

The Paisley Snail MiniTrial

Civil Jury Trial Edition

Donoghue v Stevenson [2007 Remix]



[The Faculty of Advocates](#)

with materials from



MiniTrial.org.uk



MiniTrial

Introduction to The Paisley Snail MiniTrial or “Donoghue v Stevenson [2007 Remix]”

“MiniTrial” is an educational initiative from Scottish Lawyers - supported by The Faculty of Advocates, The Law Society of Scotland, and The W.S. Society.

MiniTrials are normally used to enable Scottish schools to run to their own **criminal** jury trials either in school or in their local Sheriff Court in accordance with Scottish criminal procedure.

This new “Civil Jury Trial Edition” has been specially created to celebrate the world famous **civil** case of *Donoghue v Stevenson* 1932 S.C. (H.L.) 31 – the case of “The Paisley Snail”.

This is a new “Remixed” version of that case - based on the original facts but incorporating some aspects of more modern Scottish Court of Session procedure and a little bit of artistic licence in relation to some specially created “new materials”.

The facts of the original case were simple. On 26th August 1928 Mrs May Donoghue was in the Wellmeadow Café in Paisley with a friend who bought her a drink. Mrs Donoghue had consumed part of bottle of ginger beer – as part of an ice-cream float. At that point all was well. However, when the rest of the bottle was poured into her glass out floated what appeared to be the rotting remains of a decomposing snail. That caused May Donoghue to feel very unwell – or so she claimed.

She sued the manufacturer of the ginger beer - David Stevenson - and after much legal argument the House of Lords held (decided) that in principle she had a good claim as a matter of law.

The importance of the case lies in the legal principle which it established. The House of Lords answered the question “Who in law is my neighbour?” and their decision shaped legal thinking throughout the common-law world. It has given rise



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to modern principles of product liability and it remains an important part of the law of “tort” (called “delict” in Scotland) which deals with civil wrongs.

The legal points are clearly summarised in the Session Cases report in *Donoghue v Stevenson* 1932 S.C. (H.L.) 31. - which can be found in the 1932 volume of Session Cases, a House of Lords case, at page 31.

If you wish, you can read the law report and a fascinating article about the case and see many of the actual court documents at www.scottishlawreports.org.uk – the web-site of the Scottish Council of Law Reporting.

Unfortunately, the original case never proceeded to a trial so no-one knows what might have actually happened if the case had gone ahead.

We would like to remedy that – by recreating a Scottish civil jury trial based on the original pleadings (written court documents summarising the case) from the actual case but updated and “remixed” with some new specially created materials to reflect what actually happens now in a Scottish civil jury trial.

We will use a simplified but realistic version of the court procedure which is actually used in the Court of Session in Edinburgh – and we will follow the same basic format as has been used successfully in previous criminal MiniTrials.

The students will conduct their own civil jury trials and will act as the witnesses, lawyers, court officials and jurors. The student lawyers will make the opening speeches, lead the evidence, and address the jury. The student jurors will consider their verdict, decide the question of liability and if appropriate make an award of damages. The students will be supported by Scottish lawyers and a senior lawyer can play the part of the judge.

At the end of the case – we will find out what the outcome might have been if the famous case of the Paisley Snail had actually gone to trial.

In addition to the words of May Donoghue and David Stevenson (from their written pleadings), this remix version also contains some new specially created “evidence” (from Ann Onymous, Dr. James Y. Simpson and Robert L. Stevenson!) to help you get the flavour of the trial.

2007 has been chosen as the remix date - as that will be the 75th anniversary of the original House of Lords decision.

Will May Donoghue Junior win her case?

What will the verdict be?



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What sum, if any, will be awarded as damages?



Chapter 1 – Outline

"MiniTrials" are simulated court cases designed to be conducted by secondary schools - within roughly two double periods - or as tailored to suit the class.

In this remix of the famous case of *Donoghue v Stevenson* students take part in a reconstruction of a Scottish civil jury trial. They convene the court, hear the evidence and return their own verdict - with the help of lawyer volunteers.

The MiniTrial materials have been prepared by Scottish lawyers - and are based on what actually happens in a Scottish Court. They are designed to help students learn about the Scottish legal system, courts and the people who appear in them in an interesting and enjoyable way. MiniTrials can be challenging but they are fairly simple to run. The materials will guide the students step-by-step through the trial so that lengthy preparation is not required. The trials can be exciting and are conducted seriously along the lines of real trials. The materials can be tailored to suit the interests and abilities of the class concerned. The aim is to improve understanding and discussion about our legal system. Most of the MiniTrial materials are available free - by email or download from www.minitrial.org.uk .

In this “Remix” students will:

1. Become familiar with the role of a civil trial court. They will also be introduced to court procedure and the function of the jury.
2. Develop an appreciation for the roles of various people who work in the courtroom.
3. Practice communication and critical thinking skills as they prepare and present their case.

All the Materials you need are in this starter pack.

They include: -

Chapter 1	Outline	Page	5
Chapter 2	Student Handout	on MiniTrial Procedure	Page 15
Chapter 3	Case Papers	including Closed Record	Page 34



Time needed:

About two double class periods. An introductory session, then some preparation time followed by an actual trial - or as tailored to suit the class. Perhaps 60 or 70 minutes for the trial.

Class level:

Senior classes. To run a MiniTrial in a school the minimum number of students is 9 - allowing for a jury of at least one!

Teachers may wish to check beforehand whether any particular student(s) should for personal reasons not take part.

Teacher's participation:

School teachers are welcome to participate as much - or as little - as they like. Teachers are free to use the MiniTrial materials as they think best – and are encouraged to use lawyer volunteers to help prepare and conduct the trial if possible.

It would be a help if, as a minimum, the teachers could introduce the lawyer volunteers to the class and pass on whatever information might help to make their MiniTrial a success.

It will be assumed that a teacher will be in attendance at all times - even if not actively participating in the trial. Teachers are welcome to play a more extensive or a starring role if they wish.

The materials have been designed basically for use in a classroom.

If you have any questions or need assistance – please ask your helpers or contact Sandy Wylie.



Mini Trial Procedure - some suggestions

1. Before the actual trial, please ask the teacher to allocate students to the various parts in the mock trial. The roles are described in more detail the **Student Handout** on MiniTrial Procedure (see **Chapter 2** below). Please feel free to use the suggested timetable and the role allocation forms (in Chapter 2) as aids to preparation. Up to three students can be selected to be the lawyers for each side of the case. If you wish, one student can conduct examination-in-chief, one the cross-examination, and others the speeches to the jury. Or the students can share the tasks. If you feel that asking three students to speak causes complications then nominate just one (or perhaps two) to ask the questions - and ask the other two to help him / her prepare and then sit beside them in "court". To keep the trial moving and to inject more realism, a lawyer volunteer could act as Judge.
2. Assign students to **roleplay** the parties (the pursuer and the defender), the Clerk of Court, the witnesses, members of the jury, Macer and reporters / media representatives – depending on numbers.
3. Before starting the trial, spend some time going over the basic court procedure and describe **the main steps** of a trial as outlined in the "Student Handout" (see Chapter 2 below) - in whatever detail is appropriate for the class concerned and the time available. There is a summary of the procedure in the handout.
4. For the purposes of MiniTrial there will be **no re-examination** of witnesses (unless the pupils are comfortable with the idea) and there will be **no objections** by the lawyers. If there are objections (and you may not be able to prevent them) - reserve discussion of them for later. Be flexible and play things by ear. It's meant to be fun.
5. **Prepare** enough copies of the relevant papers in advance.

The teacher and lawyer volunteers should probably have a complete set of **MiniTrial materials** each.

The students need only get copies of "**Chapter 2- The Student Handout**" and copies of "**Chapter 3 - MiniTrial Case Papers**".

6. **Timing.** You may think it best to spend one period preparing for the trial and discussing things - and a second period actually running it. Teachers will know what best suits their students.



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Try to find everyone a role to play - even if it means having a jury of more than 12. Remind jurors and other that they will have to pay close attention to what happens in the court if they are to carry out their roles properly - and return a true verdict.

Allow a double period for each MiniTrial.

7. Arrange the classroom furniture so that it roughly resembles the **layout** of a court (or as near as possible). Some imagination may be required. See the "Court Layout" in the student handout below. There is an interactive illustration of a criminal Sheriff & Jury Court Scene on the MiniTrial web-site at www.minitrial.org.uk . In a criminal case the lawyers sit at the table in the well of the court beside the Clerk. In a civil case in the Court of Session the lawyers sit in the first row of seats - behind the bar of the court. A "gavel" is not used in the Sheriff Court or in the Supreme Courts.
8. Provide the students with instructions along the following lines:

Lawyers

Tell the lawyers (students) to read all the papers - the facts, the court documents and all of the witness statements (including the witnesses for the other side). They should prepare

- questions for all the witnesses, and
- the speeches to the jury.

Provide them with copies of the **Student Handout** (Chapter 2 below) to use in their preparation. This could be homework.

Ask the teacher if it would be helpful if the lawyers had help from other students - so that they could prepare in a small group. When they are in court (the class-room) the lawyers (and their helpers) should sit in rows in front of the Judge. In civil cases the Pursuer's lawyers normally sits on the right hand side (as you look at the bench from the public gallery). The defence normally sit on the left. In civil jury trials, however, the pursuer's lawyers can chose to sit nearest to the jury if they wish (which in some court layouts might be to the right!).

Explain the difference between credibility (by asking "is the evidence to be believed?") or reliabilty (by asking "is the evidence to be relied upon?").



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You may even wish to introduce basic advocacy **skills** - creating an event, short and simple questions, open and closed questions and so forth.

The lawyers should assume that no-one knows anything about the case. They may wish to set a goal for themselves – such as trying to allow the witnesses to paint a vivid picture of each of the relevant facts so that the jury will remember them in the jury room.

Be careful not to risk "information overload". The basic idea is to help students become more familiar with the legal process and to have some fun at the same time.

