

Lesson 7
What is a mock argument?

Lesson Objectives

Students will be able to:

- Identify some of the steps of the litigation process before trial
- Explain where an oral argument can take place in the litigation process
- Explain the key elements and roles of an oral argument

Materials

- Handout 16: Summary judgment video quiz
- Handout 17: The litigation process
- Handout 18: Oral argument

Lesson Assessments

- Practice on Handout 17 using case law to support arguments

Instructional Activities

Anticipatory Set

- Distribute **Handout 16: Summary judgment video quiz**.
- Play the video at the following link, which provides a brief animated explanation of summary judgment. <https://www.youtube.com/watch?v=hMhlyh2WjjY>. While students watch the video, they should answer the questions on Handout 16.
- After the video, go over the answers with the class:
 - (1) without
 - (2) d
 - (3) a
 - (4) b

Guided Practice

- Distribute **Handout 17: The litigation process**. Call on volunteers to read each step of the flowchart out loud, along with the description boxes. Remind students of the steps they have already seen throughout this unit:
 - Complaint: students have read Plaintiff Kenji Davis's complaint (Handout 2)

Unit 5: Lesson 7

First Amendment Rights in Schools

- Discovery: students have read depositions of Olivia Marquez, George Carpenter, and Kenji Davis (Handouts 8, 9, and 10)
- Motion for Summary Judgment: explain to students that this is where the case is now. Kenji and the school have gone through discovery, taken depositions, and exchanged documents and other evidence. Now, Kenji is filing a motion for summary judgment, which means he wants the court to decide that he wins -- that his First Amendment rights were in fact violated. Meanwhile, the defendant (the Ann Arbor School Board) is opposing the motion for summary judgment; they are trying to convince the judge that the case should proceed to trial instead. As it says on the flow chart, summary judgment motions may involve oral arguments. That is what the students will work be working on for the next few days.
- Distribute **Handout 18: Oral argument**. Read through the questions and answers out loud as a class.
 - Part D is about how lawyers may use case law to support their arguments. Call on a volunteer to read each example out loud, and ask them to finish the argument's train of thought -- in other words, they should try to complete the sentence at the end of the example. Call on other volunteers to help if necessary.

Independent Practice

- At the bottom of Handout 18, students should work with a partner to come up with their own examples of how they might use one of the three Supreme Court Opinions to (1) cite a rule of law, (2) use persuasive language, (3) analogize, or (4) distinguish. Students should not be concerned about which side they are on yet; instead, they should think about how either side, Plaintiff or Defendant, might use the opinions.
- After students have had time to come up with their own examples, ask them to share with the class.

Closure

- Have students complete an exit ticket answering the following question: How comfortable are you in using the Supreme Court opinions in arguing about Kenji's case? What do you understand, and what is still confusing?