

**TEACHING BUSINESS LAW STUDENTS  
THE BASICS OF CIVIL LEGAL ACTIONS THROUGH  
THE CASE OF THE SLEEPING YANKEE FAN**

by

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**INTRODUCTION**

One of the great joys of teaching is the opportunity to develop new and creative ways in which to explain challenging legal material to students, particularly for a generation of students who embrace new and evolving technology. The pedagogical literature has a number of articles on the use of video media to help explain legal concepts in creative ways.<sup>1</sup> Perhaps one of the more challenging areas of the law to teach undergraduate business law students is civil procedure. There is a tendency to use famous canonical, albeit obtuse, cases to attempt to explain civil litigation practice and procedures.

It is a rare opportunity when students can study a legal action from start to finish so succinctly in one lesson by watching a video of the incident, which subsequently gave rise to the legal action, and read the judge's final Decision

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and Order in one class. The matter of *Andrew Robert Rector v. Major League Baseball Advanced Media, ESPN New York, et al.*,<sup>2</sup> colloquially referred to as The Sleeping Yankee Fan Case, is that exception. By using a YouTube video of the incident which is the subject of the litigation and reading aloud the subsequent Decision and Order of the case, educators can explain elements of the civil litigation process from inception to conclusion.

The lesson provides students with a basic understanding of civil litigation procedures, introduces legal vocabulary and concepts, and explains legal reasoning, particularly the IRAC (Issue, Rule, Analysis, and Conclusion) method. The exercise establishes a tone for the course that active participation is encouraged, expected, and that the class is a safe environment for participation. The exercise creates a shared common experience in which the class has a pedagogical touchstone case, which it can reference, and return to throughout the course.

## **EDUCATIONAL OBJECTIVES**

The exercise has several learning objectives: (1) It allows students to become actively engaged in the case by personally viewing the initial incident and permits direct commentary from their observations. (2) It helps students understand client advocacy and the respective positions of the parties through role-playing by having the class divide into sections representing the plaintiff, defendants, and judge when taking turns reading aloud and analyzing Judge Julia Rodriguez's Decision and Order. (3) It provides a foundational understanding of civil procedure topics, such as jurisdiction and venue, by using the setting and proximity of Yankee Stadium to the Bronx County Courthouse. (4) It introduces students to a substantive area of the law, torts,

through the two legal causes of action, defamation and intentional infliction of emotional distress, and helps to explain the difference between, civil and criminal law, procedural and substantive law, and common and statutory law. (5) The exercise demonstrates the application of IRAC (Issue, Rule, Analysis, and Conclusion) method of legal analysis to the two causes of action. (6) And in one succinct lesson, the exercise demonstrates how civil litigation can be interesting, fun, and expensive to the parties involved.

### **CLASS EXERCISE**

The exercise can be tailored to meet a variety of classroom settings. Depending on the context, character of the class, time constraints, and instructor experience, the instructor can simply assign the video and reading of the short six page Decision and Order as a homework assignment to be discussed at the next class in a flipped classroom format, or have the students role-play and sing as part of the exercise. Opportunities abound on how to approach the material.

Some students may be reluctant to embrace the exercise because it concerns sports, but the exercise is not about baseball. A baseball game is simply the context that gave rise to the legal action, although baseball does have its own set of rules which can provide an interesting metaphor for the exercise, which is about understanding and appreciating the rules of a game, in this case, the rules of civil procedure.

The following exercise described in this paper reflects a more comprehensive approach to the lesson and can be broken down into four parts: First, watching the video and soliciting student feedback; second, asking important and necessary questions before commencing a lawsuit; third,

role-playing through active classroom reading of the Decision and Order; and fourth, follow-up discussion.

The classroom instructor plays an important role in facilitating the process and setting the tone for the class. For the more adventurous instructors, in order to get the students motivated for the lesson and perhaps alleviate the malaise and boredom in the classroom, students can be asked to stand for the proverbial seventh inning stretch and sing “Take Me Out to the Ballgame.” To make this more enjoyable, a YouTube video of a popular star leading and accompanying the class in song, such as Bill Murray at a Chicago Cubs’ baseball game,<sup>3</sup> can be used. There are plenty of contemporary videos and artists singing the song available on the internet for use in the lesson.