With more experienced student, you may wish to give the students some more details about of what the lawyer is trying to achieve. You could outline, in simple terms, some of the **main concepts** by reference to: -

- the draft Pursuer's Jury speeches,
 - the draft Defender's Jury speeches and
 - the draft Judges charge
- copies of which are all with the case papers (in Chapter 3 below).

Lawyers should remember to bring notebooks (or paper) and pens with them – so that they can take notes of the evidence during the trial and add to their written submissions if need be.

Witnesses

Tell each witness to read his/her **statement** at least three times so that he/she will be prepared to answer questions. This could be homework. The pursuer and the defender can sit in the row behind their lawyers if they wish. They are the "parties to the action" and as such that are entitled to be present. The other witnesses in the trial are not normally permitted to sit in court until after they have given their evidence. Another seat should be provided at one side of the court – opposite the jury box - to mark the position of the "witness box". Normally witnesses would remain in the "witness room" until they are called to give evidence – but if that is not practicable in school they could simply sit in the public gallery until called.

It is extremely important that all the witnesses and the lawyers asking the questions can be seen and heard by the others in the class. Please make a point of asking each witness to stand (rather than sit) while giving their



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evidence and to speak up loudly and clearly so that everyone can see and hear what they have to say.

The Judge can remind them gently if need be.

Judge

The Judge should read the **Student Handout** (Chapter 2) and review the procedure for the oath that he/she will administer to each witness. This is the Judge's "homework". The Judge should sit behind a table - which acts as "the bench" - facing out over the Court.

If questions are raised by the class during the MiniTrial the Judge (or some of the other lawyers present) could try to reply later in the form of a mock "Note by Counsel" or a "Solicitor's letter" – to illustrate what those sort of documents might look like. In most cases, however, a verbal response will be sufficient.

Clerk of Court

The Clerk should read the **Student Handout** (Chapter 2) and review the procedure for the oath that he/she will administer to the jury and for reading the "Proposed Issue for the Pursuer" (the written question which the jury require to answer and which they use to give their verdict in relation to the various heads of damages). This could be homework. The Clerk of Court sits in front of the Judge (or if that is not practicable beside the Judge for MiniTrial) - also facing out over the Court. The Clerk should also be familiar with the trial timetable. The Clerk should be asked to monitor the times of the various stages of the trial and be able to indicate to the Judge when they should be drawing each stage to a halt. A "timer" or stopwatch can help.

It would be helpful if the Clerk of Court could bring extra copies of the "Proposed Issue for the Pursuer" with them – so that they can be distributed to the jury at the start of the trial for reference. The jury may also wish to take notes - and pens or pencils should be available if required.

Macer

Tell the Macer to collect the Judge from "chambers" (the Judge's room / part of the classroom or corridor) and bring him or her on to the bench - saying "Court Rise" as the Judge enters and leaves. The Macer should use a loud voice – so that everyone in the room can hear. If there is a lot of noise in the room at the time it may be necessary to use a very loud voice. The Macer



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also ushers the witnesses to and from the witness box when they are called to give evidence.

Reporters / Media representatives

Tell the reporters that they can sit in court. They are to prepare a very short newspaper article based on what happens at the trial.

Jurors

The jurors in MiniTrial are chosen from the remaining students. They should imagine that they have all been cited to attend court for jury service (to act as jurors) and that they have been selected for jury service - by Clerk of Court. When the Clerk of Court asks the jurors to take their places in "the jury box" – the jurors should make their way to the jury box / seats on the other side of the court from the witness box. There are some "Jury Observation Sheets" with the case papers (in Chapter 3 below) which the jurors may wish to look at as homework. Such sheets are not normally issued to jurors, but they may aid discussion in MiniTrials. There are 12 jurors in a Scottish civil jury trial (as opposed to 15 in a Scottish criminal jury trial).

Reporters / Members of the Public

The remaining students who are not on the jury - can be reporters / media representatives who are asked to prepare a short news report of the trial.

If there are other pupils present who would prefer not to take any active part they can be members of the public or relatives.

Preferably each student should have a task to complete and no-one should feel left out.

9. For the purposes of MiniTrial, a simplified procedure is used for **jury selection**. The Clerk of Court simply asks the jurors to take their seats in the jury box. In most cases, the teacher can simply prepare a list of jurors in advance. If need be the Clerk of Court can call out their names as a reminder. Actual pieces of paper in a ballot box or glass are not required and there is no right to challenge the jurors selected in a MiniTrial. For the purposes of MiniTrial, the number of jurors can be increased to over 12 to include more students (or all of them) if need be – or the number can be reduced below 12 to suit the class size.
10. **The trial begins** with a short opening speech to the jury by Counsel for the pursuer - Junior Counsel if there is one. This is followed by the examination



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of the pursuer's witnesses (the pursuer first then her second witness). If some evidence has been agreed by the lawyers in a Joint Minute (as here) then the Joint Minute is also read to the jury by Junior Counsel. When the pursuer's case is finished, Counsel for the defender makes a short opening speech for the defence. This is followed by the examination of the defender's witnesses (the defender first then his second witness). Once all the evidence is completed the lawyers for each party address the jury (pursuer first then defender). This is done by Senior Counsel if they have been involved in the case. The Judge then gives his or her "charge" to the jury and the jury retire to consider their verdict. The trial may take about an hour or more - but you can speed things up or slow things down to suit the time available. The simple aim of MiniTrial is to increase the students' knowledge of courts and trials and to encourage discussion about the people and processes. Questions raised by anyone can be noted down to be asked after the trial. Please ask the Clerk of Court to monitor the times of the various stages of the trial following the suggested timetable (outlined in Chapter 2) and to indicate to those speaking when they should be drawing to a halt. A stopwatch or a kitchen timer can help to keep track of the times - and give an audible indication of when to stop.

11. The judge should "**charge**" the jury at the end of the trial using the jury instructions contained in the case papers. The charge can be kept short – but it is probably helpful to include the essentials as many people may not know what they are. The jury should require only a few minutes to reach a **verdict**. After they have announced the verdict, you could ask the jurors to explain how they reached their decision.
12. Ask the **media** representatives what kind of story they would have written. What was most newsworthy about the trial? What would grab the reader's attention? Did they agree with the jury's decision? Who gave the strongest testimony? If time is running out, this step can be done while the jury is deliberating.
13. Once a verdict has been returned, you may wish to debrief the trial. Encourage all students to participate in the **discussion** of the trial.

Questions that might help discussion include:

- Q. What were the strong and weak points of each side?
- Q. What additional information would have been helpful?
- Q. Who was the most believable witness? Why?



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- Q. Did any of the students change their minds during the trial? When and why?
- Q. Are there other ways that the problem could have been dealt with? What would have been the advantages or disadvantages?
- Q. Was the formal court language and procedure helpful? How could it be improved?
- Q. What, if anything, did you find confusing or hard to follow.

14. Please send some **feedback** to Sandy Wylie (see details on last page).

All comments and criticisms welcome. For example: -

1. What did you enjoy about the MiniTrial?
2. What did you learn from the MiniTrial?
3. What did you *not* enjoy about the MiniTrial?
4. What would you like to change about the MiniTrial?



MiniTrial Starter Pack

Chapter 2 - The Student Handout:

MiniTrial Procedure

To run your MiniTrial : -

- decide who is to play which role - see the list of **participants** below,
- decide on a **timetable** for the various stages of the trial - see below,
- set out the classroom to resemble the approximate **layout** of a court - see the suggested layout below, and
- follow the MiniTrial **instructions** (below) - which contains the dialogue and the "stage" directions you will need.

Participants

- **The Judge** - a Senator of the College of Justice who sits on "the bench".
- **Pursuer** - the person who has brought the action into court and who is seeking an award of damages (an order for payment of money) in this case.
- **Pursuer's** lawyers - Senior and Junior Counsel (a QC and an advocate) instructed by a Solicitor on behalf of the pursuer.
- **Defender** - the person against whom the action has been raised.
- **Defender's** lawyers - Senior and Junior Counsel (a QC and an advocate) instructed by a Solicitor on behalf of the defender.
- **Clerk of Court** - who manages and administers the Court under the Judge's direction.
- **Macer** - who escorts the Judge and the witnesses - so that they are at the right place at the right time.
- **The Jury** (12 jurors) - who are balloted from members of the public.
- **Witnesses** - who are cited to attend court to give evidence.
- **Members of the Public** - who sit in the public gallery.
- **Reporters** / Media representatives - who can tell others what happened.



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ROLES - for MiniTrial	Date:	<i>Understudy or Assistant if required</i>
1. The Judge		
2. Pursuer's lawyer(s)	Senior Counsel (QC)	
	Junior Counsel	
	Solicitor	
3. Defender's lawyer(s)	Senior Counsel (QC)	
	Junior Counsel	
	Solicitor	
4. Clerk of Court		
5. Macer		
6. The Jury 1	2	3
4	5	6
7	8	9
10	11	12
7. Witnesses for Pursuer	1. The Pursuer 2.	
8. Witnesses for Defender	1. The Defender 2.	
9. Public / Reporters		



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TIMETABLE for 70 minute Trial : Stage	Starting time	Time allowed
1. Introduction and preliminary matters		10 minutes
2. Opening Speech by Pursuer's Junior Counsel		3 minutes
3. Examination-in-chief of 1 st witness for pursuer		4 minutes
4. Cross-examination		2 minutes
5. Examination-in-chief of 2 nd witness for pursuer		4 minutes
6. Cross-examination		2 minutes
7. Junior Counsel for Pursuer reads Joint Minute etc		2 minutes
8. Opening Speech by Defender's Junior Counsel		2 minutes
9. Examination-in-chief of 1 st defence witness		3 minutes
10. Cross-examination		2 minutes
11. Examination-in-chief of 2 nd defence witness		3 minutes
12. Cross-examination		2 minutes
13. Jury speech by pursuer's counsel		6 minutes
14. Jury speech by defence		6 minutes
15. Judge's charge		6 minutes
16. Jury retire and consider verdict		5 minutes
17. Jury announce verdict		3 minute
18. Discussion		5 minutes



Court Layout

(Chambers / Judge's room)

JUDGE

(sits on the Bench – a separate table perhaps)

The Bench -----

CLERK OF COURT

(sits in the well of the court at the head of the central table)

O WITNESS

(stands in the Witness Box
– a separate seat)

JURORS **OOO**

(sit in the Jury Box – rows of seats) **OOO**

O MACER

OOO

(sits near the witness box)

OOO

The Bar -----

(DEFENDER'S LAWYERS)

(PURSUER'S LAWYERS)

(Sit in rows at the bar of the court - a line of tables perhaps)

Row 1 **Junior Counsel + QC**

QC + Junior Counsel

Row 2 **Solicitor + Client**

Client + Solicitor

**MEMBERS OF THE PUBLIC
& REPORTERS**

(sit in the public gallery - room)

WITNESSES - WAITING TO BE CALLED



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(wait in the witness rooms / room)



Instructions for The Trial

1. The Court convenes / assembles - the Judge is brought on to the bench

The Macer collects the Judge from Chambers and enters court in front of the Judge and announces their arrival with the words (said loudly enough to be heard above any background noise):-

"Court. All rise please."

