2025-26 Case Corrections & Clarifications

Kazoo vs. WOFF, Inc.

Issued 1/15/2026

Answer 1 Amended 1/21/26

These corrections and clarifications may be used in competition as if they were a part of the original case materials. This version is intended to fully replace the version that was initially posted on January 15, 2026. Questions, requests, suggestions, and further supporting information are italicized. Our answers are not italicized.

Problem and Rule-centered Questions

1) *Question: As long as a team stays within the allotted 40 minutes and explains to the judge and opposing party what they are doing, may it call a witness to deliver a portion of the witnesses' testimony, and then recall the witness later on (after other witnesses have testified) to complete the witnesses' testimony?*

   Answer: No. See the last line of Rule 3.6, which states, "[w]itnesses may not be recalled by either side."

2) *Question summarized: It appears artificial intelligence was used to create the footprint for Exhibit J. Can a team argue that the photo of the footprint doesn't "match" the shoe?*

   Answer: No. This was not intended to be an area of dispute. Please see added Stipulation/Pre-Trial Ruling number 13, which states: "The parties stipulate that the type of shoe shown on the right side of Exhibit J made the impression shown on the left side of Exhibit J. No party may argue that the footprint does not match the shoe."

3) *Request: we seek clarification on areas of expertise of O'Wary and Rhea.*
   Rationale: Stipulation 7 relates to the anticipated testimony of Cassidy O'Wary and Camille Rhea. In relevant part, it states "the Court determined both witnesses could offer opinions related to their fields: including the applicable standard of care and animal behaviors, respectively." The use of the word "respectively" signals that O'Wary is an expert in "standard of care" and Rhea is an expert in "animal behaviors". In what area is O'Wary an expert in the standard of care? And is Rhea an expert in all animal behavior?

   Suggestion: change the highlighted language in stipulation 7 to "the Court determined both witnesses could offer opinions related to their fields. Specifically, O'Wary may offer opinions related to the appropriate standard of care in running and maintaining an ostrich

farm and Rhea may offer opinions related to the care and behavior of large, flightless birds, including ostriches. "

Answer: This suggestion has been adopted and incorporated into Stipulation 7.

4) *Request: consider adding jury instructions for causation and circumstantial evidence.*

Rationale: The special verdict form asks the jurors to consider questions related to negligence and causation. There is a jury instruction for negligence, but not one for causation. Additionally, there is no direct evidence either that WOFF failed to lock the gates or that Kazoo let the ostriches go, which means both allegations are based on circumstantial evidence.

Suggestion: Include jury instructions for causation (civil 1500) and circumstantial evidence (civil 230).

Separate request: add a jury instruction for expert testimony (260).

Answer: These instructions have been added.

5) *Request*: *either strike surplus language from the amended answer or add "alternatively" before all affirmative allegations. (Only one request is copied and pasted here, but there were multiple on this subject.)*

Rationale: Certain provisions of the answer are internally inconsistent and may limit teams' abilities to present certain defenses. For example, in paragraph 10, WOFF affirmatively alleges that Kazoo stole a baby ostrich and left an enclosure open for the mama ostrich to escape. It then argues an alternative, that Kazoo was injured while ransacking WOFF. In paragraph 10, it alleges that the ostrich never entered Kazoo's home. We have been advised by other coaches that they are of the belief that, given the affirmative allegation, they MUST argue that the ostrich never entered Kazoo's home. This is mock trial, the answer can be looser than in real life.

