



Advocacy Club
Boot Camp on
Substack

Bias in Seven Elements as Spun for the Plaintiff

Potential Witnesses:

- a. May Donoghue
 - b. Audrey MacIsaac
 - c. Mr. Minchella
 - d. Mr. Stevenson
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1. The widow May Donoghue escaped the stress of a busy Glasgow to visit her best friend in Paisley, Audrey MacIsaac, to spend a pleasant evening at the quaint Wellmeadow Café.
 - a. Which witnesses may have something important to say about the element? May & Audrey.
 - b. How does each potential witness lean in respect of this element?
Both lean positive.
 - c. Why do you think this? They are the Plaintiff and her best friend.

- d. How can I exploit or accommodate this bias? What is, is. Can't avoid it, so accept that they have the bias.
2. To celebrate their time together, Audrey ordered two Scotsman's Floats, dishes of ice cream and bottles of ginger beer.
 - a. Which witnesses may have something important to say about the element? May, Audrey & Minchella.
 - b. How does each potential witness lean in respect of this element?
Two positive, one neutral.
 - c. Why do you think this? May & Audrey are obvious. Minchella has nothing at stake in this element.
 - d. How can I exploit or accommodate this bias? Use Minchella to support what May & Audrey say occurred.
3. The Café's owner, Mr. Minchella, brought the ice cream to May in a tumbler and the ginger beer in an opaque bottle from Stevenson, a major bottler and distributor to local merchants.
 - a. Which witnesses may have something important to say about the element? May, Audrey, Minchella & Stevenson.
 - b. How does each potential witness lean in respect of this element?
Two positive, one negative.
 - c. Why do you think this? May & Audrey are obvious. Minchella wants to avoid liability to both sides.
 - d. How can I exploit or accommodate this bias? What is at stake is whether May or Minchella could have seen what was in the bottle before it was used. Stevenson plays down his 'major' market share and suggests the customer wasn't May and that any of the three others should have inspected the contents before pouring.

4. As he served his customers, Minchella poured some ginger beer onto the ice cream in May's tumbler.
 - a. Which witnesses may have something important to say about the element? May, Audrey & Minchella.
 - b. How does each potential witness lean in respect of this element?
Two positive, Minchella negative.
 - c. Why do you think this? May & Audrey are obvious. Minchella wants to avoid liability to both sides.
 - d. How can I exploit or accommodate this bias? What is at stake is whether May or Minchella could have seen what was in the bottle before it was used. Stevenson plays down his 'major' market share and suggests the customer wasn't May and that any of the three others should have inspected the contents before pouring.
5. As May enjoyed her Float, Audrey poured the balance of May's ginger beer onto May's ice cream.
 - a. Which witnesses may have something important to say about the element? May & Audrey.
 - b. How does each potential witness lean in respect of this element?
Both positive.
 - c. Why do you think this? May & Audrey are obvious.
 - d. How can I exploit or accommodate this bias? What is, is. Can't avoid it, so accept that they have the bias.
6. As Audrey did so, the gross and disgusting remains of a decomposed snail emerged from the bottle.
 - a. Which witnesses may have something important to say about the element? May & Audrey.

- b. How does each potential witness lean in respect of this element?
Both positive.
 - c. Why do you think this? May & Audrey are obvious.
 - d. How can I exploit or accommodate this bias? What is, is. Can't avoid it, so accept that they have the bias.
7. May immediately became violently ill from the ginger beer, causing her to flee the Café to return home for extensive medical care.
- a. Which witnesses may have something important to say about the element? May, Audrey & Minchella.
 - b. How does each potential witness lean in respect of this element?
Two positive, Minchella negative.
 - c. Why do you think this? May & Audrey are obvious. Minchella wants to avoid liability to both sides.
 - d. How can I exploit or accommodate this bias? What is at stake is whether May was impacted at the moment. Minchella may have helped her at the table or to exit the café after and can discuss how she remained calm and mobile (if true).