Everyone remains standing until the Judge is seated.

2. The Pursuer's Senior Counsel introduces the Case

Senior Counsel for the pursuer (AB) stands and introduces the case as follows:-

"My Lord (or My Lady), may I mention the case of *Donoghue v Stevenson* which comes before your Lordship (Ladyship) for jury trial today. I appear for the pursuer with my learned Junior - CD. My learned friends WX and YZ appear for the defender, Mr Stevenson. There is a Joint Minute agreeing certain matters and certain heads of damages in this case (which will be produced and referred to in due course) but there are no other preliminary matters so the case can simply proceed to trial."

The **Judge** replies :-

"Very well."

3. The Clerk of Court ballots the jury - chosen from those cited for jury service

The **Clerk** of Court stands and asks the Judge :-

"My Lord shall I empanel the Jury".

The **Judge** says:-



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"Yes please".

The **Clerk** of Court then simply asks those chosen to be jurors to take their place in the jury box. Each juror should be given a copy of the document known as "The Issue" which is with the case papers (at page 51). It is Document 1 headed "Proposed Issue for the Pursuer".

In MiniTrial there is no need to carry out the full procedure for empanelling a jury. That would involve the Clerk of Court saying to the potential jurors (sitting in the public benches):-

"When your name is called please come forward and take your place in the jury box which is on my right (or left)."

Normally the Clerk would then call out the jurors' names one by one from pieces of paper taken out of a ballot jar/box and the process would continue until the jury is complete (12 jurors) – but that is not necessary in MiniTrial.

In MiniTrial, there is no right to challenge the jurors selected.

4. The Clerk reads the document called "The Proposed Issue for the Pursuer" to the jurors

The **Clerk** of Court says:-

"Ladies and Gentlemen of the Jury the Issue in this case is in the following terms, ... " *and the Clerk then reads out the words from the Issue which is with the case papers including the full names and addresses of the parties.*

The Clerk then says to the jurors words to the following effect

"Do any of you know either of the parties involved in this case (May Donoghue or David Stevenson) or do any of you have any personal interest in the subject matter of his case which would prevent you from returning a true verdict?"

To which the jurors (in this case) all answer

"No."



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5. The Clerk administers the oath to the Jury.

In MiniTrial the Clerk can use a modified form of oath - which uses the word "promise" instead of "swear by Almighty God". The **Clerk** administers the oath to the jurors by saying to them:-

"Ladies and Gentlemen of the Jury, please stand and raise your right hands. Do you promise that you will well and truly try the Issue and return a true verdict according to the evidence? Please say "I do"."

The **jurors** all reply:-

"I do".

6. The Judge outlines the procedure.

The **Judge** can then briefly outline the procedure to the Jury - as follows:-

"Ladies and Gentlemen of the Jury, you are about to hear the opening speech for the pursuer in this case - followed by the evidence in this case. Please listen carefully. You may take notes if you wish. This is a civil case - involving a dispute between individuals. It is not a criminal case - which involves a prosecution by the state. May Donoghue is claiming damages - and order for payment of money - from Mr Stevenson. Please keep an open mind until you have heard all the evidence. At the end of the trial you and you alone will be asked to decide upon a verdict and answer the Issue. Junior Counsel for the pursuer will now address you."

(There are some MiniTrial "Jury Observation Sheets and Checklists" with the case papers if the Jurors wish to use them.)

7. Junior Counsel for the Pursuer introduces the case for the Pursuer.

Junior counsel for the Pursuer stands and says (as a courtesy to the court):-



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“May it please your Lordship.”

Junior counsel then makes his / her way from his seat round into the well of the court to stand directly in front of the jury to deliver the opening speech.

To assist with preparation a possible outline for this speech can be found in the case papers (see below in **Chapter 3**). Please refer to the outline for details.

The speech ends with Junior Counsel saying something along the following lines:-

“You will now hear the evidence for the pursuer.”

Junior Counsel then returns to his seat.

8. The witnesses give evidence

The **Judge** then invites Senior Counsel for the Pursuer to begin the evidence saying:-

"Who is your first witness?"

Senior Counsel for the Pursuer calls the first witness by saying:-

"My Lord my first witness is the pursuer, May McAlister or Donoghue"

The witness is collected and is shown into the witness box by the Macer.

Students can use MiniTrial to practice for what could be an important part of their "public speaking" - giving evidence.

It is **very** important that **ALL** the witnesses and the lawyers **STAND and SPEAK UP**:-

- **loudly**
- **clearly** and
- **slowly.**

They should try to make sure that everyone in the whole Court - even those at the very back of the room - can



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- **hear** what they say without difficulty,
- **remember** what they say and
- **write down** what they say - in notes.

9. The Judge puts each witness on Oath - to tell the truth

All witnesses are sworn in before they begin answering questions. This is to remind them that they must tell the truth.

In MiniTrial the Judge can use a modified "oath" – using "I promise" instead of "I swear by Almighty God".

The **Judge** stands and raises his or her right hand and says:

"Please raise your right hand and repeat after me. "I promise that I will tell the truth, the whole truth, and nothing but the truth.""

10. The Pursuer's evidence begins

The Pursuer's case begins by Senior Counsel for the pursuer asking the witness questions in "examination in chief" followed by cross-examination by the defence (and perhaps re-examination if you wish).

(i) Examination in Chief

Counsel asks clear and simple questions that allow the witness to tell his or her side of the story in his or her own words. If the witness is asked questions which are not included in the witness statements it is probably better for the witness to answer by saying "I don't know" or "I can't remember" or "I'm not sure" or "It's possible".

If need be the Judge may remind students to **"Please keep your voice up"**.

Ideas for questions:

What do you remember?
What happened next?
What did you see?



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Remember to ask questions that will let the witness tell the complete story. Try asking what are sometimes called “open questions” starting with words like: -

Who?
What?
Where?
When?
Why?
How?
Describe?

(ii) Cross Examination

The defence lawyer then questions the witness for the other side to try to show that the witness is lying or mistaken or can't remember. For example, the lawyer may ask “Isn't it true that ... ?”

If possible, ask questions that call for a "yes" or "no" answer only.

(iii) Re-examination

At this stage, counsel for the pursuer may ask a few questions (if he or she wishes) to clear up or correct any matters that arose during cross examination. In a MiniTrial it might be best to say at first that there will be no re-examination - until the students are more familiar with the process.

Pursuer's case - MiniTrial sequence

Remember the normal sequence of events in MiniTrial is: -

Witness 1 for the Pursuer - "**examination-in-chief**" by the Pursuer's counsel

Witness 1 - "**cross examination**" by the defence.

Witness 2 For the Pursuer **chief examination** in counsel.



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Witness 2 - **cross** examination by the defence.

11. The Pursuer's case closes.

After all the pursuer's witnesses have been questioned and cross-examined (and re-examined if necessary), counsel for the Pursuer says :-

"My Lord at this stage I would ask that Your Lordship allows my learned Junior to read to the Ladies and Gentlemen of the Jury the terms of the Joint Minute which I mentioned at the outset. Your Lordship will see that the parties have agreed certain matters and certain heads of damage."

The judge then says :-

"Very well. Ladies and Gentlemen of the jury, counsel for the parties have reached an agreement about certain matters and about certain heads of damage in what is called a Joint Minute of Agreement. Those matters will become part of the evidence for you to consider. The details of what has been agreed will now be read to you by Junior Counsel for the pursuer."

Junior counsel for the pursuer then moves round in front of the jury again and reads out to the jury the terms of the Joint Minute and the medical report by Dr Simpson which is with the case papers. (See Documents 2 and 4 below at pages 52 and 54 respectively). Junior Counsel then returns to his seat.

Senior Counsel for the Pursuer then says:-

"My Lord on that evidence, with productions, I close the case for the pursuer."

That having been done, the Judge says :-

"Ladies and gentlemen of the jury that the pursuer - May Donoghue. defender to introduce the case for the defender - David Stevenson." For while now

12. The Defence case begins

Junior counsel for the Defender stands and says (as a courtesy to the court)



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“May it please your Lordship”

Junior counsel then makes his / her way from his seat round into the well of the court to stand directly in front of the jury to deliver the opening speech.

To assist with preparation a possible outline for this speech can be found in the case papers (see below in **Chapter 3**). Please refer to the outline for details.

The speech ends with Junior Counsel saying something along the following lines:-

“You will now hear the evidence for the defender.”

Junior Counsel then returns to his seat.

Senior Counsel for the defenders then calls the defence witnesses (starting with the defender if he is to give evidence) and questions them in examination in chief. Then counsel for the pursuer cross-examines (and the defence may re-examine) all along the same lines outlined above.

Defender’s case - MiniTrial sequence

Remember the normal sequence of events in MiniTrial is: -

The defender - "examination-in-chief" by counsel for the Defender.

The defender - "cross examination" by counsel for the pursuer.

Witness 2 for the Defender - examination in **chief** by counsel for the Defender.

