

OREGON HIGH SCHOOL MOCK TRIAL 2008-2009

Kelly Simon v. Terry Swift and Eastside High School

Summary of Case

Jordan Simon was a 17-year old senior in high school who unexpectedly died of a heart attack. Jordan began running as a youngster, and had real promise. Jordan joined Eastside High School's track team as a freshman, and quickly developed into a star sprinter. At the time of Jordan's death, Jordan was competing for a track scholarship to a Division 1 university.

The autopsy revealed that Jordan's bloodstream contained the steroid Erythropoietin (pronounced, ah-rith-ro-poy-tin, and abbreviated, EPO). EPO is used medically to treat certain forms of anemia. Athletes use EPO to improve performance, because it increases the oxygen carrying capacity of blood. EPO also increases the blood viscosity, which can cause the blood to sludge and clog capillaries, resulting in a heart attack.

Kelly Simon, Jordan's surviving parent, has filed a wrongful death lawsuit against Eastside High School and Terry Swift, the track coach. Specifically, Kelly claims that Terry and the school's athletic department: (i) encouraged Jordan to use steroids; and (ii) should have known that Jordan was using steroids and taken steps to stop Jordan's steroid use. Terry and Eastside deny Kelly's claims, and contend that: (i) Jordan assumed the risk of using steroids; and (ii) Kelly was comparatively negligent in not (a) discovering that Jordan was using steroids, and (b) taking steps to stop Jordan's steroid use. This is a bifurcated trial on the issue of liability only; damages are not at issue.

The plaintiff's witnesses are: (i) Kelly Simon, Jordan's surviving parent; (ii) Morgan Pearce, another student on the track team and Jordan's close friend; and (iii) Lynn Roper, Ph.D., an expert on the effects of steroid abuse and the use of steroids by young athletes. The defendants' witnesses are: (i) Terry Swift, Eastside's track coach; (ii) Jamie Hagar, Ed.D, Eastside's assistant principal and athletic director; and (iii) Aubrey Brady, a consultant to coaches and athletic departments.

Witnesses and Exhibits Lists

The plaintiff will call the following witnesses:

Kelly Simon
Morgan Pearce
Lynn Roper, Ph.D.

The defendants will call the following witnesses:

Terry Swift
Jamie Hagar, Ed.D.
Aubrey Brady

The exhibits that may be used at trial are marked as follows:

Exhibit 1 OIA Bylaws (Portion of Article 14)
Exhibit 2 OIA Position Statement Form 14.13

- Exhibit 3 Oregon Child Fatality Review Data Form
- Exhibit 4 Toxicology Report
- Exhibit 5 Poster (Girl)
- Exhibit 6 Poster (Boy)
- Exhibit 7 NFSHSA Brochure
- Exhibit 8 Report of Race Times
- Exhibit 9 Bank Records
- Exhibit 10 Internet Printing Cover Sheet and Article

Authenticity is stipulated for all exhibits.

All witness affidavits were signed before trial. Each witness has reviewed his/her affidavit for accuracy, and no changes were made.