

**CIVIL CASE: *RUFUS T. JONES V. BRAHMIN  
PREPARATORY SCHOOL***

**A. SUMMARY OF *JONES V. BRAHMIN PREPARATORY  
SCHOOL***



Brahmin Preparatory School

Rufus T. Jones, an African American teacher, sues Brahmin Preparatory School, an elite private high school, claiming racially disparate treatment and retaliation against him for engaging in the protected activity of opposing what he believe to be incidents showing discrimination against faculty of color. The discrimination claim is based on allegations that Jones was treated materially differently in his employment at Brahmin Prep compared to similarly situated white faculty.

Plaintiff's retaliation claim is based upon the school's Head Master placing him on probation because Jones spoke out at a faculty meeting on October 12, 20XX-2 (two years ago), publicly opposing and criticizing the invitation extended by the school to Walther von Stroheim, a controversial figure who has written extensively on the interpretation of race relations in this country.

Jones claims that Brahmin Prep punished him for making what it deemed inflammatory statements at this meeting and refusing to apologize when ordered to do so by school administrators.

Though other white faculty members had made statements of a similar nature in the past, either orally or by e-mail, none were punished. Specifically, the previous year, a white faculty member Robin Peterson had sent out an all faculty and staff e-mail criticizing the administration for failure to retain faculty of color and accusing the school of harboring both subtle and overt racism. Brahmin Head Master Francis J. Winslow felt that this e-mail was not accurate and used unnecessary language. He and other staff members were stung by the tone and content Robin Peterson's e-mail. They did not want the meeting called for by Peterson to occur. Discussions were held by the administration on how to deal with Peterson outside of the formal disciplinary system at the school. Vice-Head Master Lynn Polonious met with Peterson and persuaded her to call off the meeting. When she reluctantly agreed, Francis Winslow sent out an all faculty staff and e-mail calling off the meeting. Robin Peterson was not put on probation or otherwise punished in any way for sending the e-mail.

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**ASSIGNMENT 1: Plaintiff's Case Analysis and Case Theory and Theme Development**

You are representing plaintiff Rufus Jones in the workplace discrimination case of *Jones v. Brahmin Preparatory School*. The defendant school is rich and powerful, with many prominent alumni. You know that this is going to be a real battle, going all the way to jury verdict. Before you can plan your opening statement, case in chief, cross-examinations or other preparations, you need to fine-tune your case theory and theme.

**PREPARATION**

**READ:** Case Files Entries 1-14; Chapter 2.

**THOUGHTS FOR THIS ASSIGNMENT**

1. What facts do you need to prove disparate treatment and retaliation? Can the testimony of Rufus Jones alone support these charges? What other witnesses will be the most important in supporting your case?
2. What is the plaintiff's most persuasive narrative story? What are the human values which the jurors will care about in the story? What is your strongest human interest theme? What is the most effective way to build the plot? Rufus Jones is the protagonist, but is your story in support of him credible?
3. What are the strengths and weaknesses of your case?
4. You know that the defense will argue that your client was very well treated by the school. He continues to work there, receiving a relatively high salary, with overwhelmingly positive comments in his personnel file. How do you plan on handling this?

**ASSIGNMENT FOR CLASS**

In class, be prepared to discuss your case theory including both factual sufficiency and persuasive story, as well as the strengths and weaknesses of your case. What is your case theme? Be prepared to discuss your tentative trial plan. Who are the witnesses

that you will call at trial? What are your plans for meeting the defense case of fair treatment?

## **ASSIGNMENT 2: Defense Counsel's Case Analysis and Case Theory and Theme Development**

You represent Brahmin Preparatory School. Rufus Jones has alleged treated him unfairly based on his race, as well as retaliated against him. Your client is adamant that the discipline in this case was fairly administered, and that the school does not discriminate against teachers of color. Since this case will be going to trial, it is time for you to fine-tune your case theory and trial strategy.

### **PREPARATION**

**READ:** Case File Entries 1-14; Chapter 2.

### **THOUGHTS FOR THIS ASSIGNMENT**

1. How do you plan to attack the sufficiency of the plaintiff's allegation of disparate treatment? How about plaintiff's alternate allegation of retaliation? Are the plaintiff's legal theories defective in any way? Can the plaintiff produce enough evidence to make a *prima facie* case? How is the plaintiff's narrative story vulnerable? How do you plan on attacking the witnesses who are likely to testify for the plaintiff?
2. What is the defense's narrative story? What are the human values that you will put forward for the jury? What is your human interest theme? Given that you represent an institution here, who is the protagonist? How will you arrange the facts into the plot of the story? Are both the story and the witnesses credible?
3. What are the strengths and weaknesses of your case?