Witness 2 - **cross**-examination by counsel for the pursuer.

Once all the evidence has been heard counsel for the **defender** says:-

"My Lord that closes the case for the defender".

The Judge then says :-

“Ladies and gentlemen of the jury you have now heard all the evidence. We have reached the stage when you will hear closing



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speeches from counsel - firstly on behalf of the pursuer and then on behalf of the defender."

It is now time for the "Speeches to the Jury".

13. Counsel for the Pursuer's Speech to the Jury ~~jury~~asking the to answer the Proposed Issue "Yes" and to award damages.

Counsel for the Pursuer addresses the jury first, then counsel for the defender.

Each side summarises the evidence presented during the trial - in a way that supports their case.

In a civil case, the pursuer requires to prove his or her case "on the balance of probabilities". That is different from a criminal case where the Prosecutor requires to prove guilt "beyond reasonable doubt" which is a higher standard.

The speeches to the jury must be based on the facts which were given in evidence in court.

If students need one, there is a draft outline of a Pursuer's Speech with the case papers in **Chapter 3** below.

14. The Defence Speech to the Jury - asking the jury ~~answer the~~ Proposed Issue "No" and to award ~~nothing or~~ little by way of damages.

The defender's speech must also be based on the facts which were given in evidence in court.

If students need one, there is a draft outline of a Defence Speech with the case papers in **Chapter 3** below.

15. The Judge's Charge to the Jury - giving them directions in law

After the Jury Speeches are finished, the Judge "charges the jury" i.e. gives them directions as to the law which they must apply.



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The Judge will find the terms of a "charge" (much simplified) in the case papers concerned. See **Chapter 3** below.

16. The Jury Retire - to consider their verdict

The jurors retire to consider their verdict.

Depending on the space available the jury can go to another room, or the corridor, or simply sit where they are to discuss things.

Once the Jurors have retired to consider their verdict, the **Macer** says

"Court rise."

and escorts the Judge back to his or her chambers / other part of the room.

17. The Verdict

When the jury have reached their verdict they let the Clerk of Court know that they are ready to announce it.

The **Macer** brings the Judge back on to the bench - saying:-

"Court rise".

The Jurors return to Court.

The **Clerk** of Court then asks:-

"Ladies and Gentlemen of the Jury - who speaks for you?"

The appointed **spokesperson** for the jury stands and says:-

"I do".

The **Clerk** of Court then says:-

"Have you reached a verdict?"

The **spokesperson** says as appropriate:-



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"Yes."

The **Clerk** of Court then says:-

"How do you answer the Issue - "Yes" or "No"?"

The **spokesperson** says as appropriate:-

"Yes" or
"No"

The **Clerk** then asks:-

"Was your decision unanimous or by majority".

The **spokesperson** says as appropriate:-

"Unanimous" or
"By majority"

The Clerk of Court then asks:-

"How do you assess damages in respect of Head (1) of the Issue
for "past solatium"?"

The **spokesperson** says as appropriate:-

"£ X"

The Clerk of Court then asks:-

"How do you assess damages in respect of Head (2) of the Issue
for "future solatium"?"

The **spokesperson** says as appropriate:-

"£ Y"

The Clerk of Court then asks:-

"In relation to Head (3) of the Issue for "past wage loss", and as
directed by the presiding judge, do you formally assess damages at £
200?"



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The **spokesperson** says:-

"Yes"

The Clerk of Court then asks:-

"In relation to Head (4) of the Issue for "expenses", as directed by the presiding judge do you formally assess damages at £50."

The **spokesperson** says:-

"Yes"

The **Clerk** of Court records the verdict in writing and then reads it back to the jury giving the total sum awarded as damages and asking them :-

"Ladies and Gentlemen - is that a correct record of your verdict"?

The jurors indicate whether it is a correct record of their verdict.

The Judge then discharges the jurors saying:

"Ladies and gentlemen of the jury thank you for the care and attention you have shown. I can now discharge you from further attendance as jurors in this case. Thank you for performing an important public duty."

The parties are left to contemplate the verdict of the jury.

In due course the successful party will require to enrol a motion (make a written application to the court) asking the Judge to apply the verdict of the jury - i.e. to give formal effect to the verdict.

18. Expenses - and the question of a "Tender"

At that stage the question of who should pay the expenses of the court action will also be determined.

To add a further element of realism to the MiniTrial, the defender may try to anticipate the decision of the jury and try to protect himself against an award of expenses.



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He would do so prior to trial by making a formal offer to the pursuer - which the judge and jury do not see.

He would lodge with the Clerk of Court a document called a “Minute of Tender”.

A form of Tender can be found in the case papers (see document 3 at page 53 below). The amount of money being offered requires to be inserted in the draft Minute.

If at the end of the case the pursuer “fails to beat the tender” - i.e. if the jury awards the same or less than the sum which the defender had already offered - then the pursuer will be found liable to pay the defender’s legal expenses from the date of the tender onwards.

The idea behind it is that if the pursuer had accepted the tender when it was offered she would have ended up with a similar award (or a bigger one) and accordingly all the expense occasioned in the case from then on has been due to the pursuer trying but failing to get more.

For example, if the defender tenders say £10,000 as soon as the action is raised and the pursuer does not accept the tender and she proceeds to trial but is awarded £10,000 or less - then the pursuer will have to pay virtually all the legal expenses.

A tender can put pressure on a pursuer - and it can make the jury’s verdict very interesting.

19. The End.

That is the end of your civil MiniTrial.

Well done to all.

Take a moment to ask the students: -

How could the trial system be made better?

What worked well - and what didn't?



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20. Feedback Please.

Please ask your teacher to send your thoughts about MiniTrial to Sandy Wylie (see details on last page).

All comments and criticisms welcome.

For example: -

1. What did you enjoy about the MiniTrial?
2. What did you learn from the MiniTrial?
3. What did you *not* enjoy about the MiniTrial?
4. What would you like to change about the MiniTrial?



MiniTrial Starter Pack

Chapter 3 - MiniTrial Case Papers

This Chapter contains a set of MiniTrial Case Papers for use in conducting your MiniTrial.

This “remix” set of papers includes:-

1. **The Facts** - a brief summary,
2. **The Closed Record** - the written pleadings in the case,
3. **The Law** - a very brief summary of the relevant principles,
4. **Precognitions** (witness statements) for the pursuer’s witnesses,
5. **Precognitions** for the defender’s witnesses,
6. **Summary sequence of events** - plus **additional documents / materials**,
7. **The Pursuer’s Opening Speech to the Jury** - a possible outline,
8. **The Defender’s Opening Speech to the Jury** - a possible outline,
9. **The Pursuer’s Closing Speech to the Jury** - a possible outline,
10. **The Defender’s Closing Speech to the Jury** - a possible outline,
11. **The Charge** - a style which the Judge can use for the Charge to the Jury,
12. **Jury Observation Sheets** - for the jurors to use if they wish.



1. The Facts - a brief summary

This is a civil action - between two individuals. It is not a criminal prosecution - by the state.

The facts are simple.

On 26th August Mrs May Donoghue was in the Wellmeadow Café in Paisley with a friend who bought her a drink.

Mrs Donoghue had consumed part of bottle of ginger beer – as part of an ice-cream float. At that point all was well.

However, when the rest of the bottle was poured into her glass out floated what appeared to be the rotting remains of a decomposing snail.

That caused May Donoghue to feel very unwell – or so she claimed.

She sued the manufacturer of the ginger beer – David Stevenson.

Many civil cases are decided by a judge sitting without a jury (at a hearing called a “Proof”) but this particular case has now come to a “Jury Trial” - to be decided by a jury.

We will be following, in essence, the sort of court procedure that is actually used in the Court of Session in Edinburgh - albeit modified for the purposes of MiniTrial.

Will May Donoghue succeed?

What will the verdict be?

What sum, if any, will be awarded as damages?



2. The Closed Record - the written pleadings

IN THE COURT OF SESSION

CLOSED RECORD (As Amended)

1. - SUMMONS (Personal Injuries Action)

MRS MAY McALISTER OR DONOGHUE, Junior, (Assisted Person),
formerly residing care of McAlister, 49 Kent Street, off London Road,
Glasgow, and now residing at 101 Maitland Street, Cowcaddens, Glasgow - ,
PURSUER

against

DAVID STEVENSON, Junior, Aerated-Water Manufacturer, 5 Glen Lane,
Paisley - ,
DEFENDER

Elizabeth II by the Grace of God, of the United Kingdom of Great Britain
and Northern Ireland and of Her Other Realms and Territories, Queen, Head
of the Commonwealth, Defender of the Faith to DAVID STEVENSON :

By this summons the pursuer craves the Lords of Council and Session to
pronounce a decree against you in terms of the conclusions appended to this
summons. If you have any good reasons why such decree should not be
pronounced, you must enter appearance at the Office of Court, Court of
Session, 2 Parliament Square, Edinburgh, EH1 1RQ, within three days after
the date of the calling of the commons in court. The summons shall not call
in court earlier than Twenty-one days after the date of service upon you of
this summons. **Be warned that, if appearance is not entered on your behalf,
the pursuer may obtain decree against you in your absence.**

GIVEN UNDER OUR SIGNET AT EDINBURGH ON 9th APRIL

Richard A. J. Godden, Solicitor
McKay Norwell, W.S.
7 Rutland Square, Edinburgh, EH1 2AS.
Solicitor for Pursuer.

CONCLUSIONS



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FIRST. For payment by the defender to the pursuer of the sum of TWENTY FIVE THOUSAND POUNDS (£25,000) STERLING together with interests thereon at the rate of 8 per cent a year from the date of decree to follow hereon until payment; and,

SECOND. For the expenses of the action.



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2. - STATEMENT OF CLAIM for PURSUER, and *ANSWERS thereto for DEFENDER*

Stat. 1. The pursuer is employed as a shop assistant, and resides at 49 Kent Street, off London Road, Glasgow.

Ans. 1. Not known and not admitted.