#### *Viewing the Incident – Let’s go to the Video*

Before watching the video, the instructor should discuss the context of the incident, but not mention the subsequent lawsuit or amount of relief requested because it might bias the students’ perceptions. Simply state the facts that at a Major League Baseball game held at Yankee Stadium on Saturday, April 13, 2014 between the Boston Red Sox and the New York Yankees a fan was captured on television dozing in the stands during the game and ESPN sports’ announcers took note, and then show the video. There are several versions of the video available on the internet for classroom viewing.<sup>4</sup> After watching the video, students can be asked their first impressions.

What the class does not know and will not know until it starts reading the Decision and Order is that the video and the sports announcers’ comments went viral on the internet

and uncensored fan commentary on blogs proliferated about the incident. Rector, the plaintiff, brought legal action only against the sports announcers and their organizations, not the blogs, which is a key element of the judge's Decision and Order.

### *Commencing a Legal Action*

After showing the video and asking the students their first impressions, the instructor should ask a legal question: Has Andrew Robert Rector, been wronged or injured? Or, more precisely: Does he have a legal cause of action against the announcers upon which relief can be granted by a court of law?

At this point, the instructor should explain the role of the attorney, legal representation and advocacy, and the questions that need to be asked to determine whether a legal action can be commenced. The instructor can create a scenario in which Rector seeks the advice of legal counsel as to whether he has a case against the announcers. The attorney advises him that in order to answer, she will need to ask additional questions. In addition, she will need to conduct legal research by consulting the Civil Practice Law and Rules (CPLR) of the State of New York, case law, and legal treatises to determine whether he has a legal cause of action for which relief can be granted in a court of law.

The instructor can ask the students some basic legal and civil procedure questions that an attorney might ask a client and begin to define and explain certain legal concepts. Some suggested questions might include, but not limited to:

Was plaintiff injured or harmed by the announcers' actions?

Does he have standing to sue the announcers?

Under what legal theory or cause of action will he bring a legal action against the announcers?

What type of relief from the court should he seek?

Which court has jurisdiction to hear the case and in which venue will he bring his legal action?

The answer to the last questions on jurisdiction and venue can be answered by using a photo from the internet of Yankee Stadium juxtaposed against the Bronx County Courthouse. There are several photos of Yankee Stadium next to the Bronx County Courthouse.<sup>5</sup> This allows the students to understand the concept of venue. With the stadium and courthouse adjacent to each other and the courthouse being the actual courthouse in which the case was heard, venue becomes quite easy to explain. The instructor can take a moment to explain the various courts and their jurisdiction. For example, the court in which Rector, the plaintiff, filed his complaint, New York State Supreme Court, is a civil trial court which handles civil cases seeking relief over \$25,000, of which plaintiff's legal action qualifies.

Once the class has established that Mr. Rector has standing and a legal cause of action, he can commence legal proceedings by filing a complaint, the class can then move on to reading the Decision and Order.

### *Reading the Decision and Order*

Pleadings and other court documents are excellent tools for explaining the law to students. As physical documents that students can hold and read, they include information, such as the Index Number, that lends itself to explaining how the court systems work. Instructors should take the time to explain the headings, court, parties involved, judge and other features included in the document. The Decision and Order is a particularly useful tool because it has a list of the “Papers Submitted” by the parties in the matter which provides an opportunity to explain the costs associated with all the motions, affidavits, memorandums of law, and replies in the matter. Copies of the complaint and Decision and Order can be located on the internet.<sup>6</sup>

The Decision and Order explains the judge’s ruling on defendants’ Motion to Dismiss the case, so the judge summarizes the facts of the case, addresses plaintiff’s two causes of action, defamation and the intentional infliction of emotional distress utilizing the IRAC method, and defendants’ arguments in support of their motion.

