

## 2023-24 Case Clarifications

Question	Answer	Date
p. 5: Two references to CFO, that should be CEO.	Should be "CEO"	11/1/2023
p. 31: Line 46, "I proposed a whole lot of other changes to Morgan and put area." is probably a typo.	Duplicate sentence and was unfinished. Disregard, as the next line is correct sentence.	11/1/2023
p. 31: Typo in the note: "id" should be "is"	Should be "is".	11/1/2023
There are times when amounts of Jaundithium are reported in ppm and ppt. Are these accurate throughout? Or should they be one or the other?	The use of ppm versus ppt is an error that was not picked up in editing. The correct measure is ppt.	11/27/2023
We have a case clarification to ask about. At the top of page 47, second page of exhibit 9, at the top of the form on question 11 both yes and no are checked. Was this intentional or an error?	This is an error. Only "No" should have been checked.	11/27/2023
Where in the wastewater permit does it describe the maximum PPT of Jaundithium that Smiley Inc. was lawfully allowed to dispose of into the river?	The solvent values listed in Exhibit 10 give the levels as under certain amounts.	11/27/2023
A little clarification is needed for Dr. Lane Lois. In all of Dr. Lane Lois' testimony ppt is used to measure the amount of Jaundithium. However, in Line 116, the number 50 ppm is used "the ink's pigment also contained Jaudnithium in the amount of 50 ppm". 50ppm is worse than 100 ppt, so is the one use of ppm supposed to be ppt?	Yes, this should be ppt; ppm is an error.	11/27/2023
Exhibit 11 is labeled as a topographical map yet is not a topographical map, will this be updated?"	This is a topographical map, with some amendments for ease of use for this case.	Team Workshop
Why was jaundithium noted but no other data point that would come up in a mass spectrometer reading?	For the purposes of this case, we are focusing only on Jaundithium. Dozens of pages of reports would not add to the arguments participants need to focus on.	Team Workshop
Can we get some background on Edwin Drood in exhibit 10? What was his personal issue and why was the form never completed?	He passed away and no one finished the form.	Team Workshop
Do you pronounce it like NEW-vel or NO-vel?	"NO-vel"	Team Workshop

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Others may have brought this fact to the committee's attention, but the materials do not include the permit that Smiley allegedly violated. One of the elements of the crime is that the discharge violates the material terms of a permit, so it seems that the permit should be an exhibit.	There is no sundown date on the permits included. For purposes of this case, students can take the permits provided as current.	11/27/2023
Clarification: Reconciliation of the terms “night shift,” “at night,” “overnight,” “evening shift” and “Noon to 8 shift.”	<ol style="list-style-type: none"> <li>1. Change Morgan’s Line 85 to “... added a second shift...” ;</li> <li>2. Change Porter’s Line 137 to “... employees transported them during the second shift when there were fewer employees working” ;</li> <li>3. Change Stirling’s Line 81 to “... around in the plant during the second shift when fewer were working in the plant”.</li> </ol>	11/27/2023
I printed the more clear exhibits form the individual links on the Case Website. They are not numbered. Can we write the exhibit numbers on them? Or use a post-it with the number? Just a small hand-written notation? Or should students keep these copies clean?	Post it note or add handwritten on top what Exhibit it is.	11/27/2023
Exhibit 3 is undated. The foundation necessary to get the photograph admitted into evidence can't be laid without information showing when it was taken.	This photo was taken by law enforcement when executing a search warrant at Smiley Inc. - Stipulation will be updated.	11/27/2023
Exhibit 10 has handwritten statements and marking in red but nowhere in Raynie's statement indicates this is her handwriting.	Case will be updated. Raynie made those notations.	11/27/2023
We have a clarification question about the links that are in some of the MPCA exhibits. We see that some of them go to real websites. Is it correct to presume that information obtained from those websites is still considered an extrapolation, outside of the provided case materials?	Correct - the links were included in the documents we used for the case; they have no bearing and would be considered undue extrapolation.	12/13/2023
Nouvel Hakim witness statement: What is the exact nature of the business relationship between Nouvel and Uncle Blair? Co-owners? Business partners? Does Nouvel work “for” Blair? Do they work “together” as equals? Or is this left deliberately vague?	Uncle Blair indicated he would go into business with Nouvel after Nouvel finished college. Uncle Blair is still involved with the business; it may be presumed that Blair and Nouvel are business partners at this point.	12/13/2023