Stat. 2. The defender is an aerated-water (soft drinks) manufacturer, and carries on business at Glen Lane, Paisley.

Ans. 2. The description of the defender is admitted.

Stat. 3. This court has jurisdiction to hear this claim because the harmful events in consequence of which the pursuer seeks reparation occurred in Scotland.

Ans 3. Admitted that this court has jurisdiction.

Stat 4. At or about 8.50 p.m. on or about 26th August, the pursuer was in the shop occupied by Francis Minchella, and known as Wellmeadow Café, at Wellmeadow Place, Paisley, with a friend. The said friend ordered for the pursuer ice-cream, and ginger-beer suitable to be used with the ice-cream as an iced drink. Her friend, acting as aforesaid, was supplied by the said Mr. Minchella with a bottle of ginger-beer manufactured by the defender for sale to members of the public. The said bottle was made of dark opaque glass, and the pursuer and her friend had no reason to suspect that the said bottle contained anything else than the aerated-water. The said Mr Minchella poured some of the said ginger-beer from the bottle into a tumbler containing the ice-cream. The pursuer then drank some of the contents of the tumbler. Her friend then lifted the said ginger-beer bottle and was pouring out the remainder of the contents into the said tumbler when a snail, which had been, unknown to the pursuer, her friend, or the said Mr Minchella, in the bottle, and was in a state of decomposition, floated out of the said bottle. In consequence of the nauseating sight of the snail in said circumstances, and of the noxious condition of the said snail-tainted ginger-beer consumed by her, the pursuer sustained the shock and illness hereinafter condescended on. The said Mr Minchella also sold to the pursuer's friend a pear and ice. The averments in answer, so far as not coinciding herewith, are denied. The said ginger-beer bottle was fitted with a metal-cap over its mouth. On the side of the said bottle there was pasted a label containing, inter alia, the name and address of the defender, who was the manufacturer. It was from this label that the pursuer's said friend got the name and address of the defender.



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Ans. 4. Denied. Any illness which the pursuer suffered was not due to her having partaken of the contents of a bottle of ginger-beer manufactured and sent out from the defender's factory. The defender has never issued bottles answering the description given by the pursuer. The system employed at the defender's factory is the best known in the trade. No bottle of ginger-beer has ever passed out there-from containing a snail. The defender and his employees exercised every care in the carrying out of that system.

Stat 5. The pursuer suffered severe shock and a prolonged illness in consequence of the said fault of the defender and his employees. She suffered from sickness and nausea which persisted. Her condition became worse, and on 29th August she had to consult a doctor. She was then suffering from gastroenteritis induced by the said snail-infected ginger-beer. Even while under medical attention she still became worse, and on 16th September had to receive emergency treatment at the Glasgow Royal Infirmary. She vomited repeatedly, and suffered from acute pain in the stomach, and from mental depression. She was rendered unfit for her employment. She has lost wages and incurred expense as the result of her said illness. Her heads of claim are (1) Past *Solatium* (2) Future *Solatium* (3) Past Loss of Earnings and (4) Expenses. The sum sued for is reasonable. The averments in answer are denied. Prior to the incident condescended on, the pursuer suffered from no stomach trouble.

Ans. 5. Not known and not admitted. The alleged injuries are grossly exaggerated. Any illness suffered by the pursuer on and after 26th August was due to the bad condition of her own health at the time.

Stat 6. The pursuer contends that she has suffered loss injury and damage through the fault and negligence of the defender at common law and that she is entitled to damages from him.

Ans. 6. The defender contends that the pursuer's case is unfounded in fact and law and that the pursuer is not entitled to damages. In any event the sum sued for is excessive.

[This marks the end of the Closed Record]



3. The Law - a summary

You will find **the main legal concepts** outlined in the draft Judge's charge and in the draft speeches to the jury - which are with your case papers (below). Please read them to help you prepare.

The main legal principles are those underlying the original case of *Donoghue v Stevenson* 1932 S.C. (H.L.) 31. In that case The House of Lords held (decided) :-

Where the manufacturer of a product intended for human consumption sends it out in a form which shows that he means it to reach the ultimate consumer in the form in which it left his factory, with no reasonable possibility of intermediate examination by the retailer or consumer, and with the knowledge that want of reasonable care on his part in the preparation of the product may result in injury to the consumer, the manufacturer owes a duty to the consumer to take such care, and will be liable to the latter, in damages if he suffers injury through the failure to take such care.

In his speech Lord Atkin said:

"You must take reasonable care to avoid acts and omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law is my neighbour? The answer seems to be – persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts and omissions which are called in question."

The principle on which his judgment rested was as follows:

"[A] manufacturer of products, which he sells in such a form as to show that he intends them to reach the ultimate consumer in the form in which they left him with no reasonable possibility of intermediate examination, and with the knowledge that the absence of reasonable care in the preparation or putting up of the products will result in an injury to the consumer's life or property, owes a duty to the consumer to take that reasonable care."

Those principles still lie at the heart of the modern common law of negligence and consumer protection. You can visit the Scottish Council of Law Reporting site at www.scottishlawreports.org.uk for further background information.

Has May Donoghue proved a lack of reasonable care on the part of David Stevenson? If so, what award of damages should she receive?



4. Precognitions - pursuer's witnesses

Pursuer's Witnesses

1. **May McAlister or Donoghue, Junior - the pursuer**
2. **Ann Onymous**

Pursuer's witness No 1

MRS MAY McALISTER OR DONOGHUE, Junior,

Aged 29, shop assistant, formerly residing care of McAlister, 49 Kent Street, off London Road, Glasgow, and now residing at 101 Maitland Street, Cowcaddens, Glasgow,

I am the pursuer in this action of damages for personal injuries against David Stevenson.

The defender, Mr Stevenson, is an aerated-water manufacturer, and carries on business at Glen Lane, Paisley.

At or about 8.50 p.m. on or about 26th August, I was in the premises occupied by Francis Minchella, known as the Wellmeadow Café, Wellmeadow Place, Paisley, with a friend. My friend, Ann, ordered for me ice-cream and ginger-beer suitable to be used with the ice-cream as an iced drink. Ann was supplied by Mr. Minchella with a bottle of ginger-beer manufactured by Mr Stevenson for sale to members of the public. The bottle was made of dark opaque glass. I had no reason to suspect that the said bottle contained anything else than the aerated-water. Mr Minchella poured some of the said ginger-beer from the bottle into a tumbler containing the ice-cream. I then drank some of the contents of the tumbler. Ann then lifted the said ginger-beer bottle and was pouring out the remainder of the contents into the said tumbler when to my horror a snail (which was in a state of decomposition) floated out of the said bottle. In consequence of the nauseating sight of the snail and of the noxious condition of the snail-tainted ginger-beer which I had consumed I became ill. I was shocked. The snail had been, unknown to myself, Ann or Mr Minchella, in Mr Stevenson's bottle.

Mr Minchella also sold Ann a pear and ice.

The said ginger-beer bottle was fitted with a metal-cap over its mouth. On the side of the said bottle there was pasted a label containing, inter alia, the name and address



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of the defender, who was the manufacturer. It was from this label that Ann got the name and address of the defender. It was definitely one of Mr Stevenson's bottles.

I believe that the shock and illness which I suffered were due to the fault of Mr Stevenson or his employees. The ginger-beer was manufactured by Mr Stevenson to be sold as a drink to members of the public (including me). It seems to me that it was up to Mr Stevenson to exercise the greatest care in order that snails would not get into the bottle, render the ginger-beer dangerous and harmful, and be sold with the ginger-beer.

Further, it was Mr Stevenson's duty to provide a system of working his business that was safe, and would not allow snails to get into his ginger-beer bottles (including the bottle I had). I know that such a system is usual and customary, and is necessary in the manufacture of a drink like ginger-beer to be used for human consumption. In these duties Mr Stevenson culpably failed, and my illness and shock were the direct result of his failure in duty.

I suffered severe shock and a prolonged illness in consequence of the fault of Mr Stevenson and his employees. I suffered from sickness and nausea which persisted. My condition became worse, and on 29th August I had to consult a doctor. I was then suffering from gastroenteritis induced by the snail-infected ginger-beer. Even while under medical attention I still became worse, and on 16th September I had to receive emergency treatment at the Glasgow Royal Infirmary. I vomited repeatedly, and suffered from acute pain in my stomach, and from mental depression. I was rendered unfit for my employment. I lost wages and incurred expense as the result of that illness.

Prior to the incident in the Wellmeadow Café I suffered from no stomach trouble.

I understand that Mr Stevenson contends that he is not liable to pay me any damages - so the jury will have to determine the question of liability.

There has been no agreement as to past or future solatium - damages for my pain and suffering - so those figures will also have to be determined by the jury.

In the event of Mr Stevenson being found liable, I believe that our respective lawyers have agreed damages figures for past loss of earnings and for expenses - namely £200 and £50 respectively.

I contend that I have suffered loss injury and damage through the fault and negligence of the defender at common law and that I am entitled to damages from him.



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Pursuer's witness No. 2.

ANN ONYMOUS,

Aged 30, factory worker, care of McAlister, 49 Kent Street, off London Road, Glasgow,

I am a friend of the pursuer in this action - May Donoghue.

The defender, David Stevenson, is an aerated-water (soft drinks) manufacturer. He carries on business at Glen Lane, Paisley.

At or about 8.50 p.m. on or about 26th August 1928, I was in the premises occupied by Francis Minchella, known as the Wellmeadow Café, Wellmeadow Place, Paisley, with May. I ordered for May ice-cream and ginger-beer suitable to be used with the ice-cream as an iced drink. I was supplied by Mr. Minchella with a bottle of ginger-beer manufactured by Mr Stevenson for sale to members of the public. The bottle was made of dark opaque glass. I had no reason to suspect that the said bottle contained anything else than the aerated-water. Mr Minchella poured some of the said ginger-beer from the bottle into a tumbler containing the ice-cream. May then drank some of the contents of the tumbler. I then lifted the said ginger-beer bottle and was pouring out the remainder of the contents into the said tumbler when to my horror a snail (which was in a state of decomposition) floated out of the said bottle. In consequence of the nauseating sight of the snail and of the noxious condition of the snail-tainted ginger-beer which May had consumed she became ill. I was shocked too. The snail had been, unknown to May, myself, or Mr Minchella, in Mr Stevenson's bottle.

