

THE CASE

OF

DRED SCOTT

IN THE

UNITED STATES SUPREME COURT.

Origins of the Dred Scott case

Dred Scott was born a slave in the early 1800's. He was owned by a man named Peter Blow who in 1830, moved from Southampton, Virginia to St. Louis, Missouri. When Peter Blow died two years later, Scott was sold to a man by the name of Dr. John Emerson. Emerson was in the army and was appointed to a commission in Illinois, a free state, in 1833. After moving around, Emerson and Scott ended up back in St. Louis and in 1843, Emerson died, leaving Scott and his wife to Harriet, to his wife.

Dred Scott tried to buy his freedom from Mrs. Emerson but she refused so on April 6, 1846, with the help of the Blow family, Scott filed petitions in the Missouri court to request permission to sue Mrs. Emerson for their freedom.

The basis for their claim to freedom was that they lived with Emerson on free soil when they went to Illinois with him. Under the law, it was legal to beat and imprison slaves, but illegal if they were free. Therefore it had to be decided whether the Scott's were slaves or not.

Scott charged Mrs. Emerson with assault and false imprisonment. He claimed that she beat, bruised, and ill-treated him, then imprisoned him for 12 hours. He also claimed to be a free person being held as a slave, seeking \$10 in damages.

In 1847, the Dred Scott case was first brought to trial but lost because hearsay evidence was presented. In other words, one of the witnesses did not actually witness what he claimed to, rather he heard it from someone else. The Scott's received permission for a second trial and in 1850 a jury heard evidence and decided Scott and his family should be free. Not wanting to lose valuable property, Mrs. Emerson appealed her case and in 1852, the Missouri State Supreme Court reversed the ruling. Scott decided to file suit against John Sanford, Mrs. Emerson's brother and executor of the Emerson estate, and in 1854 it was decided in a federal court that Scott could not sue. He appealed it to the last place he could, the Supreme Court, and in 1857 it went to trial. The trial we are going to put on is going to be a combination of all the trials. Most of the characters in the trial were actual people and those who are not represent real arguments that were presented at one of the trials.

Background of the Time

Slavery was starting to be a controversial issue in the United States. In the North, slavery was abolished and thus blacks were free. In the South, however, most blacks were owned by whites and forced to work for them. They were considered property, not workers. Missouri was not as deep south

as other slave-holding states and there were both free and enslaved blacks in the state.

The Northerners saw slavery as wrong while the South needed cheap slave labor in order to support its economy. This argument led to much tension between the two territories. Since there was nothing in the Constitution about slavery, it was left up to each individual state to decide whether it was legal or not. There was an equal amount of slave states as free states, and anytime a new state entered the union, there had to be two, one a free and one a slave, in order to keep the balance.

There is no doubt that the issue of slavery is wrong, but we are going to be playing roles from the mid-1800's. People for the defense's side will have to assume points of view they do not agree with. At the same time, many lawyers have to defend people they do not agree with but they have to do so to the best of their ability. I want you to make your arguments to the best of your character's ability, knowing these are not your opinions but someone you are portraying.

We are going to need a prosecuting attorney and a defense attorney. We will also need a judge to preside over the court and make sure due process is followed. Someone will have to play the part of Dred Scott. There are six witnesses for each side and we will need people to play these. Anybody who is left is the jury. You are responsible for creating your own roles which you will do in a juror profile.

STEPS OF A COURT CASE

There are certain steps a trial must follow in order to be legal. After the jury has been selected, both sides begin to present their case.

STEP ONE

Opening Statement: the prosecutor goes first followed by the defense attorney. Both sides will explain to the jury briefly what they wish to prove and how that will be done.

STEP TWO

Presentation of the state's case: the burden of proving an accused person committed a crime is always on the state. A defendant is assumed innocent until proven guilty. The prosecutor will provide all the state's evidence including facts, witnesses, and physical evidence.

STEP THREE

Presentation of the defense's case: the defense attorney for the accused person has an opportunity to show why his or her client is either innocent or justified in committing the crime. Like the prosecutor before him, the defense attorney must present evidence to make their case stronger.

STEP FOUR

Closing arguments: Once both side are finished presenting their cases, the prosecutor then defense attorney give their final statements to the jury. These remarks focus on the strengths (prosecutor) or weaknesses (defense) of the state's case.

STEP FIVE

Jury deliberations: members of the jury are placed in a private conference room and ordered to reach a decision or verdict. It is arrived at after careful discussion of the facts of the case, followed by a vote to whether the person is guilty or not guilty.