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In Logan Stirling's witness statement, line 34-35, it states that MaxiPrint was fined for dumping toxic chemicals into their drainage system, but within Exhibit 2, it has a seemingly contradicting statement that they weren't fined. Is this a mistake? Or is it on purpose?	Error in Stirling's statement; should read "dinged" instead of "fined." <b>Statement will be corrected.</b>	12/13/2023
There is testimony from the investigator and former owner indicating that 5 ppt or less was permitted. But there is no actual permit. Exs. 8 and 9 are the permit application checklist and then the wastewater application. No permit (unless I'm missing it somewhere). Without the permit, I would think the defense could object as hearsay, best evidence, etc. to any testimony attempting to establish the 5 ppt threshold the permit allegedly states. And if the judge were to sustain that (which is certainly possible), the State cannot prove the second element in any other fashion. If my assessment is correct (and perhaps I'm completely missing something), then this would be a rather easy way for the defense to "win" the case, which we all know impacts the scoring too. Was the permit accidentally omitted? Or were the other exhibits intended to satisfy the second element?	Exhibit 8 indicates that the application for the permit was approved on 5/17/17. Comment regarding that "it would be a rather easy way for the defense to "win" the case, which which we all know impacts the scoring too" is an incorrect presumption. In fact, judges are specifically trained NOT to judge on which side ostensibly wins or loses.	12/13/2023
Exhibit 3. Is this a picture of the old or new printing press at Smiley?	Old printing press.	12/13/2023
Exhibit 9: The date running at the bottom of the exhibit changes from 10/11/22 to 10/4/22. Is that intentional?	This is from original drafter of the form; we have no control over it. Those dates are not relevant.	12/13/2023
p 26: Petyon Porter states that there is 100 ppt of Jaundithium immediately downstream from Smiley Inc's storm drain. But Porter never tested there, and we're wondering how Porter would know that there is 100 ppt of Jaundithium there.	Porter states that they tested there (Porter statement, lines 190-91).	12/13/2023
Ex 10 (page 51) "No way am I signing this!" Do we know who wrote this?? Basically who said they were not signing the permit?	Raynie wrote this; will update statement.	12/8/2023

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In the pretrial order, on pages 9 and 10, there's an analysis and preliminary ruling on R. Evid. 404(b). While the analysis and rule are comprehensible (although on the more complicated side), footnote 2 on page 9 is confusing because it seems at odds with the ruling (because the ruling applies Rule 404 to Maxi Print, a corporation). Footnote 2 says "the Court concludes that Rule 404 does not apply to corporations." Maybe the headache with this is intended?	<b>Footnote 2 will be corrected</b> to read that 404(a) does not apply to corporations; 404(b) does apply to corporations.	12/13/2023
There seems to be inconsistencies with the measures of Jaunithim. Some state part per million and other are parts per trillion. Is this correct or are we reading this wrong?	Several people have raised the issue of inconsistencies with parts per million (ppm) versus parts per trillion (ppt). Some of the inconsistencies are intentional, being due to different testers, different testing systems, different locations and different points in time. Please see response to Question 37 for additional information.	12/13/2023
Pg. 9: In the second footnote, the case states "Based on its review of authorities in other jurisdictions, the Court concludes that Rule 404 does not apply to corporations." However, the entirety of section II of the pretrial order (admissibility of prior acts by Maxi Print), discusses the use of reverse-Spreigl evidence under 404(b). By the footnote, it seems that 404(b) should not even apply to corporations like Maxi Print. This seems to be a contradiction.	Same response as question 26, above.	12/13/2023
Pg. 24, line 120: Peyton Porter writes "the volume of wastewater drums should have decreased by only 50% due to the efficiency gains from the computerized cleaning process" but review of the document to which Porter refers, Ex.11, reveals a decrease from only 65 to 40 barrels - a 38% decrease and one which fully aligns with an increased printing rate and a 50% decrease in wastewater. Given that Porter testifies the numbers "still did not add up" (172), this seems to be an inconsistency.	Porter is indicating that there should have been more barrels to begin with, based on the increased production (e.g. there should have been enough for 90 barrels as an example, instead of the numbers that were actually produced). One might argue the presumption is an issue.	12/13/2023
Is Lane Lois employed at metropolitan chemical or at metropolis chemical? the affidavit and CV contradict. Is this a mistake or is it on purpose?	This is a mistake; it should be Metropolis Chemical. <b>We will correct the CV.</b>	12/13/2023

