

LAW DAY UGA

UGA LAW DAY

The University of Georgia Fine Arts Auditorium
Athens, Georgia

March 19, 1999

2:30 - 4:30 p.m.

CIVIL JUSTICE: AN OXYMORON?

Welcome

David E. Shipley
Dean, School of Law

Introduction

Thomas A. Eaton
J. Alton Hosch Professor of Law

Commentators

Thomas A. Eaton
J. Alton Hosch Professor of Law

Jan R. Schlichtmann
Attorney for Plaintiffs

Ben L. Weinberg, Jr.
Long, Weinberg, Ansley & Wheeler

Background of the Woburn Case

Jan R. Schlichtmann
Attorney for Plaintiffs

Scene I

The Rule 11 Motion

Scene II

Examination of John Riley

Scene III

Examination of Dr. Pinder

Concluding Remarks

Jan R. Schlichtmann
Attorney for Plaintiffs

Ben L. Weinberg
Long, Weinberg, Ansley & Wheeler

Acknowledgments

Thomas A. Eaton
J. Alton Hosch Professor of Law

CIVIL JUSTICE: AN OXYMORON?

Today's program centers on the trial featured in Jonathan Harr's award-winning book, *A Civil Action*, which was later made into a movie starring John Travolta. Our aim is to use scenes from the trial as a springboard for consideration of broader issues regarding civil litigation and the pursuit of justice.

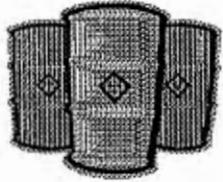
Something was wrong in Woburn, Massachusetts, an industrial town north of Boston. Industry was leaving; jobs were scarce. Now the children and some adults were getting sick and many were dying. More than a dozen children living near each other were diagnosed with leukemia. A cluster of leukemia in such a small area was very unusual. Why was this happening? What was causing the leukemia? Who was responsible?

In their search for answers, parents and community leaders contacted governmental agencies such as the Center for Disease Control and the Environmental Protection Agency. Testing revealed that two wells (Wells G and H) that supplied drinking water to the neighborhoods were contaminated with a toxic chemical called trichloroethylene (TCE). How did those wells become contaminated? Did the contaminated water help cause the leukemia clusters? A group of parents retained the services of a Boston attorney, Jan Schlichtmann, to press their case. Mr. Schlichtmann received his law degree from Cornell and had been practicing law in the Boston area for four years. Despite his relative youth, Mr. Schlichtmann had won some large cases and was developing a reputation in the community.

The search for answers came to focus on two companies that had plants operating near Wells G and H. A manufacturing facility located northeast of the contaminated wells was owned by W.R. Grace & Co. The John J. Riley Tannery operated west of the contaminated water wells. The tannery had been run by the Riley family for two generations. It was now owned by Beatrice Foods, a Chicago-based conglomerate that made such well-known products as Samsonite luggage, Playtex bras, Peter Pan peanut butter, and Tropicana orange juice. Both W.R. Grace and Beatrice were Fortune 500 companies.



Mr. Schlichtmann knew that these companies had "deep pockets". That is, they had ample resources from which to pay damages – if they were found to be legally responsible for the deaths and illnesses of the Woburn children. Mr.



Schlichtmann set out to prove that W.R. Grace and the Riley Tannery were responsible for the pollution of Wells G and H and that the contaminated water was a cause of the leukemia.

A lawsuit was first filed in state court, but later removed to the United States District Court in Boston. Judge Walter Jay Skinner came to preside over the case. Judge Skinner had a reputation among local lawyers for being hardworking, fair, and having a short temper. W.R. Grace was represented by William Cheeseman, a senior partner in an old established Boston law firm. J. J. Riley Tannery and Beatrice were represented by Jerome Facher. Mr. Facher was the chairman of the litigation department of one of Boston's largest and most prestigious law firms and a part-time instructor at his alma mater, Harvard. Judge Skinner and Mr. Cheeseman also graduated from Harvard.

The first scene involves a motion filed by Mr. Cheeseman seeking dismissal of the case on the grounds that it is frivolous. He specifically argues that Mr. Schlichtmann did not adequately investigate the claim before filing suit and had improperly solicited clients.

The second scene involves the examination of John Riley about his knowledge of illegal dumping of toxic chemicals on the property of the tannery.

The third scene involves the examination of Dr. Georg(ia) Pinder, an expert in hydrology and groundwater movement. Dr. Pinder is expected to testify that TCE and other solvents on the properties of both defendants had migrated to the contaminated wells before the leukemia and other illnesses began occurring.

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The Law Day '99 program is a re-enactment of three scenes from the Woburn litigation. **Marcy Hanks Gonzales**, a third-year law student, wrote the script for today's performance with the advice of Professor Tom Eaton and is the performance director. Marcy's trial advocacy experience includes: Tournament of Champions (1997 & 1998) and the American Trial Lawyers Association (ATLA) competition (1997 & 1998). Law students participating in today's program and the roles they portray are as follows:

Judge Skinner

played by Christian A. Coomer

Chris is a third-year law student whose trial advocacy experience includes participation in the alternative dispute resolution course and serving as adjudicator at the Habersham Central High School Law Day Competition.

LAWYERS

Plaintiff

Jan R. Schlichtmann

played by Michael J. McCleary

Mike is a third-year law student whose trial advocacy experience includes: First-Year Closing Argument competition; Russell Moot Court competition; J. Melvin England Mock Trial competition; and the Talmadge Moot Court competition. He works in the Athens D.A. office through the school's prosecutorial clinic.

Defense

William Cheeseman

played by Jason B. Green

Jason is a third-year law student whose trial advocacy experience includes: Russell Moot Court competition, quarter-finalist (1996); J. Melvin England Mock Trial, round of 16 (1997); Talmadge Moot Court competition, semi-finalist (1997); Spong Moot Court tournament: finalist (1998), semi-finalist (1999); and the Hulsey-Kimbrell Moot Court competition.

Jerome Facher

played by Michael J. Shaw

Mike is a third-year student whose trial advocacy experience includes: J. Melvin England Mock Trial competition, finalist (1996); Russell Moot Court competition; and the S.E. Regional Invitational Mock Trial tournament. He works in the Newton County D.A.'s office through the school's prosecutorial clinic.

WITNESSES

Plaintiff

Dr. Georg(ia) Pinder

played by F. Valerie Rusk

Val is a third-year law student whose trial advocacy experience includes: First-Year Closing Argument, finalist; Tournament of Champions; Russell Moot Court competition, semi-finalist; Talmadge Moot Court competition; Spong Moot Court tournament: finalist (1998) and coach (1999).

Defense

John J. Riley

played by Nathan C. Rogers

Nathan is a third-year law student whose trial advocacy experience includes: J. Melvin England Mock Trial competition: semi-finalist (1998); ABA Mock Trial team; ATLA Mock Trial team. He interned in the local solicitor's office last summer.