Mr Minchella also sold me a peach melba - peaches and ice cream.

The ginger-beer bottle was fitted with a ceramic stopper over its mouth. On the side of the said bottle there was pasted a label containing, inter alia, the name and address of the defender, who was the manufacturer. It was from this label that May got the name and address of the defender.

I agree with May that it was Mr Stevenson's duty to provide a system of working his business that was safe, and would not allow snails to get into his ginger-beer bottles (including the bottle May had).

I remember working for Mr Stevenson for a week or so shortly before the accident. His system of working his business was defective, in respect that his ginger-beer bottles were washed and allowed to stand in places to which it was obvious that snails had freedom of access from outside the defender's premises, and in which, indeed, snails and the slimy trails of snails were frequently found. The snails at the factory were smaller than the snails that you get near the Wellmeadow Café.



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I believe it was the duty of Mr Stevenson to provide an efficient system of inspection of said bottles before the ginger-beer was filled into them, and before they were sealed. In this duty also he culpably failed, and so caused May's accident.

Mr Stevenson well knew, or ought to have known, of the frequent presence of snails in those parts of his premises where the ginger-beer bottles were washed and dried, and further, ought to have known of the danger of small animals (including snails) getting into his ginger-beer bottles.

I believe that the snail involved in this case, in going into the bottle, left on its path a slimy trail, which should have been obvious to anyone inspecting the said bottle before the ginger-beer was put into it. In any event, the trail of the snail should easily have been discovered on the bottle before the bottle was sealed, and a proper (or indeed any) inspection would have revealed the presence of the said trail and the said snail, and the said bottle of ginger-beer with the snail in it would not have been placed for sale in the said shop. Further, Mr Stevenson well knew, or in any event ought to have known, that small animals like mice or snails left in aerated-water (including ginger-beer), and decomposing there, render aerated-water exceedingly dangerous and harmful to persons drinking the contaminated aerated-water. Accordingly, it seems to me that it was his obvious duty to provide clear ginger-beer bottles, so as to facilitate the system of inspection. In this duty also Mr Stevenson culpably failed, and the said accident was the direct result of his said failure in duty. If the defender and his employees had carried out their said duties May would not have suffered the shock and illness which she did.

May suffered severe shock and illness as a result of the incident. She suffered from sickness and nausea. I think she consulted her doctor and received emergency treatment at the Glasgow Royal Infirmary.

As far as I know, prior to the incident in the Wellmeadow Café May suffered from no stomach trouble.

There were two small scoops of ice-cream in May's glass. She had eaten one of them before the snail emerged.



5. Precognitions - defender's witnesses

Defender's Witnesses

1. **David Stevenson Junior - the defender**
2. **Robert L. Stevenson**

Defender's witness No. 1.

**DAVID STEVENSON, Junior,
Aged 40, Aerated-Water Manufacturer, 5 Glen Lane, Paisley.**

I am an aerated-water (soft drinks) manufacturer, and I carry on business at Glen Lane, Paisley.

I am aware of the allegations being made against me by May Donoghue - which are set out in the Closed Record. Her allegations are simply not true.

May Donoghue is mistaken. I never employed an Ann Onymous. I would have remembered the name.

I do not accept that any bottle of ginger-beer manufactured by me ever contained a snail.

Any illness which May Donoghue suffered was not due to her having consumed the contents of a bottle of ginger-beer manufactured and sent out from my factory.

I have never issued bottles answering the description given by the pursuer. All my bottles are solid opaque glass. They have the name "D. Stevenson, Glen Lane, Paisley" embossed on the side of the glass as raised lettering. They don't have paper labels.

The system employed at my factory is the best known in the trade.

No bottle of ginger-beer has ever passed out from my factory containing a snail. We don't have any snails at Glen Lane - and certainly no big snails.

I exercised every care in the carrying out of my system, and every stage of the process has been properly executed by my employees.



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I am not liable to pay any damages.

Further, the alleged injuries are grossly exaggerated. Any illness suffered by the pursuer on and after 26th August was due to the bad condition of her own health at the time.

I contend that the pursuer's case is unfounded in fact and law.

I believe that the pursuer is not entitled to any damages.

In any event the sum sued for is excessive.



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Defender's witness No. 2.

ROBERT L. STEVENSON,
Aged 35, part-time factory worker, c/o 5 Glen Lane, Paisley.

I am the brother of David Stevenson.

David is an aerated-water (soft drinks) manufacturer who carries on business at Glen Lane, Paisley.

I sometimes help David out at work. Just part-time. I also write books.

I am aware of the allegations being made against David by May Donoghue - which are set out in the Closed Record.

I think May Donoghue is mistaken. David's factory is very well run.

All David's bottles are solid opaque glass. They have the name "D. Stevenson, Glen Lane, Paisley" embossed on the side of the glass as raised lettering. They don't have paper labels. I think there's a photograph of an actual bottle somewhere. (It might be a useful production - if you can find it.)

I don't believe that any bottle of ginger-beer manufactured by David ever contained a snail.

The snail which May Donoghue describes seems to be fairly small. By that I mean it must have been small enough to get into a bottle.

That sounds like a much smaller kind of snail than the fairly big snails that we sometimes get at Glen Lane. The ones we get are common garden snails - *helix aspersa* I think they are called. They are too big to fit through the neck of bottle. I may have a shell from one of the snails somewhere. (That might be useful production too - if you can find one.)

You get lots of tiny wee snails at the Wellmeadow - right beside the Café. I'm not sure what they are called. Just wee snails I suppose. Maybe it was one of them. But if there was a snail in the bottle - what happened to the shell?

I've never heard of anyone called Ann Onymous. It's an odd name.

There's not much more I can say really. Hope that's of some help.



6. Summary - the sequence of events during the trial

1. The Court convenes / assembles - the Judge is brought on to the bench.
2. The Pursuer's Senior Counsel introduces the Case.
3. The Clerk of Court ballots the jury - chosen from those cited for jury service.
4. The Clerk reads the "The Proposed Issue for the Pursuer" to the jurors.
5. The Clerk administers the oath to the Jury.
6. The Judge outlines the procedure.
7. Junior Counsel for the Pursuer introduces the case for the Pursuer.
8. The witnesses give evidence.
9. The Judge puts each witness on Oath - to tell the truth.
10. The Pursuer's evidence begins.
Evidence-in-chief. Cross-examination. Re-examination?
11. Pursuer's Junior Counsel reads Joint Minute etc. The Pursuer's case closes.
12. The Defender's case begins.
Evidence-in-chief. Cross-examination. Re-examination?
13. Counsel for the Pursuer's Speech to the Jury - asking the jury to answer the Proposed Issue "Yes" and to award damages.
14. The Defender's Speech to the Jury - asking the jury to answer the Proposed Issue "No" and to award nothing or very little by way of damages.
15. The Judge's Charge to the Jury - giving them directions in law.
16. The Jury Retire - to consider their verdict.
17. The Verdict.
18. Expenses and the question of a "Tender".
19. The End. Feedback please.



Additional Documents / Materials -

The additional materials, which follow, consist of:-

Document 1. The “Proposed Issue for the Pursuer”

- which is essential.

Copies should be made available for all the jurors too.

Document 2. The “Joint Minute”

- agreeing certain matters and certain heads of damage.

The Joint Minute should be read to the jury by Junior Counsel for the Pursuer at the end of the pursuer’s case.

Document 3. A draft “Minute of Tender”

- which the defender’s lawyers can use if they wish.

See above page 31.

Even if the pursuer accepts the tender - proceed with the MiniTrial to find out what the jury would have done.

Document 4. A medical report by Dr. James Y. Simpson.

- which has been agreed in the Joint Minute.

The medical report should be read to the jury by Junior Counsel for the Pursuer at the end of the pursuer’s case.



Donoghue v Stevenson [2007 Remix]

Document 1.

IN THE COURT OF SESSION

PROPOSED ISSUE FOR THE PURSUER

(Personal Injuries Action)

MRS MAY McALISTER OR DONOGHUE, Junior, (Assisted Person),
formerly residing care of McAlister, 49 Kent Street, off London Road,
Glasgow, and now residing at 101 Maitland Street, Cowcaddens, Glasgow- ,

PURSUER

against

DAVID STEVENSON, Junior, Aerated-Water Manufacturer, 5 Glen Lane,
Paisley - ,

DEFENDER

WHETHER on or about 26th August in the Wellmeadow Café, Wellmeadow Place, Paisley, the pursuer sustained injury caused by the fault of the defender or his employees?

DAMAGES CLAIMED

£25,000

1.	Past Solatium	£
2.	Future Solatium	£
3.	Past Wage Loss	£
4.	Expenses	£
		<hr/>
	TOTAL DAMAGES	£



Donoghue v Stevenson [2007 Remix]

Document 2.

IN THE COURT OF SESSION

JOINT MINUTE FOR THE PARTIES

(Personal Injuries Action)

MRS MAY McALISTER OR DONOGHUE, Junior, (Assisted Person), formerly residing care of McAlister, 49 Kent Street, off London Road, Glasgow, and now residing at 101 Maitland Street, Cowcaddens, Glasgow,

PURSUER

Against

DAVID STEVENSON, Junior, Aerated-Water Manufacturer, 5 Glen Lane, Paisley,
DEFENDER

A For the Pursuer and

B For the Defender stated to the Court defender's (without pre
whole other rights and pleas) the parties have agreed and hereby agree as follows:-

(1) That No. 6/1 of Process is a medical report from Dr. James Y. Simpson, M.B.Ch.B., General Practitioner, 11 Kirklee Quadrant, Glasgow, dated 29th November and relating to the Pursuer; and that for the purposes of the present action said report shall be held as the equivalent of Dr Simpson's oral evidence;

(2) That in the event of the defender being found liable sum to be awarded in respect of Head 3 of the Proposed Issue for the Wage Loss) shall be £200;

(3) That in the event of the defender being found liable sum to be awarded in respect of Head 4 of the Proposed Issue for the Pursuer (Expenses) shall be £50; and

(4) That said sums agreed above in relation to Heads 3 and 4 of the Proposed Issue are each inclusive of interest.

