

The Chair and the Stick (Part 1)

Analysis from Multiple Perspectives

Objective: Thinkers will consider the legal rule for battery and analyze a real-life legal case from multiple perspectives.

Common Core Content Standards

Grade 6	Grade 7	Grade 8
RI.6.6 Determine an author's point of view or purpose in a text and explain how it is conveyed in the text.	RI.7.6 Determine an author's point of view or purpose in a text and analyze how the author distinguishes his or her position from that of others.	RI.8.6 Determine an author's point of view or purpose in a text and analyze how the author acknowledges and responds to conflicting evidence or viewpoints.
RI.6.9 Compare and contrast one author's presentation of events with that of another.	RI.7.9 Analyze how two or more authors writing about the same topic shape their presentations of key information by emphasizing different evidence or advancing different interpretations of facts.	RI.8.9 Analyze a case in which two or more texts provide conflicting information on the same topic and identify where the texts disagree on matters of fact or interpretation.
W.6.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.	W.7.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.	W.8.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.
SL.6.1C Pose and respond to specific questions with elaboration and detail by making comments that contribute to the topic, text, or issue under discussion.	SL.7.1C Pose questions that elicit elaboration and respond to others' questions and comments with relevant observations and ideas that bring the discussion back on topic as needed.	SL.8.1C Pose questions that connect the ideas of several speakers and respond to others' questions and comments with relevant evidence, observations, and ideas.
SL.6.1D Review the key ideas expressed and demonstrate understanding of multiple perspectives through reflection and paraphrasing.	SL.7.1D Acknowledge new information expressed by others and, when warranted, modify their own views.	SL.8.1D Acknowledge new information expressed by others, and, when warranted, qualify or justify their own views in light of the evidence presented.

Lesson Outline:

1. Thinkers will briefly discuss exceptions for the general rule that it is not okay to hit people and use this exercise to define a general rule for battery.
2. Thinkers will learn the formal elements of a battery claim and apply these elements from the perspective of both sides of a legal case.
3. Thinkers will apply the rule from *The Chair* case to determine if a battery occurred in *The Bicycles Case*.

Common Core Content Standards

Grade 9/10

RI.9-10.6 Determine an author's point of view or purpose in a text and analyze how an author uses rhetoric to advance that point of view or purpose.

RI.9-10.8 Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is valid and the evidence is relevant and sufficient; identify false statements and fallacious reasoning.

W.9-10.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.9-10.1C Propel conversations by posing and responding to questions that relate the current discussion to broader themes or larger ideas; actively incorporate others into the discussion; and clarify, verify, or challenge ideas and conclusions.

SL.9-10.1D Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented.

Grade 11/12

RI.11-12.6 Determine an author's point of view or purpose in a text in which the rhetoric is particularly effective, analyzing how style and content contribute to the power, persuasiveness or beauty of the text.

RI.11-12.8 Delineate and evaluate the reasoning in seminal U.S. texts, including the application of constitutional principles and use of legal reasoning and the premises, purposes, and arguments in works of public advocacy.

W.11-12.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.11-12.1C Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

SL.11-12.1D Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

PowerPoint Presentation:



Instructor's Note:

Thinkers will enter their answers into the following chart. Thinkers are likely to brainstorm self-defense, accidental hitting, or consent (like in a professional fight) as reasons hitting someone would be okay. After completing the chart with 3-4 entries, ask thinkers probing questions about the rules for hitting someone, following up with several “why?” questions to spark deeper thought into the rules.

Probing Questions:

- Why is important to have a clear, legal rule for battery? What would the world look like if the definition of battery was not clear?
- Do you think that a lawyer just sat down and wrote the rule for battery, or do you think the standards have evolved over time? Explain your thinking.
- Do you think teens consider the battery standards when they get into fights? Why or why not?
- Do you think most teens even know the standards for battery? Do you think the rule is something important that teenagers should know, or is the more general rule that “You shouldn't hit anyone” enough?
- If two people agree to a fight, like in a boxing match, can it turn into a battery? Why or why not?
- What do you think are the key components to a battery? What turns it into a crime? Is it damages? Is it intent? Why?

Name _____

The Chair and the Stick (Part 1)

Analysis from Multiple Perspectives

thinkStarter

Should you ever be able to hit someone without getting in trouble for it?

Why or why not?

Reasons to hit someone	Why should this reason keep you from getting into trouble?
You should be able to hit someone in self-defense.	You should not get in trouble for self-defense because you were protecting yourself.
You should be able to hit someone if they give you permission to hit them. For example, if you are a boxer.	If you are in a boxing match or someone gives you permission to hit them, you aren't doing anything wrong.

thinkStarter Summary

If you hit someone, the person can sue you for **battery**, which is just a fancy word for hitting someone. If you commit a battery and get sued, you will be the **defendant**, and the **plaintiff** could win a lawsuit against you. If the plaintiff wins, you will be liable for battery. In other words, you will have to pay the plaintiff money for the harm you caused.

thinkHypothesis

Based on the discussion in the thinkStarter activity, write a rule for battery in the space below.

