

IN THE COURT OF METCALF CLASSROOM,
OHIO STEUBENVILLE HIGH SCHOOL,
ADVANCED PLACEMENT® CLASS, ROOM 314

IN THE MATTER OF THE NEGLIGENCE
AND LIABILITY OF THE EMPLOYER OF
BARTLEY, THE SCRIVENER

Case 314.5&6
Jury/Judge Metcalf

STUDENTS OF THE ADVANCED PLACEMENT® CLASS

PLAINTIFF

v.

EMPLOYER OF BARTLEY, THE SCRIVENER

DEFENDANT

INTRODUCTION

The DEFENDANT has a law business that employs scriveners, Bartleby is one of four employees. Initially, Bartleby produces a highly-acceptable quality/quantity of work, but as time proceeds, his willingness to work decreases. He responds with the phrase “I would prefer not to” when asked to perform tasks. The employer makes several futile attempts to reason with him. At one point, the employer comes to learn that Bartleby is living at the office.

Eventually, Bartleby refuses to do any work at all; in addition, he refuses to leave the office. The DEFENDANT requests Bartleby to leave, but eventually is unable to evict him. Therefore, the DEFENDANT moves his business. The new tenant requests assistance from the DEFENDANT to remove Bartleby from the residence. After several attempts, including an offer to live with him, of which Bartleby refuses, the DEFENDANT relinquishes his responsibility.

Bartleby is taken into custody and incarcerated. The DEFENDANT visits him and hires the cook to provide food for Bartleby. Bartleby expresses his disheartenment for the rejection. Eventually, the DEFENDANT, arrives for a visit and finds Bartleby deceased, cause of death: starvation.

LAW

This hearing will be bifurcated. The PLAINTIFF will have the burden to prove that the DEFENDANT was guilty of *contributory negligence* that resulted in the death of Bartleby and the DEFENDANT will have the burden to prove that his actions were *enacted to provide the*

safety to Bartleby. Ohio Revised Code 4113.07 Contributory negligence will be argued in this case.

Ohio Law

4113.07 Contributory negligence.

In all actions, described in section 4113.03 of the Revised Code, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery where his contributory negligence is slight and the negligence of the employer is gross in comparison, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee. No employee who is injured or killed shall be held in any degree to have been guilty of contributory negligence in any case where the violation by such employer of any law of this state or of the United States enacted for the safety of employees in any way contributed to the injury or death of such employee unless by the terms of his employment it was expressly made the duty of such employee to report such violation to the employer and the evidence shows that such employee failed to report and that the employer was not possessed of knowledge of such violation. All questions of negligence, contributory negligence, and assumption of risk are for the jury, under the instruction of the court.

Effective Date: 10-01-1953

CONCLUSION

The jury will hear both arguments and render a written decision. The judge will consider the jury's decision and conclude judgment.