Suggestions:

a) *Strike surplus language: In paragraphs 6, 10 and 11- Change language of answers to "Deny and put Plaintiff to their proof. In the alternative, affirmatively allege that Plaintiff was negligent and plaintiff's negligence was the cause of their injuries." OR*

b) *Add language:*
    i. *In paragraph 6, change language to read: "Deny and put Plaintiff to their proof. Alternatively, affirmatively alleges that Plaintiff entered WOFF property without consent"*
    ii. *In paragraph 10, change language to read "Deny and put Plaintiff to their proof. Alternatively allege that Plaintiff entered WOFF property without consent and Plaintiff's damages are their own responsibility. Alternatively, affirmatively allege that Plaintiff was injured while they were on WOFF property, without consent."*
    iii. *In paragraph 11, change language to read: "Deny and put Plaintiff to their proof. Alternatively, affirmatively allege that ostrich never entered Plaintiff's home."*

Answers:

a) Regarding Paragraph 6 of the Answer: no change will be made. This statement is not inconsistent and does not limit the team's ability to present certain affirmative defenses: this affirmative allegation does not *necessarily* relate to the date of the incident, given other parts of the materials that refer to the Plaintiff's alleged entry onto the property for purposes of protest and/or vandalization on prior occasions.
b) Regarding Paragraph 10 of the Answer: changes have been made to this paragraph similar to changes proposed in the suggestions above. These changes are intended to resolve any confusion and broaden the potential arguments regarding the Plaintiff's own negligence so no one feels they are "locked in" to any particular theory of the case by the allegations that have now been removed from this paragraph.
c) Regarding Paragraph 11 of the Answer: this was simplified to completely remove the affirmative allegations. Again these changes are intended to resolve any confusion and broaden the potential arguments available for the defense theory of the case.
d) Other changes to Complaint: in making the above changes, we noticed that Affirmative Defense #1 unintentionally carried over a citation to a fictitious statute used in a previous case. This has been modified to remove the error.

6) *Questions summarized: can a team offer evidence contrary to what they admitted to/alleged in the Amended Complaint or the Amended Answer/Affirmative Defenses? Or, conversely, can these documents be used to impeach or discredit someone's testimony or argument?*

Response: The Amended Complaint and the Amended Answer/Affirmative Defenses are not evidence in themselves, nor are they intended to be admissible through any witness or through argument at trial. They are instead intended to establish the basis for the claims that each side believes they can provide at trial through their respective witnesses and other evidence. However, given some confusion and requests for clarification regarding the Amended Complaint and the Amended Answer/Affirmative Defenses and whether/how they impact what people are allowed to argue, changes have been made to these documents to better reflect the intent of the writers. See the changes highlighted in number 5 above.

7) *Request summarized: seeking removal of the verdict questions regarding comparative negligence. This request takes the position that any potential wrongdoing of Plaintiff that led to Plaintiff's injuries constitutes an intentional act, which cannot be compared to negligence.*

Response: given the changes to the Answer as noted above, combined with the existing facts of the case, respectfully, we are not going to implement this change. There are sufficient facts in the problem to support keeping the verdict form the way it is. Nothing prevents the jury from answering the first two questions "no" if they believe the defense theory of the case.

Additional correction: in reviewing the verdict form in order to respond to this question, we found a duplicate question mark. That question mark was removed.

Tournament-centered Question

1) *Regarding various proposals to increase the number of teams at State to 24.*

This is the type of operations-level change that is typically addressed in the mock trial "off-season" rather than in the middle of a season. Consistent with our usual practice, we will not make such a change mid-season. However, that does not mean this is off the table for future discussions: we are interested in finding a solution that works that we could implement next year. We intend to form a sub-committee to meet *in advance of* the next Advisory Committee meeting to discuss this issue so the sub-committee can bring proposals to the Advisory Committee that work for the State Bar and consider input from all who wish to participate in the discussion. Please contact Jacque Evans, M.Ed., if you are interested in joining that sub-committee.

Available Grant Funding

The American Board of Trial Advocates (ABOTA) recently donated $5,000 to the Mock Trial program. The State Bar of Wisconsin's Litigation Section recently donated $1,000 to the

Mock Trial program. We appreciate these contributions and investment in the future of the legal profession. The Program is using these funds to bridge budge shortfalls related to the overall cost of the program, and to assist individuals and schools who are experiencing financial barriers to participation in the program. Please contact Jacque Evans, M.Ed., if you know a person or school whose ability to participate is impacted by such financial barriers.