### **ASSIGNMENT FOR CLASS**

In class, be prepared to discuss your case theory, including both factual sufficiency, persuasive story and the strengths and weaknesses. Also be prepared to discuss your trial plan, including the witnesses you intend to call, and in what order. Is there any potential for you to outright demolish any of the witnesses called by the plaintiff? If so, on what basis?

## **ASSIGNMENT 3: Plaintiff's Attorney: Content of the Cross-Examination of Francis J. Winslow**

You have taken the deposition of Brahmin Preparatory School Principal Francis Winslow. While he admits that Rufus Jones was placed on probation, he is adamant that this is fairly based upon the rules and procedures of the school. He denies that any racial motivation was involved.

## PREPARATION

**READ:** Case File Entries 1-14; Chapter 3.

### THOUGHTS FOR THIS ASSIGNMENT

1. What will you have to say about the credibility of Francis Winslow in your closing argument? Is he biased? How? What is the difference in the way Rufus Jones was treated for his outspokenness at the meeting in question compared to the prior behavior by the white teacher who circulated a pointed e-mail criticizing the racial climate at the school?
2. Brainstorm for concessions that will help build your case theory or undercut the defense case theory. What concessions can you see? What must Mr. Winslow admit or have his answer perceived as a lie, a mistake or ludicrous? Is there anything you can do to impeach this witness?

### ASSIGNMENT FOR CLASS

Outside of class, prepare a one-page statement summarizing what you intend to argue in closing about Francis Winslow. In class, be prepared to deliver your closing argument and to discuss the content of your cross-examination.

#### **ASSIGNMENT 4: Plaintiff's Attorney: Content of the Cross-Examination of Dr. Dale F. Douglass**

Dr. Dale F. Douglass is the expert witness being called by the defense, who will state that there was no disparate treatment or retaliation involved. Dr. Douglass is well qualified to offer testimony in this matter. As we have reviewed previously, expert witnesses are challenging witnesses. You need to carefully prepare what you will ask this expert in cross-examination.

## PREPARATION

**READ:** Case File Entries 1-14; Chapter 3; Chapters 10 and 11.

### THOUGHTS FOR THIS ASSIGNMENT

1. What spin on the facts do you expect that this expert will give on the witness stand? Is there anything about the defense expert's anticipated spin that is unreasonable, capable of being commented upon in your closing argument? If so, what?

2. Brainstorm for concessions that will help build your case theory or undercut the defense's case theory. What concessions can you obtain from this expert? What must the expert admit or have his answer perceived as a lie, mistake or slanted?

### **ASSIGNMENT FOR CLASS**

Outside of class, prepare a one-page statement summarizing what you intend to argue in closing regarding this expert and the testimony the expert presents. In class, be prepared to deliver your closing argument and to discuss the content of your cross-examination of the defense expert.

#### **ASSIGNMENT 5: Defense Counsel: Content of the Cross-Examination of Rufus Jones**

Rufus Jones is the plaintiff. You have taken his deposition. How credible will the plaintiff be to the jury? You have to narrow down the information covered at the plaintiff's deposition in preparing the content of your cross-examination of the plaintiff.

### **PREPARATION**

**READ:** Case File Entries 1-14; Chapter 3.

### **THOUGHTS FOR THIS ASSIGNMENT**

1. In your closing argument, what do you plan to say about plaintiff's credibility and his testimony?
2. Brainstorm for concessions that will help to build your case theory or undercut the plaintiff's. What concessions can you obtain from the plaintiff? Ask yourself: What must plaintiff admit or have the answer be viewed as a lie, a mistake or slanted?
3. Is the plaintiff vulnerable to impeachment? In what areas?

### **ASSIGNMENT FOR CLASS**

Outside of class, prepare a one-page statement summarizing what you intend to argue in closing regarding plaintiff and his testimony. In class, be prepared to deliver your closing argument and to discuss the content of your cross-examination of plaintiff.

#### **ASSIGNMENT 6: Defense Counsel: Content of the Cross-Examination of Dr. C. Z. Finch**

Dr. C. Z. Finch is the plaintiff's main liability expert. You already have taken the deposition of this witness. You now have to narrow down the content to be used for the cross of the expert in trial.

## PREPARATION

**READ:** Case File Entries 1-14; Chapter 3; Chapters 10 and 11.

### THOUGHTS FOR THIS ASSIGNMENT

1. In your closing argument, what do you plan to say about the testimony of plaintiff's expert C. Z. Finch's credibility and testimony?
2. Brainstorm for concessions that will help to build your case theory or undercut the plaintiffs. What concessions can you obtain from plaintiff's expert C. Z. Finch? Remember that experts are very tough witnesses. Ask yourself: What must C. Z. Finch admit or have the testimony of this expert be thought of as a lie, a mistake or ridiculous?
3. How subject to impeachment on bias is this expert?