STEP SIX

Presenting the verdict: here the foreman of the court read the juries decision. A not guilty verdict means the trial is over and the defendant is free to go. A guilty verdict means there is one last step to complete.

STEP SEVEN

Sentencing: A guilty defendant may be fined, put in prison, placed on probation, or given a mix of penalties allowed by law. The sentence will depend on the seriousness of the crime.

The Plaintiff

The plaintiff is responsible for bringing charges against an accused. The plaintiff must begin with their *opening statement*. This is a short statement as to why the accused should be found guilty of the crime they are accused of. The defense then follows with their own opening statement saying why the accused is innocent.

Then comes the *presentation of the state's case* in which evidence is provided through the testimony of witnesses in order to prove the defendant's guilt. The defense lawyer is allowed to cross-examine any witnesses the plaintiff presents, in order to find fault in their testimony. If at any time the defense asks a witness a question that the plaintiff thinks is unfair or inappropriate, the plaintiff can *object*, which means the judge will either *sustain* and stop the questioning, or *overrule* and let the questioning continue.

The defense then presents their case using witnesses, and the plaintiff is allowed to *cross-examine*. Once both sides have presented their case, the plaintiff once again leads the way, giving their *closing argument* first. The closing argument is the summary of why the defendant should be found guilty.

Then it is up to the judge to decide as to whether the defendant is innocent or not.

There are three lawyers representing the plaintiff in the case of Dred Scott. They are Montgomery Blair, Alexander Field, and David Hall. The charges you have brought against Sanford is that Scott is a free man since he presided in Illinois for a time, which is a free state. Because he was free, the beating and imprisonment of him was illegal. Scott is suing for his freedom as well as \$10 in damages.

Plaintiff's Arguments

Scott had been a slave in the slave state of Missouri.

Scott had traveled to the free state of Illinois, upon which action he became a free man.

The principle of permanent emancipation entitled Scott to remain a free man after returning to Missouri; once free always free.

Scott indeed had the right to sue for his freedom because he is a citizen by virtue of his residence in one of the United States of America.

You will divide the duties of the case among the three of you. One will do the opening statement, one will conduct the initial questioning of

witnesses, and one will perform the closing argument. All three are allowed to object and cross-examine.

You should use your two days of preparation interviewing your witnesses and preparing the questions you are going to ask them. Divide the witnesses among the three of you. You will want to come up with the best questions possible to make your case. You and the witness should come up with the answers together. This is known as *preparing the witness*. Your witnesses are as follows;

(C) = character witness

(E) = expert witness

Mrs. Russell: woman who owned a farm in Missouri (C)

+ Will argue that Mrs. Emerson hired Scott out to her proving that he was being used as a slave.

Alex Dresden: soldier (C)

+ Will testify that Scott did live on free soil in Illinois at Fort Armstrong when he was with Dr. Emerson.

Sherman Booth: ex-slave now a freeman (C)

+ Will testify how upon becoming a freeman has lived a productive life and thus is a good citizen.

George T. Curtis: Boston attorney (E)

+ Will argue that slavery is morally wrong and since it is considered illegal in the west, it meant the Founding Fathers were opposed to it. Will also argue Congresses right to make a decision about slavery.

Robert W. Wells: slave holding judge (E)

+ Will cite the case of Rachel vs. Walker that established that once a slave is free, they always remain free.

Dred Scott: the victim

+ Will recount what it was like to be a slave and tell the story of how Mrs. Emerson beat him and then imprisoned him for 12 hours.

WITNESS LIST

According to the law, both sides must be made aware of any witnesses the other side is going to call.

Since you are permitted to cross-examine each witness, you might want to jot down possible questions you would ask each of these witnesses in order to make their testimony look bad.

Defense's Witnesses

John Sanford

John Sanford is the brother of Mrs. Emerson and also a slave owner. He is a lay witness who will talk about how slaves are not citizens, even according to our government, and this do not have the rights of citizens.

Sanford will argue that slaves are simply property and can be treated as the master sees fit. They can be beaten and imprisoned legally because it is the right of the owner to do whatever he wants with his property. He will discuss how slaves are only counted as three-fifths of a person when it comes to state representation and thus aren't a citizen to back his argument up. Also because Scott is not a citizen, he has no right to sue.

Sanford's testimony will poke holes in the argument that Scott can sue because his rights were violated. According to the U.S. government, slaves have no legal rights unless they become free because only when they are free are they counted as a whole person.

Harry Gardner

Harry Gardner is a lay witness, who was present when Dr. Emerson and Dred Scott were at Fort Snelling. He will argue that a U.S. Fort is not part of the territory but an extension of the federal government.