After distributing the Decision and Order to the class, the instructor should divide the students into three groups representing the respective parties to the litigation. The three groups of students are the plaintiff’s attorneys representing Andrew Robert Rector; the defendants’ attorneys representing Dan Shulman, John Kruk, Major League Baseball Advanced Media, ESPN New York, and the New York Yankees; and the students who will preside in place of Judge Julia I. Rodriguez. Although not necessary, Power Point slides can be useful in introducing the respective parties, their images, company logos, etc. which are readily available on the internet.

For the remainder of the exercise, students from each group will read aloud to the class pertinent sections of the Decision and Order that reflect their role in the litigation. The students should imagine themselves as the attorneys for their respective clients or the judge and should advocate for their clients zealously, but respectfully. Either the instructor or students representing the judge can begin by reading a summation of the facts on page one of the Decision and Order.<sup>7</sup> After reading the summation of facts, the respective parties will take turns reading aloud.

*Plaintiff's Attorneys:*

A Power Point slide with a photo of the plaintiff can be introduced at this point. Even though the Decision and Order is written by the judge, it is written in such a way that plaintiff's and defendants' attorneys can read from respective parts of it outlining their arguments. For example, plaintiff's attorneys will begin on page 2 of the Decision and Order by taking turns reading "With respect to his defamation cause of action, Plaintiff alleges, *inter alia*, that:"<sup>8</sup> and the student continues to read the facts listed which support plaintiff's argument. The instructor should take a moment to translate *inter alia*, among other things, and discuss the use of Latin in the law.

Another student representing plaintiff's attorneys can continue reading on page two, "With respect to his cause of action for intentional infliction of emotional distress, plaintiff alleges, *inter alia*, that:"<sup>9</sup> and continues to read the facts listed which support plaintiff's argument.

And finally, a third student representing the plaintiff's attorneys can read on page three of the Decision and Order, "Plaintiff seeks \$10 million in damages, including punitive

damages, to compensate him for...”<sup>10</sup> and continue to read the facts listed which support the argument and request for relief.

While the students are reading the two causes of action and relief requested, the instructor can pause the readings to explain and clarify the cause of actions, why such relief was requested, and the role of plaintiff’s attorneys as advocates and their ethical responsibilities as attorneys to represent their clients zealously. Once the plaintiff’s attorneys have completed reading their arguments, they can rest their case and the class can move on to the defendants’ attorneys’ request for Summary Judgement.

*Defendants’ Attorneys:*

Defendants should then be introduced. The instructor can introduce the announcers Dan Shulman and John Kruk with a Power Point slide. In response to plaintiff’s attorneys’ arguments, the students representing the defendants’ attorneys will then have their opportunity to ask the court to dismiss the case for lacking merit. Defendants’ attorneys will have their chance by reading the Decision and Order on page three with the first student reading, “Defendants ESPN, New York Yankees, Shulman and Kruk (the “ESPN/Yankees”) now move to dismiss the complaint, pursuant to CPLR 3211 (a)(1) and 3211(a)(7).”<sup>11</sup> The instructor can use a Power Point slide to list CPLR 3211 (a)(1) and (a)(7) and explain the purpose of a Motion to Dismiss.

A second student, reading for defendants’ attorneys, will read on page three of the Decision and Order, “Under CPLR 3211(a)(1), a dismissal is warranted only if the documentary evidence submitted conclusively establishes a

defense to the asserted claims as a matter of law.”<sup>12</sup> This may be a little complicated for an undergraduate to understand, but it provides an opportunity for the instructor to not only explain the statutory law, but also to distinguish between statutory law, the CPLR, and common law because the judge cites several cases in the Decision and Order when addressing the requirements to dismiss a case under CPLR 3211.

*Judge’s Reasoning and  
Application of the IRAC Method of Legal Analysis:*

After the students representing the plaintiff’s and defendants’ attorneys have had the opportunity to present their arguments, the class will then turn to the students representing the judge. The instructor should discuss the role of the judge in the case and ask the class questions such as how do judges decide cases? Do judges simply flip a coin or is there a method to deciding cases? What type of analysis is necessary to come to a just and reasonable decision? Most students do not understand how judges decide cases and may be inclined to believe they do so based on personal feelings, but it is important to understand that there is a systematic approach to deciding cases. The instructor should introduce and explain the IRAC method of legal analysis: Issue, Rule, Application and Analysis, and Conclusion. It is important to take the time to explain the four parts either through a PowerPoint slide or by providing students with a handout that explains the IRAC method of legal analysis.