A battery happens when a defendant:

Thinkers' rules should focus on when it is not okay to hit someone else.

There are four elements that make hitting someone a battery. A battery must meet all four elements.

1. **Intentional (on purpose)**
2. **Contact with another person**
3. **Harmful or offensive**
4. **Cause damages**

The Chair (Garrett v. Daily, Washington, 1956)

Brian was five years old, and his aunt sued him for battery. His aunt claimed that Brian saw she was about to sit down in a chair. Brian pulled the chair away from her just as she was going to sit down. As a result, she fell on the floor. She seriously hurt her hip and had to pay \$11,000 in hospital bills.

Do you think Brian is liable for battery?

Did Brian's actions meet all 4 requirements?

Element 1: Brian's act was on purpose.	
How will Brian's aunt argue that Brian's act was on purpose?	How will Brian's aunt argue that Brian's act was on purpose?
He pulled out the chair right before she sat down, so that shows he must have known what he was doing.	Brian is only five. He probably meant to move the chair but did not understand that his aunt could get hurt.
What do you think? Why?	
Responses will vary.	
Element 2: Brian's act involved contact with another person	
How will Brian's aunt argue that Brian's act involved contact with another person?	How will Brian's aunt argue that Brian's act involved contact with another person?
Brian's actions caused his aunt to fall and make contact with the floor.	Brian's actions caused his aunt to fall and make contact with the floor.

Instructor's Note:

Have thinkers compare their rule to the actual rule for battery. Is there anything they left out of their rule? The standards for criminal and civil battery are the same.

Probing Questions:

- Which element of battery do you think would be the easiest to prove? Which element would be the most difficult to prove? Why?
- What kinds of damages might be caused by a battery?

Instructor's Note:

Take an initial poll. Do thinkers believe Brian should be liable for battery? Part of becoming a mature critical thinker is having the ability to recognize that you will always have a gut

reaction to a situation. Mature critical thinkers recognize this gut reaction and then step back to gather and analyze more information.

Instructor's Note:

Proving intent is tricky, because we cannot look into Brian's head and prove that he pulled the chair on his aunt on purpose. The goal is to figure out how to explain the facts in such a way that there is no other plausible conclusion a jury can reach but that Brian intentionally pulled out the chair.

Instructor's Note:

It is important to emphasize that great lawyers understand when there are no good arguments. Here, we know that Brian's aunt had serious injuries that caused her to go to a hospital. But since we know that Brian's aunt still must prove three other elements besides the damages, it makes more sense to focus on the elements that are less clear. Thinkers should also reach the conclusion that there is no good argument that pulling out a chair is harmful or offensive contact.

Probing Questions:

- What is the strongest evidence that Brian's act was not done on purpose? (He is only five.) Why is this a strong piece of evidence?
- What is the strongest evidence that Brian's act was done intentionally or on purpose?
- Did Brian's act involve contact with another person? Why or why not?
- If there was contact, was that contact harmful or offensive? Why or why not?
- Have you ever had a chair pulled out from under you and fallen on the floor? Did you enjoy that? Why or why not? Does your experience influence your opinion about whether Brian's act was harmful or offensive?
- Did Brian's aunt suffer damages because of Brian's act? Why or why not? What is the best argument that Brian's aunt didn't suffer any damages?

Instructor's Note:

The aunt's attorney will need to prove all four elements of battery to win. Brian's attorney will just need to disprove one element to win. If you were Brian's attorney, which element would you try the hardest to disprove? Why?

SEL Instructor's Note:

The simple exercise of developing a plausible argument for a side you do not agree with is a powerful tool. The ability to put oneself in the shoes of others to experience a conflict from their point of view is the essence of empathy.

What do you think? Why?	
Responses will vary.	
Element 3: Brian's act was harmful or offensive	
How will Brian's aunt argue that Brian's act was harmful or offensive?	How will Brian's aunt argue that Brian's act was harmful or offensive?
His aunt hurt her hip and had to go to the hospital.	His aunt hurt her hip and had to go to the hospital.
What do you think? Why?	
Responses will vary.	
Element 4: Brian's act caused damages	
How will Brian's aunt argue that Brian's act caused damages?	How will Brian's aunt argue that Brian's act caused damages?
His aunt broke her hip and had \$11,000 in medical bills.	His aunt broke her hip and had \$11,000 in medical bills.
What do you think? Why?	
Responses will vary.	

thinkBigPicture

Would you sue your 5-year-old nephew if he did this to you?
Why or why not?

Thinker responses will vary.

Why do you think she is suing her own family member?