Gardner is an officer in the U.S. Army who was stationed at Fort Snelling in Minnesota. Since it is part of the Wisconsin territory, it is a free territory under the Missouri Compromise. But he will testify that since it a U.S. Army Fort, the land is really government land, not a territory, and thus not subject to the same laws the territory is under. Because of this, Scott was really on free soil. Also, he will argue that Emerson and Scott were not there for very long, that a soldier is often transferred from base to base. Because of this, they are never permanent residents of that state, only temporary, and thus are not citizens of that state. Since Scott was only a temporary resident

of Fort Snelling, he did not qualify as a citizen and does not have the rights of a citizen.

Gardner's testimony will do two things. It will point out that a Fort is not under the same laws as the territory it is in, and that since Army officers often move from place to place, they are at best temporary citizens, not permanent ones who have the rights that territory grants.

Lyman Norris

Lyman Norris is a lawyer who will act as an expert witness on legal matters. He will claim that the case is just another attempt of the Northerners to prohibit slavery in the South and destroy their way of life.

Norris will argue that Scott's case is being presented under false legal principals. He will point out that Scott's case is being financed by an abolitionist, Gamaliel Bailey, and is not for the benefit of Dred Scott, but for the Northerners to try and get rid of slavery altogether. He will also argue that allowing Dred Scott to go free will stir up other slaves and cause them to disobey their masters.

The testimony of Lyman Norris will show that Southerners practice slavery not to be mean, but because it is the basis of their economy. To get rid of slavery would bring about the ruin of the South. Any attempt by the Northerners to ban slavery is a violation of their state rights.

Hamilton Gamble

Hamilton Gamble is a judge who will act as an expert witness on the legal precedence of *Strader vs. Graham*.

Gamble will present the facts of the *Strader vs. Graham* case. In the case, a man allowed three of his Kentucky slaves to work briefly in Ohio, a free state. They sued for their freedom since they had been in a free state for a time. The Supreme court had found that the rights of the slaves were based upon the laws of the state from which they had come, Kentucky, rather than on Ohio laws. Once the slaves had returned to Kentucky, they once again become the property of their owner.

Hamilton's testimony will find fault with the *Rachel vs. Walker* argument that claims once a slave is free, they always remain free.

Randy Johanson

Randy Johanson is a politician and expert witness on the Missouri Compromise.

Johanson will first explain the Missouri Compromise. In 1819 when Missouri applied for statehood, there was much debate whether it would enter the union as a slave or free state. By 1820, Maine also wanted to become a state so they made a compromise; Missouri would be a slave state and Maine a free state. This compromise also banned slavery in the rest of the Louisiana Territory north of latitude 36-30. He will claim that the Missouri Compromise is unconstitutional because the Constitution did not give Congress the power to prohibit slavery anywhere in the country. Since Congress did indeed do that with the Missouri Compromise, the Constitution says that cannot so the Missouri Compromise should not be considered legal.

Johanson's testimony will dismiss the whole argument of Dred Scott having been in a free territory in Fort Snelling. Since the Missouri Compromise was unconstitutional, this territory was never a free territory, thus slavery could be allowed.

Mrs. Emerson

Mrs. Emerson is a lay witness who will testify that Dred Scott is indeed her property and thus can do whatever she chooses with him.

Irene Emerson will relate the story of how Dred Scott was a slave of her husband's. Once her husband died, Scott became her property and thus she could do whatever she wanted to including selling him out to other people and the right to beat and imprison.

Mrs. Emerson will testify that Dred Scott has no right to sue her for \$10 because what she did was legal to a slave, and also that she cannot afford to lose a slave worth \$500.

The Defense

The defense is responsible for defending the accused against the allegations of the plaintiff. After the plaintiff gives their *opening statement*, the defense gives one of their own, giving their reason why they believe the charges brought against the accused are false.

The plaintiff then presents its evidence, calling witnesses to the stand to back up their charges. The defense has the opportunity to *cross-examine* these witnesses in order to ask questions and find fault with their testimony. At any time during the plaintiff's questioning, if the defense feels there has been an improper or inappropriate question, they may *object*. They judge will either *overrule* and allow the questioning to continue, or they will *sustain* and prevent the question from being asked.

Next, the defense calls its own witnesses to the stand. These witnesses are to disprove the allegations of the plaintiff. The plaintiff is allowed to cross-examine as well, to find problems with the testimony.

Once both sides have presented, each side gives its *closing argument*, the plaintiff going first. In the defense's closing argument, they will want to sum up the weaknesses in the case that the plaintiff presented and try to put in the jury's mind a shadow of doubt about their client's guilt.