IN RESPECT WHEREOF

A

B



Donoghue v Stevenson [2007 Remix]

Document 3.

IN THE COURT OF SESSION

**MINUTE OF TENDER
FOR THE DEFENDER**
(Personal Injuries Action)

MRS MAY McALISTER OR DONOGHUE, Junior, (Assisted Person),
formerly residing care of McAlister, 49 Kent Street, off London Road,
Glasgow, and now residing at 101 Maitland Street, Cowcaddens, Glasgow- ,

PURSUER

against

DAVID STEVENSON, Junior, Aerated-Water Manufacturer, 5 Glen Lane,
Paisley - ,

DEFENDER

B For the Defender (without prejudice to the defender's whole other rights
and pleas) tendered and hereby tenders to the pursuer the sum of

POUNDS (£) STERLING, together with the taxed expenses
of process to date, in full of the conclusions of the Summons.

IN RESPECT WHEREOF

B

Dated :



Donoghue v Stevenson [2007 Remix]

Document 4.

Production No. 6/1 of Process

DR. JAMES Y. SIMPSON,
General Practitioner,
11 Kirklee Quadrant,
Glasgow G12 OTS.

29th November

To Whom it may concern.

MEDICAL REPORT relating to
MRS MAY McALISTER or DONOGHUE, Junior,
101 Maitland Street, Cowcaddens, Glasgow

May Donoghue has been a patient of mine for several years.

She came to see me on 29th August complaining about an incident which she told me had taken place in the Wellmeadow Café in Paisley on 26th August.

May suffered severe shock and a prolonged illness as a result of this incident. She suffered from sickness and nausea which persisted.

When she consulted me she was suffering from gastroenteritis - which she told me was induced by snail-infected ginger-beer.

On 16th September she had to receive emergency treatment at the Glasgow Royal Infirmary.

She vomited repeatedly, and suffered from acute pain in her stomach.

She also suffered from mental depression.

She was unfit for her employment for several weeks.

Prior to the incident in the Wellmeadow Café May suffered from no stomach trouble. However she has in the past felt unwell after eating too much ice cream.

Yours sincerely,

James Y. Simpson

Dr James Y. Simpson, M.B.Ch.B.



7. The Pursuer's Opening Speech to the Jury - a possible outline

Junior Counsel can begin with something along the following lines:-

"Ladies and Gentlemen of the Jury, you are here today to deal with a claim for damages brought by Mrs May Donoghue against Mr David Stevenson. May Donoghue is seeking compensation for injuries sustained as a result of her drinking ginger-beer which had been manufactured by Mr Stevenson and which was contaminated with the remains of a decomposing snail.. I am Junior Counsel for the Pursuer.

Junior Counsel then summarises in general terms the essential features of the pursuer's case. For the purposes of MiniTrial that can be done by simply highlighting the important elements of the case as set out in the written pleadings. By this stage the pleadings are contained in the document known as the "Closed Record". A copy of the updated Closed Record can be found in the case papers - at pages 36 to 39 inclusive. The Pursuer's Statements are the paragraphs headed "Stat. 1" and so on in the Closed Record. The Defender's Answers are the indented paragraphs headed "Ans. 1" and so on. It is for Counsel to decide which parts of the Record to specifically highlight - so that is left to the student's judgement. Counsel might begin by saying for example:-

"The essence of the pursuer's case is as follows. The Closed Record and summarise in the main a pursuer's pleadings - the paragraphs headed "Stat.")

Junior counsel can then continue by saying:-

The question for you is set out in the document called the Issue. Would you please look at that document with me? You will see that it begins with a question - and then it has a list of various heads of damages. On behalf of the pursuer, you will be invited to answer the Issue (the main question) "Yes". You will also be asked to insert the appropriate figures against each of the heads of damages - all as set out in the Proposed Issue - up to the maximum which is stated to be £25,000. You will now hear the evidence for the pursuer."



8. The Defender's Opening Speech to the Jury - a possible outline

Junior Counsel can begin with something along the following lines:-

"Ladies and Gentlemen of the Jury, I now have the opportunity to address you on behalf of the defender Mr David Stevenson - who denies that he has any liability in this case."

Junior Counsel then summarises in general terms the essential features of the defender's case. For the purposes of MiniTrial that can be done by simply highlighting the important elements of the case as set out in the written pleadings. By this stage the pleadings are contained in the document known as the "Closed Record". A copy of the updated Closed Record can be found in the case papers - at pages 36 to 39 inclusive. The Pursuer's Statements are the paragraphs headed "Stat. 1" and so on in the Closed Record. The Defender's Answers are the indented paragraphs headed "Ans. 1" and so on. It is for Counsel to decide which parts of the Record to specifically highlight - so that is left to the student's judgement. Counsel might begin by saying for example:-

"The essence of the defender's case is as follows. ... (then go to the Closed Record and summarise the main allegations in the defender's pleadings - the paragraphs headed "Ans.")"

Junior counsel can then continue by saying:-

The question for you is set out in the document called the Issue. Would you please look at that document again with me? You will see that it begins with a question - and then it has a list of various heads of damages. On behalf of the defender, you will be invited to answer the Issue (the main question) "No". If there is to be any award of damages - it should be very small. Much less than the maximum which is stated to be £25,000. You will now hear the evidence for the defender."



9. The Pursuer's Closing Speech to the Jury - a possible outline

Senior counsel for the Pursuer stands and says (as a courtesy to the court)

"May it please your Lordship."

Counsel then makes his / her way from his seat round into the well of the court to stand directly in front of the jury. Counsel begins with something along the following lines:-

"Ladies and Gentlemen of the Jury, I now have the opportunity to address you on behalf of the pursuer May Donoghue. As you have heard, the question for you is set out in the Issue. Would you please look at that document again with me?

First of all, on behalf of the pursuer, I am inviting you to answer the Issue (the main question) "Yes".

The reasons *why* you should answer the Issue "Yes" are as follows:-

- 1. As a matter of fact, the incident happened as May Donoghue alleges. That is clear from the evidence of ...**
- 2. The incident was caused by the fault of the Defender. Mr Stevenson or his employees did *not* take reasonable care. That is clear from the evidence of ...**
- 3. May Donoghue sustained injury caused by that fault. That is clear from the evidence of ...**
- 4. Finally, the evidence from the defender should be rejected. The suggestions made by the defender should not be accepted because ...**

Accordingly you should answer the Issue "Yes".

You should also assess damages - by inserting the appropriate figures against each of the 4 heads of claim which are all set out in the Issue.

Head (1) is for past *solatium* - that is the pain and suffering and distress experienced by May Donoghue from the time of the incident to date.



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Head (2) is for future *solatium* - that is the pain suffering and distress that May Donoghue will experience as a result of the incident in future - from today onwards.

Head (3) “past wage Loss” has been agreed between the parties - so you should insert the agreed figure of £200.

Head (4) “expenses” has also been agreed - so you should insert the agreed figure of £50.

The assessment of damages is a matter for you. When selecting the appropriate figure for solatium you will no doubt bear in mind the evidence of:-

- a.
- b.
- c.

On the whole evidence, you may well take the view that your awards should be substantial - to properly reflect the evidence.

Finally, I should say that the figure of £25,000 which is mentioned in the Issue is a maximum. You cannot award more than £25,000. If you consider it appropriate you could award £25,000 in total but you could not award any more than that.

In short, I am inviting you firstly to answer the Issue “Yes” - and then to make a reasonable assessment of damages totalling up to but no more than £25,000.

Thank you for your attention.



10. The Defender's Closing Speech to the Jury - a possible outline

Senior counsel for the Pursuer stands and says (as a courtesy to the court)

"May it please your Lordship."

Counsel then makes his / her way from his seat round into the well of the court to stand directly in front of the jury. Counsel begins with something along the following lines:-

"Ladies and Gentlemen of the Jury, I now have the opportunity to address you on behalf of David Stevenson - the defender.

First of all, on behalf of the defender, I am inviting you to answer the question in the Issue (the main question) "No".

The reasons *why* you should answer the Issue "No" are as follows:-

- 1. The pursuer has failed to prove that the incident in fact happened as May Donoghue alleges. You will remember the doubts and the inconsistencies in the evidence of ...**
- 2. The pursuer has failed to prove any fault on the part of the Defender. Mr Stevenson and his employees *did* take reasonable care. You will remember the evidence of ...**
- 3. May Donoghue has failed to prove that she sustained injury caused by the fault of the defender. You will remember the evidence of ...**
- 4. Finally, the evidence from the pursuer should be rejected and should not be accepted because ...**

Accordingly, the Issue should be answered "No".

In relation to damages, I have very little to say. My primary position is that there should be no award at all. If you are against me on that, then any award of damages should be modest.

Head (3) "past wage loss" has been agreed - at £200.



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Head (4) “expenses” has also been agreed - at £- so you should insert the agreed figure of £50.

That only leaves Heads (1) and (2) for you to decide.

Head (1) is for past *solatium*.

Head (2) is for future *solatium*.

The assessment of damages is a matter for you but when selecting the appropriate figure for solatium you will no doubt bear in mind the evidence of:-

- a.
- b.
- c.

On the whole evidence you may feel that any award of damages should be very small. Perhaps a few hundred pounds - but nowhere near the total which the pursuer has chosen as her maximum.

In short, I am inviting you to answer the Issue “No”.

In relation to damages, if you decide to make any award at all, I suggest that the award should be very small.

Thank you for your attention.



11. The Charge

THE JUDGE'S CHARGE TO THE JURY - a possible outline

LADIES and GENTLEMEN OF THE JURY, it is now my duty to give you directions as to the law in this case.

You and I have **DIFFERENT FUNCTIONS**.

