

February 27, 2006—*revised after*

To: Students appearing as advocates & witnesses in the Feb. 28-March 1, 2006 simulation at Leon Koźminski School of Law, Warsaw, Poland
From: Catherine Klein & Leah Wortham, Columbus School of Law, The Catholic University of America, Washington D.C.; Barbara Schatz, Columbia University Law School, New York City, New York
Re: The two-day simulation in which you are going to participate

First, thanks (!) for being willing to participate. We expect to have a wonderful time with you these next two days.

Assigning tasks & materials each person has

The following gives you the schedule we expect to follow as well as the tasks that should be divided among the advocates on each team. Before or during your first team meeting at 10:00 on Tuesday, you should make at least a tentative assignment of these tasks.

The lawyer teams on each side have a memo to the file that describes a prior interview with the client as well as giving the relevant law. The petitioner-wife (Anna Kowalska) and respondent-husband (Jan Kowalski) each have a memo of instructions about how their role is to be played. Both of them have copies of the Petition and Answer, as would be the situation in a real case. The lawyers and the parties each have both a Polish and American version of these pleadings, as they would have been prepared under the same facts in the different countries. The two friend-witnesses (Maria Gruszka and Grzegorz Bonk) have agreed voluntarily to appear. The husband and wife each may show his/her friend the pleadings, if the husband/wife thinks the party would have done so in real life. The husband and wife each are allowed to say anything to his/her friend that he/she believes the person would have said in such a situation. The neighbor (Renata Kos) was identified as witness by the husband, but she has been subpoenaed to testify. She is not a “hostile witness,” but she would have not particular interest in showing up if she was not under subpoena. She would have received only the subpoena and would not have the pleadings. Each lawyer who interviews her on behalf of the lawyer’s client may say whatever to her about the case that the lawyer deems appropriate.

A lawyer normally would not want anyone else present when interviewing the client because this usually would defeat the attorney-client evidentiary privilege against disclosure. A lawyer also normally would not want the lawyer’s client present when talking to a witness. Thus, each counsel team should expect only the client or the relevant witness to be present at the interviews listed in the schedule.

Schedule for planning and conducting the two trials

Lawyer teams will have Tuesday morning to prepare and confer with their clients and interview witnesses. On Tuesday afternoon, we will have opening statements in the

American trial and complete all testimony. Wednesday morning will begin with closing statements in the American trial. The American trial is a bench trial (no jury) before “Judge” Catherine Klein. She will reach a judgment based on evidence presented at the American trial only, but she will not announce it until the end of the Polish trial. After the American trial’s closing arguments, the professors will lead a discussion focused particularly on trial approaches as they might have with students in an American course.

Immediately after that critique and discussion, the Polish trial will begin, presided over by “Judge” Fryderyk Zoll. The trial will proceed with a break for lunch. When the Polish trial is concluded, both Judge Klein will announce her verdict. The professors will then lead a discussion reflecting on what might be learned from the experience including such issues as differences in the systems, e.g., role of the lawyers, judges, effective advocacy techniques, student performance in the trials, and ethical issues. Normally a Polish judge would review the written protocol before issuing a decision. Judge Zoll will announce an oral decision at the close of the discussion.

In the American system, lawyers are allowed to speak to witnesses before trial, and indeed, under most circumstances, it would not be considered competent advocacy if the lawyer failed to do so. Witnesses do not voluntarily have to speak to a lawyer, but they can be compelled to do so in a civil case through a subpoena for a deposition (questions taken under oath and recorded by a court reporter), or they could be sent written questions called interrogatories, which would have to be answered in writing. Because neither of the parties here have much money, there are no funds for depositions (which are expensive). Each of the two witness-friends and the neighbor, who will be subpoenaed as a witness by the husband, are willing to talk to both side’s lawyers voluntarily. On Tuesday morning, each team of lawyers will have the opportunity to talk to the team’s own client again and to talk to each of these three witnesses. Neither of the parties is willing to talk to the other side’s lawyer voluntarily. Since there is not enough money for a deposition, the first time lawyers will examine the opposing party is when they are testifying during the trial.