As the students read the judge’s reasoning using the IRAC method, the instructor can systematically address each question: What is the issue in the case? What is the rule regarding the legal issue? How does the judge apply

the law to the facts? And what is the judge's conclusion? The IRAC method can be used to address each of plaintiff's two causes of action, defamation and intentional infliction of emotional distress, and defendant's Motion for Summary Judgement.

The instructor should then introduce Judge Rodriguez with a Power Point slide of her photo. If available, and for fun, the instructor can provide the students representing the judge with a gavel which can be passed from student to student as they read the judge's Decision and Order.

The first student representing the judge will begin by reading the first cause of action in the Decision and Order at the top of page four, "To prove a claim for defamation, a plaintiff must show: (1) a false statement that is (2) published to a third party (3) without privilege or authorization, and that (4) causes harm."<sup>13</sup> The student will continue to read the supporting cases that cite the common law. The instructor can take this time to explain further the elements necessary to support a claim for defamation and common law versus statutory law.

The second student will read the facts as applied to the law in the Decision and Order on page five, "The CDs conclusively establish that none of the defendants made any of the statements attributed to them in the complaint. In fact, the Plaintiff's own submissions reflect that all of the statements alleged in the complaint were made by private individuals on websites not hosted or maintained by any of the defendants herein."<sup>14</sup> The instructor should ask the class why does it think the plaintiff did not bring a legal action against the internet fan blogs.

As the students read on behalf of the judge, there are certain elements of the opinion that should be emphasized. For example, when the students reading the facts applied to the law come to the sentence on page five, “Indeed, it is axiomatic that a defendant cannot be held liable for libelous or defamatory statement that it did not write or publish”<sup>15</sup> it is worth repeating the sentence again and other points of the text to emphasize and recognize important legal concepts and principles.

After the first cause of action has been addressed and each point of the IRAC method discussed, the students representing the judge should move on to the second cause of action and read from “II. Intentional Infliction of Emotional Distress,” on page six, “To Survive a motion to dismiss a cause of action for the intentional infliction of emotional distress, plaintiff must allege “extreme and outrageous conduct intentionally or recklessly [which] causes severe emotional distress to another.”<sup>16</sup> Then the instructor should address and discuss each point of the IRAC method as applied to the second cause of action.

Finally, the last student representing the judge can read on page six, “Based on the foregoing, the Defendant’s respective motions to dismiss the Complaint are **granted** and the Complaint is hereby dismissed in its entirety.”<sup>17</sup> The last student reading can then slam down the gavel. Rector is out!

### *Follow-up Discussion*

Throughout the entire exercise, the instructor should be asking questions after each student has read a section of the Decision and Order to keep the students who are not reading engaged in the dialogue. The instructor can then solicit the

students' post-exercise impressions, discuss alternative scenarios, and reaffirm key elements and vocabulary of the civil litigation process. The Decision and Order is rife with grammatical errors and not very well written in some areas, which allows the instructor to discuss the imperfect nature of the legal process and point out that even judges make mistakes.

The case raises several issues worthy of follow-up. In addition to soliciting the students' feedback as to whether they agreed with the judge's reasoning and decision, there are additional questions that might be asked:

Since the case received extensive publicity, is Rector now a "public figure" or still a "private" person in respects to any future claims of defamation?

Knowing the case was such a long shot, why do you think the plaintiff brought the action against the defendants?

Should the plaintiff be penalized for being unsuccessful?

Can the plaintiff appeal the judge's decision?

Should the plaintiff be allowed to appeal the judge's decision? And if so, why?

Would defendants have been held liable if they had made comments similar to the fan blogs/websites on the internet?

Is it legally acceptable to ridicule someone publicly for their weight, gender, or race?