There are three defense attorneys in the case of Dred Scott. They are Henry S. Geyer, Hugh Garland, and Reverdy Johnson. The defense of Scott's accusation is that Scott's traveling to Illinois did not make him a free man because Congress did not have the authority to decide the issue of slavery in the territories. Plus Scott's return to Missouri kept his status as a slave. Since he is a slave, it is legal to beat and imprison him.

Defense's Arguments

The restrictions on slavery and the Missouri Compromise were invalid because Congress did not have the authority to decide the issue of slavery in the territories.

Scott's traveling to Illinois did not make him a free man as a result. Also he was on a military base so wasn't really considered in the state.

Scott's return to Missouri, a slave state, meant that since he had never been a free man, he kept his status as a slave.

You will divide the duties of the case among the three of you. One will do the opening statement, one will conduct the initial questioning of witnesses, and one will perform the closing argument. All three are allowed to object and cross-examine.

You should use your two days of preparation interviewing your witnesses and preparing the questions you are going to ask them. Divide the witnesses among the three of you. You will want to come up with the best questions possible to make your case. You and the witness should come up with the answers together. This is known as *preparing the witness*. Your witnesses are as follows;

(C) = character witness

(E) = expert witness

1) *John Sanford*: brother of Mrs. Emerson and new owner of Scott
+ Will argue that Dred Scott is not a citizen but instead a slave and thus has no right to sue.

2) *Harry Gardner*: soldier (C)

+ Will point out that even though Scott was at Fort Snelling in free territory of Wisconsin, since it was a military base it was not under state laws thus he was never a permanent citizen.

3) *Lyman Norris*: lawyer (E)

+ Will argue that this whole thing is just another way for the North to destroy the South by prohibiting slavery.

4) *Hamilton Gamble*: judge (E)

+ Will cite the case of *Strader vs. Graham* where the Supreme Court found rights came from state you come from rather than where you go to.

5) *Randy Johanson*: politician (E)

+ Will make the point that the Missouri Compromise and the limits it puts on slavery is not constitutional.

6) *Mrs Emerson*: owner of Dred Scott (C)

+ Will account of how her husband left Dred Scott to her in his will as her property.

WITNESS LIST

According to the law, both sides must be made aware of any witnesses the other side is going to call.

Since you are permitted to cross-examine each witness, you might want to jot down possible questions you would ask each of these witnesses in order to make their testimony look bad.

Plaintiff's Witnesses

Mrs. Russell

Mrs. Russell is a lay witness, in this case she will act as a eyewitness to verify that she saw Dred Scott being used as a slave.

Adeline Russell lives on a Missouri farm with her husband, Samuel. In times when they are short handed, Mrs. Russell would pay Mrs. Emerson for the use of some of her slaves she claimed to own, one of these being Dred Scott. The testimony of Mrs. Russell will be used to prove that Mrs. Emerson used Dred Scott as a slave when he was allegedly a free man.

Alex Dresden

Alex Dresden is a lay witness because he has eyewitness accounts of seeing Dred Scott in the state of Illinois while under the guardianship of Mr. Emerson.

Dresden was a soldier stationed at Fort Armstrong in Illinois. Even though slavery was banned in that state due to the Northwest Ordinance, Mr. Emerson disregarded the ban and took Dred Scott along as his personal servant. Alex was an aid in the infirmary Mr. Emerson supervised at the fort and knew Dred Scott from his many interactions while working with Mr. Emerson. He worked with Mr. Emerson the entire two years he was at Fort Armstrong and got to know Dred Scott pretty well. The testimony of Alex Dresden will prove that Dred Scott resided in a free state for at least two years.

Sherman Booth

Sherman Booth is a lay witness who will talk about how a free slave can become a good and productive citizen.

Booth was a slave in South Carolina in the 1820's. His owner would often hire him out to other people and Sherman was able to save a cut of his

wages for himself. He eventually saved enough money to purchase his own freedom. He quickly set up a small carpentry business in a free state and was able to get enough money to buy his wife and two children, setting them free legally. He is a good citizen who often helps to build churches and repair damaged homes of people for both races. He will also tell about the differences being a slave and a freedman can have on black morale and how a free slave is bound to be a better person.

Sherman's testimony will help show that a black can indeed be a citizen, and a good one at that. Since Dred Scott tried to buy his own freedom, Sherman's tale will present what might have happened if Mrs. Emerson hadn't refused to let him buy his freedom.