It's MY FUNCTION to deal with questions of law and you must accept and apply my directions on THE LAW.

But YOU are the judges of THE FACTS.

It's YOUR FUNCTION to assess the evidence. It's for you to decide: - what evidence you believe and what you disbelieve; what evidence you find reliable and what unreliable. Please consider the evidence with care. It is your recollection and your assessment of the evidence that counts - and not mine.

There are TWO LEGAL PRINCIPLES which I wish to draw to your attention at the outset.

1. THE ONUS OF PROOF. The burden of proving the case lies on THE PURSUER. It is up to May Donoghue to prove her case to your satisfaction.
2. THE STANDARD OF PROOF - is "THE BALANCE OF PROBABILITIES". It is for May Donoghue to satisfy you of the essential features of her case - and that means that she has to satisfy you that those essential features are "more probable than not".

The evidence is very fresh in you minds - including the evidence which was agreed by Joint Minute - and I propose to say nothing further about it.

However, I would like to say a few words about the LAW.

The main legal principles are to found in a famous case called *Donoghue v Stevenson* 1932 S.C. (H.L.) 31. In that case, which bears a number of similarities to the present one, The House of Lords held (decided) as follows:-

Where the manufacturer of a product intended for human consumption sends it out in a form which shows that he means it to reach the ultimate consumer in the form in which it left his factory, with no reasonable possibility of intermediate examination by the retailer or consumer, and with the



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knowledge that want of reasonable care on his part in the preparation of the product may result in injury to the consumer, the manufacturer owes a duty to the consumer to take such care, and will be liable to the latter, in damages if he suffers injury through the failure to take such care.

In his speech Lord Atkin said:

“You must take reasonable care to avoid acts and omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law is my neighbour? The answer seems to be – persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts and omissions which are called in question.”

The principle on which his judgment rested was as follows:

“[A] manufacturer of products, which he sells in such a form as to show that he intends them to reach the ultimate consumer in the form in which they left him with no reasonable possibility of intermediate examination, and with the knowledge that the absence of reasonable care in the preparation or putting up of the products will result in an injury to the consumer’s life or property, owes a duty to the consumer to take that reasonable care.”

The main questions for you are (Firstly) has May Donoghue proved that the incident happened as she alleges, (Secondly) has she proved a breach of duty - that is fault - on the part of David Stevenson and (Thirdly) has that breach of duty caused May Donoghue loss injury or damage?

As you have already heard, the main question for you is set out in the Issue. Would you please look at that document again with me?

First of all, you have to decide how to answer the Issue (the main question) - either “Yes” (as the pursuer suggests) or “No” (as the defender suggests).

You have heard two excellent closing speeches - summarising the contentions for the parties. I don’t propose to rehearse the various arguments which have been advanced by counsel.

In light of those submissions you require to ask yourself the following three questions:

1. Are you satisfied that, as a matter of **fact**, the incident happened as May Donoghue alleges - and in particular that she consumed ginger-beer which was manufactured by the defender and which was contaminated by a snail?



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2. Was that incident caused by the **fault** of the Defender - and in particular are you satisfied that Mr Stevenson or his employees failed to take reasonable care?
3. Did May Donoghue sustain **injury** caused by the fault of the defender?

If you answer all those questions “Yes” then you should find in favour of the pursuer - by answering the Issue “Yes”.

If you answer any of those questions “No” then you should find in favour of the defender - by answering the Issue “No”.

You also require to assess damages - and to insert the appropriate figures against each of the 4 heads of claim which are all set out in the Issue.

Head (1) is for past solatium - that is the pain and suffering and distress experienced by May Donoghue from the time of the incident to date.

Head (2) is for future solatium - that is the pain suffering and distress that May Donoghue will experience as a result of the incident in future - from today onwards.

Head (3) “past wage Loss” has been agreed between the parties - so I direct you to insert the agreed figure of £200.

Head (4) “expenses” has also been agreed - so I direct you to insert the agreed figure of £50.

The assessment of damages under Heads (1) and (2) for past and future solatium is entirely a matter for you. Your award should properly reflect the evidence and provide fair compensation. The amount of damages should be moderate and reasonable but adequate to put May Donoghue back into the position she would have been in if there had been no incident. You should reach a figure for solatium as a whole before apportioning it between the past and the future.

Finally, the figure of £25,000 which is mentioned in the Issue is simply a maximum figure. You cannot award more than £25,000.

In short, you require to answer the Issue either “Yes” or “No” and then make a reasonable assessment of damages totalling up to but no more than £25,000.

The verdict is however entirely a matter for you.



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Your verdict can be unanimous or by majority. Since there are twelve of you, if you are going to return a majority verdict there must be at least 7 of you in favour of that verdict.

When you have reached a verdict please tell the Clerk of Court. Please also appoint a spokesperson to speak for you when you return to give your verdict.

WOULD YOU NOW PLEASE **RETIRE** AND CONSIDER YOUR VERDICT.



(a) JURY OBSERVATIONS on the PURSUER'S Case



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(b) JURY OBSERVATIONS on the DEFENDER'S Case

Note : The jury will determine whether the pursuer has proved her case - based upon the facts of the case, the credibility (believability) and reliability of the witnesses and the law which applies to the case. The jurors can use this sheet to note the proceedings at the trial if they wish. As the evidence emerges, record the facts established by the witnesses, or any doubts raised by their evidence, and your impressions of the credibility and reliability of the witnesses.

FACTS established by the evidence of the defender's witnesses
and any doubts raised.

Witness Number 1

Witness Number 2

CREDIBILITY and RELIABILITY

Circle the response which most closely corresponds with your impression of each witness:

SA = Strongly Agree
A = Agree
D = Disagree
SD = Strongly Disagree

Witness 1 was a believable and reliable witness SA A D SD

Witness 2 was a believable and reliable witness SA A D SD

Why did you reach those conclusions?

Defence Closing Speech to the Jury:

How did the defender's counsel use the evidence to cast doubt on the pursuer's case?



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MiniTrial Starter Pack

Chapter 4 - Web Links - some law-related links

Donoghue v Stevenson Resources

<http://www.scottishlawreports.org.uk>

* Lots of original and historical information about the case of *Donoghue v Stevenson* 1932 S.C. (H.L.) 31 - thanks to the Scottish Council of Law Reporting.

MiniTrial

<http://www.minitrial.org.uk>

The MiniTrial homepage – with MiniTrial materials

Scottish Courts

<http://www.scotcourts.gov.uk>

* Where is your local Court? See Locations - thanks to Scottish Courts

The Faculty of Advocates

<http://www.advocates.org.uk> -

The Faculty of Advocates

<http://www.advocates.org.uk/web/whatis.htm> -

* What is an "advocate"? A summary - thanks to the Faculty of Advocates



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The Law Society of Scotland

http://www.lawscot.org.uk/whatis/whatis_frame.html

* What *is* Scots Law? A summary - thanks to the Law Society.

<http://www.lawscot.org.uk> -

The Law Society of Scotland

<http://www.solicitoradvocates.org/> -

The Society of Solicitor Advocates

The WS Society

<http://www.signetlibrary.co.uk>

The Society of Writers to Her Majesty's Signet

Procurators Fiscal

<http://www.crownoffice.gov.uk> -

Crown Office and Procurator Fiscal Service

<http://www.crownoffice.gov.uk/publications/newpublics.htm#WitnessInformation>

* Witness information - thanks to Crown Office and Procurator Fiscal Service.

Public Defence Solicitors' Office

<http://www.pdso.demon.co.uk>

Public Defence Solicitors Office

The Police

<http://www.scottish.police.uk/mainframe.htm> -

Scottish Police Forces

<http://www.spf.org.uk> -

Scottish Police Federation



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Legal Aid

<http://www.slab.org.uk> -

The Scottish Legal Aid Board

Legal Information

<http://www.bailii.org> -

British and Irish Legal Information Institute

<http://www.scotcourts.gov.uk>

Scottish Courts index

<http://www.scottishlawreports.org.uk> –

The Scottish Council of Law Reporting

<http://www.sccrc.org.uk>

The Scottish Criminal Cases Review Commission

Scottish Parliament

<http://www.scottish.parliament.uk> -

The Scottish Parliament

Scottish Education

<http://www.gtcs.org.uk/> -

The General Teaching Council for Scotland

Scottish Executive

<http://www.scotland.gov.uk/library3/justice/vocl-00.asp>

* Victims of Crime Information Leaflet - thanks to the Scottish Executive

Citizen Foundation



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<http://www.citfou.org.uk> -
Citizenship Foundation

<http://www.citizenshipfoundation.org.uk/main/page.php?18>
Bar National Mock Trial Competition – supported by the Faculty of Advocates

Young Scot

<http://www.youngscot.org>
Young Scot

Other contacts that might help

<http://www.advocates.org.uk> -
The Faculty of Advocates

<http://www.cas.org.uk/> -
Citizens Advice Scotland

<http://www.childline.org.uk/> -
Childline UK

<http://www.lawscot.org.uk/> -
Solicitors - The Law Society of Scotland

<http://www.scottish.police.uk/> -
The Scottish Police

<http://www.victimsupportsco.demon.co.uk/> -
Victim Support Scotland

<http://www.samaritans.org.uk/> -
Do you need someone to talk to? The Samaritans.

<http://www.scottishwomensaid.co.uk/> -
Scottish Women's Aid

<http://www.cica.gov.uk/> -
Criminal Injuries Compensation Authority



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Internet Safety

<http://www.scotland.gov.uk/clickthinking> -

Personal Safety on the Internet - from the Scottish Executive

<http://www.wiseuptothenet.co.uk>

Information on safety on the internet - from the Home Office

Please take care on the internet.

MiniTrial is not responsible for the content of external internet sites



Contact MiniTrial?



www.minitrial.org.uk

If you have any suggestions, revisals or corrections
or you would like to offer your help or support

Please contact

[Sandy Wylie](#)

at

info@minitrial.org.uk

Sandy will try to help
or put you in touch with someone who can.

He hopes.

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