

High School Mock Trial 2022

State of Buckeye *ex rel.* Hollis Fitzpatrick v. Fran DeBier, *et al.*

Errata Sheet

Please note:

The errata sheet serves to clarify or correct errors in the Mock Trial case and/or rules, and does not address team strategy, coaching, or judging protocol. If a question received does not meet the criteria for Errata (e.g. pertains to an evidence question), an email response will be sent to the individual advisor.

Errata 1/4/2022

- 1. Was the Buckeye Health Department consulted before issuing the initial shutdown order on March 15, 2020?**

Yes. Governor DeBier issued the shut down order after consulting with the Buckeye Health Department.

- 2. Is there a total revenue figure for the 2020 fiscal year?**

No. The financial report for 2020 is not part of the court record.

- 3. Does Hollis Fitzpatrick have knowledge of the restaurant's financials as explained in Phoenix Anderson's witness statement on pages 100-101, lines 146-167?**

Phoenix Anderson has this information as the business accountant. All witnesses are only aware of the information in their own witness statement unless otherwise indicated in previous errata responses.

Errata 12/7/2021

- 1. There are inconsistencies regarding the PPL funds in the Relator brief on page 61 and Hollis Fitzpatrick's witness statement. Which is correct?**

Hollis Fitzpatrick's statement is correct. There is an error in the Relator brief on page 61 of the case file. The brief should read, "On April 30, 2020, Relator *received* a paycheck protection loan ("PPL") ..." [emphasis added to show correction]

- 2. Does Hollis Fitzpatrick or Phoenix Anderson have knowledge of Fitzpatrick's revenue for 2019?**

Yes. For fiscal year 2019, Fitzpatrick's revenue was approximately \$575,000. Both Hollis and Phoenix have knowledge of this information.

- 3. There are inconsistencies between Exhibit B and the witness statements? Which is correct?**

The information contained in the witness statements is correct. Please see the attached copy of the updated Exhibit B.

Errata 11/23/2021

- 1. Do other businesses along each side of the Fitzpatrick Restaurant make use of the two dumpsters in the back alley or are they rented/owned by the Fitzpatrick's exclusively? What is their location?**

There are two standard size dumpsters located in the back alley for use of the entire business strip. They are not owned by Fitzpatrick's and their location is not determined by Hollis. Their position in relation to the restaurant and their size needs no further elaboration.

Errata 11/9/2021

- 1. Where is the garden located in which Hollis grows vegetables for the restaurant?**

The garden is located on the Hollis' private, residential balcony.

- 2. In the last errata, you gave the dimensions of the sidewalk and alley. Is this information attached to any witness statements? Can it be applied to exhibit D?**

This is a stipulated fact that can be referenced during trial in relation to Exhibit D. It is not tied to any one witness statement.

- 3. How many years has Ellis worked for the Buckeye Department of Health and Human Services? In their statement it says they have worked there for 20 years, but it also says they have worked there since 1994, which would be around 27 or 28 years.**

Ellis has worked for the Buckeye Department of Health and Human Services for 20 something odd years. They began working for the Department in 1994 as stated in lines 11-12 of their witness statement on page 113 of the case file.

- 4. In Riley Zhang's witness statement (page 123, line 67) it says, "Fitzpatrick's is located in a fairly well-traveled area of Main Street..." and in Exhibit E, which was the 1st letter from the Buckeye Health Department, it says the letter was mailed to Hollis Fitzpatrick's at 5463 Cardinal Run. Is this a mistake?**

The reference to Main Street and Hollis's address at Cardinal Run are the same location. "Main Street" is a historic name given to the block where the restaurant is located. The postal service recognizes both names as official addresses.

- 5. Phoenix Anderson states that they changed the accounting system at Fitzpatrick's to cash based. Are we to assume the previous system was GAAP?**

Double-entry accounting does meet generally accepted accounting principles (GAAP).

- 6. What time does Fitzpatrick's opens in the morning?**

Fitzpatrick's opens at 8:00 a.m.

- 7. Can the booths in Fitzpatrick's be moved easily, or are they bolted to the floor?**

The booths are bolted to the floor and cannot be moved.

- 8. How many people can fit in the booths in Fitzpatrick's?**

The booths fit four total patrons, two on each side.

- 9. Ellis Mazakis' name is spelled differently in the first line of their statement (Elis). Which is the correct spelling (Ellis vs. Elis)?**

Ellis is the correct spelling of the health director's name.

- 10. Did Hollis spend the PPL in accordance with any restrictions?**

The PPL stipulations are not included in the case materials and are not to be referenced during trial. Fitzpatrick's use of funds was compliant.