George T. Curtis

George T. Curtis is a lawyer, he is an expert witness on law and thus will help argue the question of the power of Congress over slavery in the territories.

Curtis will cite the legality of the Missouri Compromise, specifically Article 4, section 3 of the Constitution which says "Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory...belonging to the United States." This basically says that Congress has full authority over a territory as long as it remained a territory. When Scott stayed at Fort Snelling it was part of the Wisconsin territory and later became the Iowa territory. This whole area was within the boundaries of the Louisiana Purchase where the Missouri Compromise had banned slavery.

Curtis' testimony will make two arguments. That Dred Scott was indeed in free territory for at least two years, and that the Missouri Compromise is constitutional and thus should be upheld.

Robert W. Wells

Robert W. Wells is a slave-holding judge, who nonetheless, is an expert witness on the court case of Rachel vs. Walker which was an example of a slave suing for freedom in the Missouri courts and winning.

Wells will relate the case of Rachel vs. Walker in which a woman was the slave of a army officer and accompanied him to Fort Snelling in the Wisconsin free territory, the same fort Scott was at. After returning to St. Louis, she sued for her freedom and the court under Wells' authority ruled that "an officer of the U.S. Army who takes his slave to a military post, within the territory wherein slavery is prohibited, and retains her several

years in attendance on himself and his family, forfeits his property in such slave by virtue of the Northwest Ordinance of 1787”.

Judge Wells’ testimony will serve as a legal precedent, or in other words, a similar case where the court ruled in favor of the same situation.

Dred Scott

Dred Scott is a witness for the plaintiff. He is also the victim in this case. He is a lay witness who will recount for the court his experiences that have led him to this court case.

Scott will testify that he did indeed go with Dr. Emerson to the free territories at Fort Snelling and Fort Armstrong, after being sold to Emerson by his original master, Peter Blow. He will talk about coming back to Missouri and having himself and his family become the property of Mrs. Emerson upon the doctor’s death. Scott will say that he was hired out to other people such as Mrs. Russell, and how Mrs. Emerson treated him very badly, beating him and then imprisoning him for twelve hours. He will argue that a citizen of the United States should not be treated this way.

Scott’s testimony will repeat a lot of arguments already made, but it will also allow the court to hear it from the source. Scott’s testimony of how he was beaten and imprisoned will also show the court the hardships of being a slave and what Scott has had to go through.

Judge

The magistrate is the judge and the key officer of the court. They control the proceedings of the case, and their principal job is to administer the law. A judge is essentially the boss of the courtroom, however, their opinion in the case is unbiased. In other words, they do not pick sides.

If the courtroom is becoming noisy or out of hand, the judge may call for *order in the court*. If someone misbehaves in the courtroom or fails to follow a judge's orders, that person may be cited with a *contempt of court*.

While hearing a case, the lawyer who is **not** questioning the witness may disagree with a question being asked. This is known as *objecting*. A lawyer objects because they believe the question is either unfair or improper. The judge has two options when a lawyer objects. They can either *overrule*, which means allow the questioning to continue as it has been, or they can *sustain*, which means the lawyer cannot continue to ask the question.

The judge in this case is Supreme Court Justice Roger Taney. Your job in this activity is one of the most important. You control the pace of the court case and must keep things moving along. The case should proceed in the following order upon your directions.

Will the plaintiff give their opening statement

The plaintiff always goes first. This starts the case off and sets the tone for what the plaintiff is going to try and prove.

Will the defense present their opening statement

This is the defense's response to the accusations of the defense

Will the plaintiff call their first/next witness

The plaintiff will call six witnesses to the stand and ask each of them no less than three questions.

Would the defense like to cross-examine the witness

The defense can cross-examine any witness the plaintiff uses.

The witness is excused

The judge says this everytime the lawyers are finished with a witness

Will the defense call their first/next witness

The defense will also call six witnesses to the stand and ask each one of them no less than three questions.

Would the plaintiff like to cross-examine the witness

The plaintiff can cross-examine any witness the defense uses.

The plaintiff will now give their closing argument

The plaintiff will sum up their case and why the accused should be found guilty.

The defense will now present their closing argument

The defense will sum up the weaknesses in the plaintiff's case and why the accused should be found innocent.

Mrs. Russell

Mrs. Russell is a witness for the plaintiff. She is a lay witness, in this case she will act as an eyewitness to verify that she saw Dred Scott being used as a slave.

Adeline Russell lives on a Missouri farm with her husband, Samuel. In times when they are short handed, Mrs. Russell would pay Mrs. Emerson for the use of some of her slaves she claimed to own, one of these being Dred Scott. The testimony of Mrs. Russell will be used to prove that Mrs. Emerson used Dred Scott as a slave when he was allegedly a free man.