Bias in Seven Elements as Spun for the Defence

1. Stevenson is a local bottler and distributor of ginger beer to merchants in Paisley.
 - a. Which witnesses may have something important to say about the element? Minchella & Stevenson.
 - b. How does each potential witness lean in respect of this element? Stevenson positive, Minchella negative.
 - c. Why do you think this? Stevenson is obvious. Minchella wants to avoid liability to both sides.
 - d. How can I exploit or accommodate this bias? What is at stake is whether this bottle came from Stevenson and whether Minchella had some reason to be cautious. Stevenson plays down his major, names his competition and suggests the customer was Minchella, who never complained. Minchella will say he relied on Stevenson to do things right.
2. Stevenson uses only modern, sanitary and safe methods to make and package its products.
 - a. Which witnesses may have something important to say about the element? Minchella & Stevenson.
 - b. How does each potential witness lean in respect of this element? Both positive.
 - c. Why do you think this? Stevenson is obvious. Minchella wants to avoid liability to both sides.
 - d. How can I exploit or accommodate this bias? What is at stake is whether this bottle came from Stevenson and whether Minchella had some reason to be cautious. Stevenson accents his good

practices and track record. Minchella should agree with the track record to avoid a reason to be extra-cautious.

3. The Wellmeadow Café is one of Stevenson's regular clients.
 - a. Which witnesses may have something important to say about the element? Minchella & Stevenson.
 - b. How does each potential witness lean in respect of this element? Both positive.
 - c. Why do you think this? Stevenson is obvious. Minchella wants to avoid liability to both sides.
 - d. How can I exploit or accommodate this bias? What is at stake is whether this bottle came from Stevenson and whether Minchella had some reason to be cautious. Stevenson suggests the customer was Minchella, who never complained. Minchella will say he relied on Stevenson to do things right.
4. The Wellmeadow Café bought ginger beer from other bottlers, some of whom used Stevenson's bottles, refilled with their own product.
 - a. Which witnesses may have something important to say about the element? Minchella & Stevenson.
 - b. How does each potential witness lean in respect of this element? Stevenson positive, Minchella negative.
 - c. Why do you think this? Stevenson is obvious. Minchella wants to avoid liability to both sides.
 - d. How can I exploit or accommodate this bias? What is at stake is whether this bottle came from Stevenson and whether Minchella had some reason to be cautious. Stevenson suggests the customer was Minchella, who never complained. Minchella will say this

bottle came from Stevenson for sure, and he relied on Stevenson to do things right.

5. The Wellmeadow Café sold ginger beer, which may have been Stevenson's product, to its customer, MacIsaac, in an industry-standard tinted glass bottle.
 - a. Which witnesses may have something important to say about the element? Minchella & Stevenson.
 - b. How does each potential witness lean in respect of this element? Both positive.
 - c. Why do you think this? Stevenson is obvious. Minchella wants to avoid liability to both sides.
 - d. How can I exploit or accommodate this bias? What is at stake is whether Minchella and his customers had a reason or a chance to inspect. Stevenson suggests the customer was Minchella, who never complained. Minchella will say this bottle came from Stevenson for sure, was too darkly coloured to inspect, and he relied on Stevenson to do things right.
6. MacIsaac shared her ginger beer with Donoghue, who may have taken sick from consuming it.
 - a. Which witnesses may have something important to say about the element? May, Audrey, Minchella & Stevenson.
 - b. How does each potential witness lean in respect of this element? All positive, except that May & Audrey insist the cause was that bottle.
 - c. Why do you think this? The facts are inescapable.
 - d. How can I exploit or accommodate this bias? Plaintiffs insist on causation. Minchella & Stevenson are doubtful.

7. Donoghue's illness could have had many causes apart from consuming the product MacIsaac purchased from the Wellmeadow Café.
 - a. Which witnesses may have something important to say about the element? May.
 - b. How does each potential witness lean in respect of this element? May negative.
 - c. Why do you think this? The facts are debatable, but only May has any evidence.
 - d. How can I exploit or accommodate this bias? Plaintiff insists on damages and causation. Minchella & Stevenson are doubtful.