to crash, and just sleep it off. It can also cause mental confusion, and memory loss. Prolonged use may cause serious consequences, including death.

PLAINTIFF

ATTORNEY: Now, sir, are those ingredients also used to make candy or cookies?

PLAINTIFF

ATTORNEY: I object, Dr. Willobee has not been qualified as an expert in the manufacture of candy or cookies!

JUDGE: Oh, I think as a pharmacologist, he may answer.

DR. WILLOBEE: Not in any candy I've ever eaten!

(JURY LAUGHS)

JUDGE: (Pounding gavel) Order, Order!

PLAINTIFF
ATTORNEY: Thank you doctor. (Looking at the other attorney) Your witness.

CROSS EXAMINATION

DEFENSE
ATTORNEY: Now Doctor, just because these ingredients were in her home doesn't mean you can testify that she was making or selling crystal meth, isn't that right?

DR.WILLOBEE: I was not there. I did not see her do it. I cannot testify one way or the other.

DEFENSE
ATTORNEY: No further questions.

JUDGE: You may step down Dr. Willobee.

PLAINTIFF
ATTORNEY: The plaintiffs rest, your honor.

JUDGE: Well, then we may start the case for the defendant. Defense Attorney, you may call your first witness:

DEFENSE
ATTORNEY: We call Candy Houser.

CLERK: Do you swear to tell the truth, the whole truth, and nothing but the truth?

CANDY HOUSER: I do.

DEFENSE
ATTORNEY: Please state your name.

CANDY HOUSER: My name is Candy Houser. My friends call me Candy.

DEFENSE
ATTORNEY: Now where were you on the evening of December 7, 2006?

CANDY HOUSER: I was at my place of business, which is also my home, actually my GINGERGREAD HOME, getting ready to make some candy, when Hansel and Gretel came in. They were very disrespectful children, were noisy, and ill-mannered, and started to make fun of me when I told them they would have to pay for the candy they wanted. Then, Hansel went behind the counter, and opened the door to my big oven, and asked me what was inside. When I went to look, Gretel pushed me inside, and slammed the door shut. As a result of their conduct, I suffered serious bruises to my arms and shoulders, which I showed the police when they came.

DEFENSE

ATTORNEY: No further questions.

PLAINTIFF

ATTORNEY: Now, Ms. Houser, how did you call the police after you were pushed in the oven?

CANDY HOUSER: I didn't, Hansel and Gretel called the police.

PLAINTIFF

ATTORNEY: They pushed you, and then they called the police?

CANDY HOUSER: Yes, I guess they were worried after they did such a wicked thing.

PLAINTIFF

ATTORNEY: What do you use that big oven for?

CANDY HOUSER: I make all kinds of candy, and I also use it to make cookies and other treats as well.

PLAINTIFF

ATTORNEY: Now, Ms. Houser, there were a number of ingredients at your house that were found after you were released from the oven, were there not?

CANDY HOUSER: I don't know what you are talking about.

PLAINTIFF

ATTORNEY: Well, how about drano, for instance, and cases of cold tablets, and battery acid? Do you use those ingredients to make candy or cookies?

CANDY HOUSER: No, I use those things to clean my house and open up my drains and sometimes I have a cold – (cough, cough – pretend).

PLAINTIFF
ATTORNEY:

You use drano to clean house?

CANDY HOUSER: I didn't say my house was clean!

PLAINTIFF
COUNSEL:

No further questions.

JUDGE:

You may step down, Ms. Houser.

O.K., ladies and gentlemen of the jury, you will now hear the closing arguments - first from Hansel and Gretel's attorney and then from Candy Houser's attorney.

PLAINTIFF'S
ATTORNEY:

Ladies and Gentlemen of the jury, I told you what we would prove, and this is what we proved. We proved that Candy Houser was indeed manufacturing crystal meth in her "candy house." You heard Hansel tell you that Ms. Houser showed them the shiny blue-white rocks and also told them that if they took it, they would feel great.

You also heard Mr. Policeman tell you that Candy was really nervous when she dropped some of the hidden "candy" from her apron pocket and Dr. Willobee testified that this was certainly not candy, but drugs.

It's obvious by the way Ms. Houser was in the oven that she was hiding in there and was not pushed in. Ladies and Gentlemen of the jury, you should find in favor of the plaintiffs and also find that Candy's house should be immediately shut down for business. It has also been proved that she does not sell candy from that house, but makes and sells drugs. Ingredients used to manufacture meth were found in abundance in Ms. Houser's kitchen. This is a situation that is very dangerous for our community.

Thanks you very much for your time.

JUDGE:

Now we may hear the Defense Attorney.

DEFENSE
ATTORNEY:

Ladies and Gentlemen of the jury, Ms. Houser is the victim here. She was pushed into the oven by these two kids and needs to be reimbursed for any expenses she has paid for her injuries.

Candy Houser was just going about her business of selling candy before the Christmas holiday when these two came to her store and caused her harm.

Nothing has been proven to show Ms. Houser is guilty of anything so you should find in favor of my client and award her money to help with her doctor bills.

Thank you for your time.

JUDGE: It is now time for you, the jury, to deliberate on this matter and determine which party has proven their case by a **PREPONDERANCE OF THE EVIDENCE**. If you find that the plaintiff's case (Hansel and Gretel) is more convincing than the defendant's case (Candy Houser), then you should find for the plaintiff. If you find that the evidence is equal, or that the defendant's case is more convincing than the plaintiff's then you should find for the defendant. If you find for the defendant, Houser in her counterclaim, you will award such damages as will fully and fairly compensate her for all her losses sustained as a result of this injury.

If you find for the Plaintiff, you will also answer the jury verdict question as to whether or not you believe Candy Houser was operating a house for the illegal manufacture and sale of methamphetamines. If the jury so finds, this court will enter an **INJUNCTION** shutting and padlocking the house as a public nuisance.

You shall first pick a **FOREPERSON** and when you have reached a **VERDICT** you may press the buzzer and return to the Courtroom at which time the **FOREPERSON** will read the verdict in open Court. Bailiff, please give the jury five minutes to deliberate on this case.

BAILIFF: Yes, Judge.

AFTER THE JURY DELIBERATES AND COMES BACK TO THEIR SEATS.

JUDGE: Will the foreman of the jury please stand. Have you reached a verdict?

FOREPERSON: We have, Your Honor.

JUDGE: Will the defendant please stand. You may read the verdict.

FOREPERSON: _____ *We find in favor of the plaintiffs (Hansel and Gretel) and find that Candy Houser operated her house and place of business for the manufacture and sale of an illegal substance, known as methamphetamine.*

OR

_____ *We find in favor of the defendant (Candy Houser) and award damages of \$ _____ for injuries sustained while being pushed in the oven.*

JUDGE: So say you all?

JURY: Yes, Your Honor.

JUDGE: (If #1 in favor of the plaintiffs) I see also by the questionnaire that the jurors believe that Ms. Houser was operating as a house to illegally manufacture and sell Meth, so ----**hitting gavel down** I order Candy Houser's house shut down and padlocked immediately. Since it has been proven that illegal drugs were being manufactured inside, it is extremely dangerous to the entire community.

(If #2 in favor of defense – Candy Houser) I see you all have voted in favor of the defendant so Ms. Houser will receive compensation to be used to pay her lawyer and for injuries sustained while being pushed in the oven.

Now, we hope you have enjoyed learning about the civil justice system, and you may now ask questions!

*Script written by Patrick S. Cassidy, President
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