You will be interviewed by the prosecuting attorney prior to the trial. They will prepare you with at least three questions they are going to ask you, although you can have more if you want. You and the attorney will come up with an answer to these questions together which you will use during the trial. This is known as *preparing the witness*.

Also be prepared to answer any questions the defense might ask you in the cross-examination. They can ask about anything so make sure you stay in character and answer as your character would.

Write the questions your lawyer is going to ask you and the responses you will give.

Question #1 _____

Response #1 _____

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Scott will testify that he did indeed go with Dr. Emerson to the free territories at Fort Snelling and Fort Armstrong, after being sold to Emerson by his original master, Peter Blow. He will talk about coming back to Missouri and having himself and his family become the property of Mrs. Emerson upon the doctor's death. Scott will say that he was hired out to other people such as Mrs. Russell, and how Mrs. Emerson treated him very badly, beating him and then imprisoning him for twelve hours. He will argue that a citizen of the United States should not be treated this way.

Scott's testimony will repeat a lot of arguments already made, but it will also allow the court to hear it from the source. Scott's testimony of how he was beaten and imprisoned will also show the court the hardships of being a slave and what Scott has had to go through.

You will be interviewed by the prosecuting attorney prior to the trial. They will prepare you with at least three questions they are going to ask you, although you can have more if you want. You and the attorney will come up with an answer to these questions together which you will use during the trial. This is known as *preparing the witness*.

Also be prepared to answer any questions the defense might ask you in the cross-examination. They can ask about anything so make sure you stay in character and answer as your character would.

Write the questions your lawyer is going to ask you and the responses you will give.

Question #1 _____

Response #1 _____

Question #2 _____

Response #2 _____

Question #3 _____

Response #3 _____

John Sanford

John Sanford is a witness for the defense. He is the brother of Mrs. Emerson and also a slave owner. He is a lay witness who will talk about how slaves are not citizens, even according to our government, and this do not have the rights of citizens.

Sanford will argue that slaves are simply property and can be treated as the master sees fit. They can be beaten and imprisoned legally because it is the right of the owner to do whatever he wants with his property. He will discuss how slaves are only counted as three-fifths of a person when it comes to state representation and thus aren't a citizen to back his argument up. Also because Scott is not a citizen, he has no right to sue.

Sanford's testimony will poke holes in the argument that Scott can sue because his rights were violated. According to the U.S. government, slaves have no legal rights unless they become free because only when they are free are they counted as a whole person.

You will be interviewed by the defense attorney prior to the trial. They will prepare you with at least three questions they are going to ask you, although you may have more. You and the attorney will come up with an answer to these questions together which you will use during the trial. This is known as *preparing the witness*. Also be prepared to answer any questions the plaintiff might ask you in the cross-examination. They can ask just about anything so make sure you stay in character and answer as your character would.

Write the questions your lawyer is going to ask you and the response you will give them.

Question #1 _____

Response #1 _____

Question #2 _____

Response #2 _____

Question #3 _____

Response #3 _____

Harry Gardner

Harry Gardner is a witness for the defense. He is a lay witness, who was present when Dr. Emerson and Dred Scott were at Fort Snelling. He will argue that a U.S. Fort is not part of the territory but an extension of the federal government.

Gardner is an officer in the U.S. Army who was stationed at Fort Snelling in Minnesota. Since it is part of the Wisconsin territory, it is a free territory under the Missouri Compromise. But he will testify that since it a U.S. Army Fort, the land is really government land, not a territory, and thus not subject to the same laws the territory is under. Because of this, Scott was really on free soil. Also, he will argue that Emerson and Scott were not there for very long, that a soldier is often transferred from base to base. Because of this, they are never permanent residents of that state, only temporary, and thus are not citizens of that state. Since Scott was only a temporary resident of Fort Snelling, he did not qualify as a citizen and does not have the rights of a citizen.

Gardner's testimony will do two things. It will point out that a Fort is not under the same laws as the territory it is in, and that since Army officers often move from place to place, they are at best temporary citizens, not permanent ones who have the rights that territory grants.

You will be interviewed by the defense attorney prior to the trial. They will prepare you with at least three questions they are going to ask you, although you may have more. You and the attorney will come up with an answer to these questions together which you will use during the trial. This is known as *preparing the witness*.

Also be prepared to answer any questions the plaintiff might ask you in the cross-examination. They can ask just about anything so make sure you stay in character and answer as your character would.