### ASSIGNMENT FOR CLASS

Outside of class, prepare a one-page statement summarizing what you intend to argue in closing regarding Dr. C. Z. Finch and the testimony of this expert. In class, be prepared to deliver your closing argument and to discuss the content of your cross-examination of C. Z. Finch.

### **ASSIGNMENT 7: Plaintiff's Lawyer: Scripting the Cross-Examination of Francis J. Winslow**

Now that your brainstorming sessions have helped you identify the content of your cross-examination of the defendant school's principal Francis Winslow, it is time to write out your cross-examination questions.

## PREPARATION

**READ:** Case File Entries 1-14; Chapter 4.

### THOUGHTS FOR THIS ASSIGNMENT

1. What are the topical units that will make up your cross-examination of Francis Winslow?
2. Does each topical unit have a beginning, middle and end?
3. Does the left column on your cross notes in each topical unit contain short, clear statements, rather than questions? Are the statements well phrased to control the witness?
4. In the right column of the cross notes, are there any references to sources in support of your assertions? Is there a legal authority in the right column in case of an objection to your question?

5. Are the topical units organized into a story that has a beginning, middle and an end? Does your cross-examination of Francis Winslow begin and end in a powerful way?
6. Have you edited your cross-examination so that it is interesting, focused and sticks to questions that you know the witness has to answer in a way that favors you?

### **ASSIGNMENT FOR CLASS**

Outside of class, prepare two topical units of cross notes for the cross-examination of Francis Winslow. In class, be prepared to turn these in, as well as to discuss your plan for cross-examining Francis Winslow.

### **ASSIGNMENT 8: Plaintiff's Lawyer: Scripting the Cross-Examination of Dr. Dale Douglass**

Now that your brainstorming sessions have helped you identify the content of your cross-examination of defense expert Dr. Dale Douglass, it is time to write out your cross-examination questions.

### **PREPARATION**

**READ:** Case File Entries 1-14; Chapter 4; Chapters 10 and 11.

### **THOUGHTS FOR THIS ASSIGNMENT**

1. What are the topical units that will make up your cross-examination of defendant's expert?
2. Does each topical unit have a beginning, middle and end?
3. Does the left column of your cross notes contain short, clear statements rather than questions? Are the statements well phrased for optimum witness control?
4. In the right column of your cross notes, are there references to source material for your questions? Is there legal authority that can be used if an objection is made to a question?
5. Are the topical units organized into a story with a beginning, middle and end? Does the cross-examination of Dr. Douglass begin and end in a powerful way?
6. Have you edited your cross-examination so that it flows well, sticks only to what is important and asks questions that you know the answer to?

### **ASSIGNMENT FOR CLASS**

Outside the class, prepare two topical units of cross notes for the cross-examination of defense expert Dr. Dale Douglass. In class, be prepared to turn these in, as well as to discuss your plan for cross-examining this witness.

## **ASSIGNMENT 9: Defense Counsel: Scripting the Cross-Examination of Rufus Jones**

Now that your brainstorming sessions have helped you to identify the content of your cross-examination of the plaintiff, it is time to write out the questions you will ask Rufus Jones.

### **PREPARATION**

**READ:** Case File Entries 1-14; Chapter 4.

### **THOUGHTS FOR THIS ASSIGNMENT**

1. What are the topical units that will make up your cross-examination of Rufus Jones?
2. Does each topical unit have a beginning, middle and end?
3. Does the left column of each topical unit contain short, clear statements, rather than questions? Are the statements tight and well phrased for optimum witness control?
4. In the right column of the cross notes, are there references to where source material can be found? Is there a legal authority in the right column that can be used if an objection is made to the question?
5. Are the topical units organized into a story that has a beginning, middle and end? Does the cross-examination of Rufus Jones begin and end in a powerful way?
6. Have you edited your cross examination so that it is tight, flows well and asks questions to which you know the answer?

### **ASSIGNMENT FOR CLASS**

Outside of class, prepare two topical units of cross notes for the examination of Rufus Jones. In class, be prepared to turn them in, as well as to discuss your plan for this witness.

## **ASSIGNMENT 10: Defense Counsel: Scripting the Cross-Examination of Dr. C. Z. Finch**

Now that your brainstorming sessions have helped you identify the content of your cross-examination of the plaintiff's witness, it is time to prepare your cross-examination of Dr. C. Z. Finch.