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Raynie Affidavit lines 95-98: Raynie says they asked how to dispose of Jaundithium more economically, and “got” “we can increase the way it’s always been done”. It is unclear how Raynie “got” this information. Did they ask a person? Did they determine this on their own? A bit more information on this would be helpful.	Raynie got this information from unnamed employees. The vagueness of the response and Raynie's knowledge are an issue.	12/13/2023
Page 13: The jury instructions say regarding the Knowingly element: “Third, the defendant knew that the disposal was in violation of a material term or condition of a hazardous waste facility permit.” However, the pretrial order states: ““Proof of knowledge does not require that a person knew a particular act or failure to act was a violation of law or that the person had specific knowledge of the regulatory limits or testing procedures involved in a case.” This seems inconsistent.	"Knew," in relation to knowingly includes constructive knowledge, namely what the defendant knew or should have known. That should answer the question about consistency.	12/13/2023
In Dr. Lois Lanes - she testified to 100ppt of Jaundithium being present down stream. the map in the packet (exhibit 7) that is posted has 100 ppt. When looking at exhibit 7 on the Mock Trial website it says 50 PPT. Wondering what information is supposed to be correct?	Exhibit 7 states 100 ppt near the Fish Farm; this may have been corrected at an earlier time; otherwise, please resubmit if there is still a question.	12/13/2023
<b>Inconsistency in shares of Smiley; this is, whether Morgan gave away all of his shares or retained some:</b> (1) Morgan's Affidavit: pg 19 Lines 82-83 "Although I was no longer making decisions at Smiley Inc, I was still a shareholder, so I hung around to try to talk some sense into Raynie, but to no avail."; (2) Page 5: "Morgan Smiley: Previous CEO Smiley Inc. Smiley and spouse were the previous majority shareholders of Smiley Inc until they divided their shares between their children. Morgan took issue with the way Raynie was running Smiley and filed a whistleblower complaint with MPCA."	Clarification: " . . . Were the previous majority shareholders of Smiley Inc until they divided their shares <u>equally between themselves and their children.</u> " <b>Morgan Smiley affidavit will be corrected.</b>	12/13/2023
In the jury instructions, the third element is in part that "Knowledge may also be established by evidence that the defendant took affirmative steps to shield the defendant from relevant information." Is the second 'defendant' correct?	The instruction is correct as written.	12/13/2023

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<p>If 100ppt (not ppm) of Jaundithium is enough to give the Smiley logo its yellow color, then the water outside of Smiley inc (40ppt) and the water downstream (including Nouvel Hakim's fish farm) would be visibly yellow. The amount of Jaundithium in Yellow #7 should be significantly larger than the amount found in the river. This makes sense because you use a high amount (ppm) in the dye to give the dye its yellow coloration. When you rinse off the excess dye, creating wastewater, the concentration of Jaundithium becomes diluted. The wastewater itself is probably only a fraction of the concentration found in Yellow #7. The Jaundithium concentration is further diluted when you dump the wastewater into a clean river (presumably a much larger body of water). Because of this, when the Jaundithium is dumped into the river, it should be substantially watered down (hence ppm to ppt). If you directly poured Yellow #7 into the river, it would still dilute to a much lower concentration. However, if we assume all to read "ppt", then the water outside of Smiley inc (40ppt) is 40% Yellow #7 dye. The sample upstream (10ppt) is 10% Yellow #7, and the sample from Nouvel Hakim's fish farm (100ppt) is 100% Yellow #7.</p>	<p>There are several causes for what can cause a buildup of toxic chemicals in bodies of water, including different bodies of water. One issue in this case is whether the loop created by J &amp; M Fish Farm caused more collection in that area than would have otherwise been the case. Water moves in mysterious ways -- what may seem a logical course of movement is not always the case. Last, since Jaundithium is a made-up chemical, we did not want to confuse it with or label it, as a "forever chemical" -- one that requires extremely small amounts (under 4 ppt) to be toxic and does not leave the environment easily or quickly. Without meaning to guide how students prepare their cases, one might focus on Jaundithium being very toxic at very low levels; it may or may not move quickly along waterways. How Jaundithium was perceived (or recognized as dangerous) may or may not be an issue, but it is certainly not the first toxin to not be recognized as such (for instance, it wasn't until 1970 that dumping asbestos-bearing waste into Lake Superior was an environmental issue; heroin was once approved by the American Medical Association for medicinal purposes).</p>	<p>12/13/2023</p>
<p>We reviewed the prior clarification you published regarding the use of demonstratives in a Zoom trial, and reviewed VC Modification to Rule 4.20 regarding the virtual marking of exhibits. To make sure there's no confusion moving forward, would we be correct in our understanding that under Rule 4.11, despite the fact that all exhibits may be displayed via Zoom screen share, if we wish to make virtual markings on an exhibit, we may only mark on whichever one we've deemed our permitted demonstrative?</p>	<p>The reference in VC Mod to Rule 4.20 to Competition Rule 4.11 was intended to "incorporate" Rule 4.11's limitations on marking of exhibits and was not intended to incorporate the restriction of enlargement of only one exhibit. Thus, you may use electronic marking of an exhibit which is being screen shared on any of the exhibits. For example, if you wished to note the modification of the Balance Sheet's current assets as of end of June 2019 (see Exhibit 6), you could use a highlighting feature or some a circling of it (as examples). Doing so will not restrict you from doing something similar with another exhibit.</p>	<p><b>Reminder</b></p>

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We see that the language of Rule 4.11 still permits the use of flip charts with hand lettering or hand drawing during closing arguments. Given that these charts are difficult to see via Zoom, are we permitted to virtually display a copy of a hand-lettered or hand-drawn page of a flip chart in the same way that we are allowed to display exhibits via Zoom?	Yes, the only restriction is it needs to be done by hand. Thus, you may take your work product and convert it to an image that is screenshared, but you may not use graphic functions or word processing to create the visual aid to be used in closing.	<b>Reminder</b>