Write the questions your lawyer is going to ask you and the response you will give them.

Question #1 _____

Response #1 _____

Question #2 _____

Response #2 _____

Question #3 _____

Response #3 _____

Lyman Norris

Lyman Norris is a witness for the defense. He is a lawyer who will act as an expert witness on legal matters. He will claim that the case is just another attempt of the Northerners to prohibit slavery in the South and destroy their way of life.

Norris will argue that Scott's case is being presented under false legal principals. He will point out that Scott's case is being financed by an abolitionist, Gamaliel Bailey, and is not for the benefit of Dred Scott, but for the Northerners to try and get rid of slavery altogether. He will also argue that allowing Dred Scott to go free will stir up other slaves and cause them to disobey their masters.

The testimony of Lyman Norris will show that Southerners practice slavery not to be mean, but because it is the basis of their economy. To get rid of slavery would bring about the ruin of the South. Any attempt by the Northerners to ban slavery is a violation of their state rights.

You will be interviewed by the defense attorney prior to the trial. They will prepare you with at least three questions they are going to ask you, although you may have more. You and the attorney will come up with an answer to these questions together which you will use during the trial. This is known as *preparing the witness*.

Also be prepared to answer any questions the plaintiff might ask you in the cross-examination. They can ask just about anything so make sure you stay in character and answer as your character would.

Write the questions your lawyer is going to ask you and the response you will give them.

Question #1 _____

Response #1 _____

Question #2 _____

Response #2 _____

Question #3 _____

Response #3 _____

Hamilton Gamble

Hamilton Gamble is a witness for the defense. He is a judge who will act as an expert witness on the legal precedence of Strader vs. Graham.

Gamble will present the facts of the Strader vs. Graham case. In the case, a man allowed three of his Kentucky slaves to work briefly in Ohio, a free state. They sued for their freedom since they had been in a free state for a time. The Supreme court had found that the rights of the slaves were based upon the laws of the state from which they had come, Kentucky, rather than on Ohio laws. Once the slaves had returned to Kentucky, they once again become the property of their owner.

Hamilton's testimony will find fault with the Rachel vs. Walker argument that claims once a slave is free, they always remain free.

You will be interviewed by the defense attorney prior to the trial. They will prepare you with at least three questions they are going to ask you, although you may have more. You and the attorney will come up with an answer to these questions together which you will use during the trial. This is known as *preparing the witness*.

Also be prepared to answer any questions the plaintiff might ask you in the cross-examination. They can ask just about anything so make sure you stay in character and answer as your character would.

Write the questions your lawyer is going to ask you and the response you will give them.

Question #1 _____

Response #1 _____

Question #2 _____

Response #2 _____

Question #3 _____

Response #3 _____

Randy Johanson

Randy Johanson is a witness for the defense. He is a politician and expert witness on the Missouri Compromise.

Johanson will first explain the Missouri Compromise. In 1819 when Missouri applied for statehood, there was much debate whether it would enter the union as a slave or free state. By 1820, Maine also wanted to become a state so they made a compromise; Missouri would be a slave state and Maine a free state. This compromise also banned slavery in the rest of the Louisiana Territory north of latitude 36-30. He will claim that the Missouri Compromise is unconstitutional because the Constitution did not give Congress the power to prohibit slavery anywhere in the country. Since Congress did indeed do that with the Missouri Compromise, the Constitution says that cannot so the Missouri Compromise should not be considered legal.

Johanson's testimony will dismiss the whole argument of Dred Scott having been in a free territory in Fort Snelling. Since the Missouri Compromise was unconstitutional, this territory was never a free territory, thus slavery could be allowed.

You will be interviewed by the defense attorney prior to the trial. They will prepare you with at least three questions they are going to ask you, although you may have more. You and the attorney will come up with an answer to these questions together which you will use during the trial. This is known as *preparing the witness*.

Also be prepared to answer any questions the plaintiff might ask you in the cross-examination. They can ask just about anything so make sure you stay in character and answer as your character would.

Write the questions your lawyer is going to ask you and the response you will give them.

Question #1 _____

Response #1 _____

Question #2 _____

Response #2 _____

Question #3 _____

Response #3 _____

Mrs. Emerson

Mrs. Emerson is a witness for the defense. She has waived her fifth amendment right and will act as a lay witness who will testify that Dred Scott is indeed her property and thus can do whatever she chooses with him.

Irene Emerson will relate the story of how Dred Scott was a slave of her husband's. Once her husband died, Scott became her property and thus she could do whatever she wanted to including selling him out to other people and the right to beat and imprison.