### **PREPARATION**

**READ:** Case File Entries 1-14; Chapter 4; Chapters 10 and 11.

### **THOUGHTS FOR THIS ASSIGNMENT**

1. What are the topical units that will make up your cross-examination of plaintiff's expert Dr. C. Z. Finch?
2. Does each topical unit have a beginning, middle and end?
3. Does the left column of your cross notes contain a short, clear statement rather than a question for each topical unit? Are the statements well phrased for optimum witness control?
4. In the right column of your cross notes, are there references to source material used in your questions? Is there legal authority on the right that can be used if an objection is made to a question?
5. Are the topical units organized into a story that has a beginning, middle and end? Does the cross-examination of plaintiff's expert begin and end in a powerful way?
6. Have you edited your cross-examination so that it is tight, flows well and asks only questions to which you know the answer?

### **ASSIGNMENT FOR CLASS**

Outside of class, prepare two topical units of cross notes for the cross-examination of plaintiff's expert Dr. C. Z. Finch. In class, be prepared to turn in your cross notes, as well as to discuss your plan for the cross of this witness.

### **ASSIGNMENT 11: Plaintiff's Counsel: Cross-Examination of Francis J. Winslow**

The defense has called Francis Winslow to testify. Assume that this witness has testified consistent with his deposition. You may now proceed with your cross-examination.

### **PREPARATION**

**READ:** Case File Entries 1-14; Chapters 5, 8 and 12.

### **THOUGHTS FOR THIS ASSIGNMENT**

1. What will your behavior and demeanor be in this cross-examination?
2. What techniques can you apply if the witness proves difficult to control?
3. Is this witness biased? In what ways? How can you expose this?
4. Are you prepared to respond to objections?
5. How will you highlight the favorable responses you get from this witness?

### **ASSIGNMENT FOR CLASS**

In class, conduct the cross-examination of Francis Winslow.

## **ASSIGNMENT 12: Plaintiff's Attorney: Cross-Examination of Defense Expert Dr. Dale Douglass**

The defense has called expert Dr. Dale Douglass to testify. Unless your instructor informs you otherwise, you can assume that Dr. Douglass has testified consistent with the prior deposition taken in this case. Defense counsel has finished the direct examination of this witness and now it is your turn to cross-examine.

### **PREPARATION**

**READ:** Case File Entries 1-14; Chapters 5, 8, and 10 - 12.

### **THOUGHTS FOR THIS ASSIGNMENT**

1. What will your behavior and demeanor be for this witness?
2. What techniques can you apply if this witness proves to be difficult to control during your examination?
3. Is this witness biased? In what ways? How can you best expose this?
4. Are you prepared to respond to objections?
5. How will you highlight the favorable responses that you get from this expert?

### **ASSIGNMENT FOR CLASS**

In class, conduct the cross-examination of Dr. Dale Douglass.

## **ASSIGNMENT 13: Defense Counsel: Cross-Examination of Rufus Jones**

The plaintiff's attorney has finished the direct examination of Rufus Jones, and now it is your turn to cross-examine.

### **PREPARATION**

**READ:** Case File Entries 1-14; Chapters 5, 8 and 12.

### **THOUGHTS FOR THIS ASSIGNMENT**

1. What will your behavior and demeanor be for this witness?
2. What techniques can you apply if this witness proves to be difficult to control during your examination?
3. Is this witness biased? In what ways? How can you best expose this?
4. Are you prepared to respond to objections?
5. How will you highlight the favorable responses that you get from this witness?

## **ASSIGNMENT FOR CLASS**

In class, conduct the cross-examination of Rufus Jones.

### **ASSIGNMENT 14: Defense Counsel: Cross-Examination of Plaintiff's Expert Dr. C. Z. Finch**

The plaintiff has called expert Dr. C. Z. Finch to testify. Unless your instructor informs you otherwise, you can assume that Dr. Finch has testified consistent with the prior deposition in this case. Plaintiff's counsel has completed the direct of this expert and now it is your turn to cross-examine.

### **PREPARATION**

**READ:** Case File Entries 1-14; Chapters 5, 8, 10 - 12.

### **THOUGHTS FOR THIS ASSIGNMENT**

1. What will your behavior and demeanor be for this witness?
2. What techniques can you apply if this witness proves to be difficult to control during your examination?
3. Is this witness biased? In what ways? How can you best expose this?
4. Are you prepared to respond to objections?
5. How will you highlight the favorable responses that you get from this expert?

## **ASSIGNMENT FOR CLASS**

In class, conduct the cross-examination of plaintiff's expert Dr. C. Z. Finch.