Errata 10/26/2021

- 1. In Anderson's statement at page 98, line 96, does "revenue" mean "sales?" The statement on page 98 describes various measures such as overhead and labor as a percentage of sales, but the annual figure given is "revenue."**

In the case of Fitzpatrick's, revenue and sales are the same thing. Fitzpatrick's has no other source of income other than sales.

- 2. What is the legal standard of review in this case? (By preponderance of the evidence, clear and convincing, etc.) Does the relator have to prove all three Penn Central factors or just one?**

The *Penn Central* case establishes a three-factor balancing test. Advocates should, therefore, present evidence supporting any/all of the factors, and the trial judge must, in their discretion, decide whether the balance has been "tipped" enough to rule that a compensable taking has or has not occurred.

- 3. SCOTUS cases are binding, but are the other cases considered persuasive or binding? Specifically, the fourth case uses a ruling from the Supreme Court of Ohio, is this a binding case for the state of Buckeye?**

Only cases decided by the Supreme Court of the United States are considered binding precedent for the State of Buckeye. Other cases (e.g. Supreme Court of Ohio) are persuasive authority.

- 4. When was the Fitzpatrick's restaurant first opened?**

Fitzpatrick's was opened by Hollis's grandparents a long time ago.

- 5. In the original Exhibit D, there was a box with a music symbol. What was supposed to be there? Where is it supposed to be in the updated schematics?**

Please only refer to the updated Exhibit D. That is the correct version that will be used during trial.

- 6. In exhibit D we can see exactly where each investment had been installed and utilized. Where are the projector and screen located and does it affect the floor plan?**

The projector is mounted to the ceiling and the screen is mounted to the wall. The placement of these items does not impact the floor plan.

- 7. What are the dimensions of the sidewalk and the alley?**

The sidewalk space outside of Fitzpatrick's is 6 feet from the curb to the door and is 60 feet long. The alley behind Fitzpatrick's is 20 feet deep, 60 feet long, and includes two dumpsters.

- 8. Beginning on line 87 of Ellis Mazakis's statement there is a sentence that reads, "Particularly because individuals are touch numerous surfaces and..." Is there a mistake in this sentence?**

Yes, there was a typo in that sentence. The word "are" should be removed so the sentence reads, "Particularly because individuals touch numerous surfaces and..."

Errata 10/12/2021

- 1. There were several errors on the "Acknowledgements" page of the case file: page 231. This error was corrected in any digital cases sent on or after October 4. Please see the attached copy of the updated "Acknowledgements" page.**

- 2. The list of important dates on page 1 of the case file has an error. The date for the final errata posting should read “Tuesday, January 4, 2022.” (Emphasis added to show correction)**

- 3. Will teams address the issue of just compensation?**

If a taking is found, the Court will order the Government to initiate property appropriation proceedings, during which a jury will determine the ‘just compensation’ for the taking at a separate trial.

- 4. On page 90 of the case file, Hollis Fitzpatrick references a movie about a Buckeye football legend that was given an exemption to the health orders. On page 92, on line 217 of Hollis Fitzpatrick’s statement, they reference the “Rural Meijer” movie. Are these the same movie?**

Yes, these are the same movie. Rural Meijer is the name of the football legend referenced on line 174 of Hollis Fitzpatrick’s statement on page 90 of the case file.

- 5. Line 206 of Hollis Fitzpatrick’s statement on page 92 says they received the second PPL on October 13, 2021. This date is after Fitzpatrick’s is closed. Is this an error?**

Yes, there is an error on line 206 of Hollis Fitzpatrick’s statement on page 92 of the case file. The sentence should read “The second PPL payment of \$125,000 came in on October 13, 2020.” (Emphasis added to show correction)

- 6. Lines 63-64 of Ellis Mazakis’s statement on page 115 list Fitzpatrick’s health violations that are not included in Exhibit A. Is Exhibit A a complete list of Fitzpatrick’s health citations?**

Exhibit A is an excerpt of the Buckeye Health Department citations for Fitzpatrick’s.

- 7. Exhibit C does not include the restrictions described in Hollis Fitzpatrick’s statement on page 88 or in Ellis Mazakis’s statement on page 117. Is Exhibit C a complete list of restaurant restrictions put in place by the Buckeye Department of Health?**

There was an error in the original Exhibit C. Please see the attached copy of the updated Exhibit C.

- 8. Are the pinball machines at Fitzpatrick’s shown in Exhibit D?**

There was an error in the original Exhibit D. Please see the attached copy of the updated Exhibit D.