Mrs. Emerson will testify that Dred Scott has no right to sue her for \$10 because what she did was legal to a slave, and also that she cannot afford to lose a slave worth \$500.

You will be interviewed by the defense attorney prior to the trial. They will prepare you with at least three questions they are going to ask you, although you may have more. You and the attorney will come up with an answer to these questions together which you will use during the trial. This is known as *preparing the witness*.

Also be prepared to answer any questions the plaintiff might ask you in the cross-examination. They can ask just about anything so make sure you stay in character and answer as your character would.

Write the questions your lawyer is going to ask you and the response you will give them.

Question #1 _____

Response #1 _____

Question #2 _____

Response #2 _____

Question #3 _____

Response #3 _____

The Jury

As members of the jury, you will need to select a jury foreman who is in charge of deliberation as well as reading the final verdict. The jury foreman is also responsible for reading this worksheet to the rest of the jurors.

A jury functions as the center of the justice system. They are the peers of the accused, in other words, regular people just like them, not involved in the every day life of the court system. Jurors must make the tough decision of whether the evidence against the accused is strong enough to convict (find them guilty) or to acquit (find them innocent). This decision is based on the review of the evidence that has been presented, not on opinion. If the evidence leads the juror to believe that the accused is guilty, then they should vote as thus. If, however, there is a shadow of doubt, in other words, the evidence is not strong enough to prove guilt, than they must vote not guilty.

Jurors should be unbiased, or have no prior judgment on the case before they enter the courtroom. Juries are selected from a pool of potential jurors who are asked questions by the prosecution and defense attorneys to see whether the person will make a good jury member for their case. The lawyers are allowed to dismiss only a certain amount of jurors. Once twelve people have been selected, these twelve may not discuss the case with any one else nor speak directly to the court during the trial. They are only to listen so as to be able to make a decision based on what they have heard.

After the closing arguments of the lawyers, the jury then deliberates, or reviews the case, behind closed doors away from the lawyers and judge. They are placed in a private conference room and must reach either a verdict of guilty or not guilty. They discuss the case among themselves to try to reach a unanimous decision. If they cannot all agree on the verdict, this is known as a hung jury and the accused can go free.

After their decision has been made, the jury once again enters the courtroom and the jury foreman reads the verdict to the court. If the jury finds the defendant guilty, they must then return to chambers in order to decide a sentence for the accused. They must determine a punishment that fits the crime within the law.

As citizens of the United States during the mid-1800's, you know nothing of Dred Scott other than what is presented by the lawyers. You are however aware of the growing rift between the North and the South in regards to slavery. As the jury, your main job is to listen to the case presented, and based solely on the evidence, make a decision. **Do not play favorites to your friends and find them guilty or not guilty based on personal feelings.**

During the preparation part of the trial, each jury member is responsible for coming up with a profile for the part they are playing. You are not students, you are citizens of pre-Civil War America. You must come up with a half page profile including your name, your background such as job, family, beliefs, and any other information you feel is important to your character.

JUROR PROFILE

You need to prepare a Juror Profile that is at least a page long. It is to be done in complete sentences in paragraph form. The profile must contain the following;

- Your name and age.
- What your character does for a living or their occupation.
- Your character's beliefs or prejudices
- Whether the character is married, has family members, children, or anything to do with their home life.
- Their position in American society (i.e. upper, middle, or lower class) and whether they are educated or not and in what.
- What is your characters position on the slavery issue? Has or does your character own slaves
- What state your character is from and the position that state takes on slavery.

REMEMBER!! YOU ARE A CITIZEN OF PRE-CIVIL WAR AMERICA SO YOUR JOB AND BELIEFS MUST REFLECT THIS. YOU ARE PLAYING A ROLE HERE SO GIVE AS MUCH DETAIL AS POSSIBLE.

TRIAL OF DRED SCOTT

Period _____

Judge _____ /10

Plaintiff

Lawyers

Opening Statement _____ /20

Examination of Witnesses _____ /20

Closing Argument _____ /20

Witnesses

Mrs. Russell _____ /10

Alex Dresden _____ /10

Sherman Booth _____ /10

George T. Curtis _____ /10

Robert W. Wells _____ /10

Dred Scott _____ /10

Defense

Lawyers

Opening Statement _____ /20

Examination of Witnesses _____ /20

Closing Argument _____ /20

Witnesses

Harry Gardner _____ /10

Lyman Norris _____ /10

Hamilton Gamble _____ /10

Randy Johanson _____ /10

Mrs. Emerson _____ /10

John Sanford _____ /10