What if the plaintiff had been a child dozing in the stands instead of an adult?

And finally, does the exculpatory clause on the back of baseball game ticket provide immunity for the defendants?

The question regarding the exculpatory clause on the back of a ticket is a perfect opportunity to begin to explore contract law

and the role of exculpatory clauses. The exculpatory clause on the back of a New York Yankee's baseball game ticket can be found on the web and made into a Power Point for the class.<sup>18</sup> To add additional levity, the instructor can introduce Mad Magazine's "The Sleeping Yankee Fan's Hall of Fame Plaque"<sup>19</sup> in which Rector is pictured as "The Yankee Stadium Snoozer" and lists his accomplishment of sleeping at Yankee Stadium.

## CONCLUSION

There are many different pedagogical approaches to teaching the law and utilizing court documents and video which provide a more tangible experience for the students to appreciate the civil litigation process. At its most basic level, this lesson is designed to provide students with an understanding of the civil litigation process, an introduction to legal terms and concepts, and a demonstration of the use of the IRAC method of legal analysis. Having students actively participate and speak in front of their peers helps to establish a tone for the course that active participation is encouraged, expected, and that the class is a safe environment for participation. The payoff for the students is that they now have a shared common legal experience and touchstone case that they can refer to throughout the course when discussing new material.

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<sup>1</sup> McEvoy, Sharlene A., Teaching Legal Principles By Using the Movie "Treasure of Sierra Madre." North East Journal of Legal Studies, Vol. 37, Spring/Fall 2018 at p. 119. A Tale of Two Defense Attorneys: Using The Films "Jagged Edge" and "Suspect" To Teach Lessons In Ethics, Gender Roles And Trial Procedures In A Law Class. North East Journal of Legal Studies, Vol. 39, Fall 2019 at 59.

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<sup>2</sup> Andrew Robert Rector v. Major League Baseball Advanced Media, ESPN New York, New York Yankees, Dan Shulman, John Kruk. DECISION and ORDER, No. 303630-2014 (N.Y. Sup. Bronx Co. 2014).

<sup>3</sup> Murray, Bill. "Take Me Out To The Ballgame." Wrigley Field during the Cubs' home opener. April 12, 2004.

[https://www.youtube.com/watch?v=yAOkVO\\_Pj7s](https://www.youtube.com/watch?v=yAOkVO_Pj7s)

<sup>4</sup> A fan in the stands takes a snooze during the 4th inning of the Red Sox/Yankees game at Yankee Stadium. April, 13, 2014.

[youtube.com/watch?time\\_continue=20&v=1FDrcWTSczs](https://www.youtube.com/watch?time_continue=20&v=1FDrcWTSczs)

<sup>5</sup> One example of a photo of Yankee Stadium juxtaposed against the Bronx County Courthouse:

[https://www.flickr.com/photos/gary\\_dunaier/6946209812](https://www.flickr.com/photos/gary_dunaier/6946209812)

Yankee Stadium, Bronx County Courthouse, which dominated the view of the Bronx skyline in the original stadium, now can only be seen from the left field stands taken by Gary Dunaier. April 17, 2012.

<sup>6</sup> The Smoking Gun. <http://thesmokinggun.com/file/sleepy-fan-dismissal>

<sup>7</sup> Andrew Robert Rector v. Major League Baseball Advanced Media et al. at 1.

<sup>8</sup> *Id.* at 2.

<sup>9</sup> *Id.* at 2 and 3.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.* at 3.

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.* at 4.

<sup>14</sup> *Id.* at 5.

<sup>15</sup> *Id.* at 5.

<sup>16</sup> *Id.* at 6.

<sup>17</sup> *Id.* at 6.

<sup>18</sup> New York Yankee Ticket Back Terms and Conditions

<https://www.mlb.com/yankees/tickets/ticket-back-terms-conditions>

<sup>19</sup> Mad Magazine's, The Sleeping Yankee Hall of Fame Plaque

<https://www.madmagazine.com/blog/2014/07/09/the-sleeping-yankee-fans-hall-of-fame-plaque>