Thinker responses will vary.

Thinkers usually feel that there is something else going on. Thinkers may wonder if there is family drama. Thinkers may wonder if the aunt just really needs money.

Do you think Brian is liable for battery?

- ☐ Yes
- ☐ No

NEW FACT 1: Does this change your mind about whether Brian is responsible? Why or why not?

Brian was actually 5 years and 9 months old when this happened.

Usually, thinkers do not change their minds based on this fact. You may remind thinkers that Brian was probably at the end of his kindergarten year. He likely has a year of school under his belt.

Do you think Brian is liable (responsible) for battery?

- ☐ Yes
- ☐ No

NEW FACT 2: Does that change your mind about whether Brian is responsible? Why or why not?

Brian's aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than most other adults do. Brian's attorney will say that Brian can't see arthritis and probably doesn't know what it is. The aunt's attorney will say that Brian had to wait longer for his aunt to sit down, so he had a lot of time to change his mind.

Do you think Brian is liable (responsible) for battery?

- ☐ Yes
- ☐ No

Instructor's Note:


Each additional fact is listed on a slide in the PowerPoint Presentation.

Fact Update #1

Brian was actually five years and nine months old when this happened.

THINK LAW

Does this change your thoughts about whether Brian is liable for battery? Why or why not?



Fact Update #2

Brian's aunt had arthritis in her knees, which is a medical condition that caused her to sit down much slower than most other adults do.

THINK LAW

Does this change your thoughts about whether Brian is liable for battery? Why or why not?



Instructor's Note:

Looking beyond the facts, it is helpful to take a step back and ask about the elephant in the room. What seems weird about this case?

Thinkers may conclude that it is odd for an aunt to sue a child. Push thinkers to come up with reasons

why the aunt would make the interesting choice to sue her 5-year-old nephew

Thinkers might think that there must have been some sort of ongoing family dispute, which is often the case in lawsuits involving family members. In the actual case, Brian's parents had a home insurance policy that would have covered his aunt's injuries if Brian was found liable for battery. This is probably the major reason why this lawsuit happened.

Instructor's Note:

Compared to the first time the class read these facts, does this case seem more complicated or nuanced than thinkers originally thought? When thinkers read this emotionally shocking set of facts, it sparked an immediate reaction. Thinkers made a gut judgement without fully analyzing all the details. As thinkers mature as critical thinkers, they will be able to recognize that gut reactions are based on emotions and that gut reactions are not yet supported by real analysis.

Instructor's Note:

This was a civil case. Brian was not in danger or receiving jail time.

Instructor's Note:

Thinkers may not agree with the Court's decision. That is fine. A Court's decision is not a right answer. It is merely a Court's opinion. If people don't agree with a Court's opinion, they can appeal and ask another Court to hear a case. The Court does not always get the answer right.

The tension that thinkers might struggle with after reading the outcome of Brian's case is a good tension. It is one thing to give our students the critical thinking to analyze the world the way it is. It is significantly more powerful to give them the tools to question the way the world ought to be.

Instructor's Note:

Thinkers should find that the answer depends on whether Juliet and Jacob crashed into Claire on purpose. If this was an accident, then it would not be intentional. In the actual case, Claire did not sue Juliet and Jacob for battery. She sued for negligence, which basically means that Juliet, Jacob, and their parents violated their duties to make sure their children rode their bicycles safely.

Probing Questions:

- What is the best argument that Juliet and Jacob committed a battery? What is the best argument that they did not commit a battery?
- How do the differences between the cases impact the ruling?

Your teacher will tell you what happened in the real case. What do you think about the decision?

The Court decided that Brian was liable for the battery, but the final result does not matter. What matters is how the Court thought about the case.

The Court explained that even though Brian did not touch his aunt, he pulled out her chair just before she sat down. Therefore, her injury was "substantially certain" to occur.

thinkBigger (Menagh v. Breitman, New York, 2010)

Juliet was 4 years old when she and her 5-year-old friend Jacob raced their bikes down a sidewalk in New York. Juliet and Jacob's mothers were watching them. Their bikes still had training wheels. The children crashed into Claire, an 87-year-old woman who was walking on the sidewalk. Claire broke her hip. She sued Juliet and Jacob for battery.

Should Juliet and Jacob be liable for battery against Claire? Why or why not?

There are several similarities to the previous case. The age of the children is about the same, and both cases involved a woman with a broken hip.

Thinkers' answers will depend on whether they think Juliet and Jacob crashed into Claire on purpose.

Are Juliet's and Jacob's actions worse than Brian's in the *Chair Case*? Why or why not? (Compare specific facts from the *Chair Case* to this case in your answer).

Thinker responses will vary. The Court determined that it mattered that Brian intended for his aunt to hit the floor. Do thinkers believe that Juliet and Jacob intended for Claire to hit the ground?