AMERICAN TRIAL—tasks to be divided among the lawyer teams

Anna Kowalska’s team

1. Opening argument
2. Direct examination of Anna Kowalska (and redirect examination if appropriate)
3. Direct examination of Maria Gruszcka (and redirect examination if appropriate)
4. Cross examination of Jan Kowalski
5. Cross examination of Grzegorz Bonk
6. Cross examination of Renata Kos
7. Closing argument

Jan Kowalski’s team

1. Opening argument
2. Cross examination of Anna Kowalska

3. Cross examination of Maria Gruszcka
4. Direct examination Jan Kowalski (and redirect examination if appropriate)
5. Direct examination of Grzegosz Bonk (and redirect examination if appropriate)
6. Direct examination of Renata Kos (and redirect examination if appropriate)
7. Closing argument

POLISH TRIAL—tasks to be assigned

There are no opening statement in the Polish trial, but the judge usually will give attorneys the opportunity to make a closing statement. The judge will do the initial examination. You should divide responsibility for asking additional questions of each witness among you. You also may consider whether there is any other task you want to assign to counsel during the trial. Unlike most American trials where the proceedings are taken down word for word, the Polish judge dictates a record. Because this will be the record of what happened, it is very important for advocates to listen carefully what is dictated and object if they think the judge's statement is inaccurate (in a way that is harmful to the advocate's client's case). You may want to assign one counsel to thinking of questions for a particular witness and another member of your team to listen carefully to what the judge is dictating with regard to that witness' testimony.

1. Questions for Anna Kowalska
2. Questions for Maria Gruszcka
3. Questions for Jan Kowalski
4. Questions for Grzegosz Bonk
5. Questions for Renata Kos
6. Closing statement

Under Polish trial process, at least theoretically, a lawyer would not have spoken to any witness except his own client in advance of the trial. In this situation, you already will have completed the American trial so the Polish trial is not exactly as it would be in real life—because you already have some idea of what the witnesses might say. The witnesses all were given instructions that tell them the things they must say, but the instructions leave room for them to fill in gaps. Because we are treating each trial independently, the witnesses (including the clients) are free to fill in gaps somewhat differently at the second trial than they did in the first (as long as consistent with their role instructions.) Thus, the full “weight of the evidence” in front of the judge actually may be a bit different in one trial versus the other.

SCHEDULE

Tuesday, 2/28

9:30-10:00 Organizers meet with participating students (lawyers and witnesses if possible). If a problem, organizers could meet with witnesses a bit later, before each witness talks to the lawyers.

10:00-10:15: Each set of lawyers confers and plans for talking to their client and discusses opening argument.

10:15-10:50 Each team confers with own client. (35 minutes)

10:50-11:10 Meet with lawyer's client's friend (20 minutes)

11:10-11:30 Meet with opposing party's friend (20 minutes)

11:30-11:50 Husband's lawyers meet with neighbor. Wife's lawyers confer among themselves.

11:50-12:10 Wife's lawyers meet with neighbor. Husband's lawyers confer among themselves.

12:10-1:30 Lunch and lawyer groups confer as needed

1:30-1:45 Audience invited. Organizers describe purpose of the two-day event. Talk about American trial and opening statements.

1:45-2:15 **American trial begins.** Judge Catherine Klein, presiding

Both sides give opening statements—no more than 15 minutes each

2:15-3:45 (90 minutes total).

Case for Anna Kowalski, petitioner. (One of AK's lawyers first will do a direct examination of each person, and one of JK's lawyers then will do a cross-examination. Redirect can be an option, but only on issues raised in cross.

Testimony of Anna Kowalska and Maria Gruszka (An American lawyer selects the order in which the lawyer wishes to call the witnesses.)

Anna Kowalski rests her case.

Case for Jan Kowalski, respondent (One of JK's lawyers first will do a direct examination of each person, and one of AK's lawyers then will do a cross-examination. Redirect if appropriate.

Testimony of Jan Kowalski, Grzegorz Bonk, and Renata Kos begins (As indicated above, the advocate chooses the order of the witnesses.)

3:45-4:15 Break

4:15-5:00 (45 minutes) Finish testimony of remaining witnesses for husband

Jan Kowalski rests his case.

5:00 Teams confer, plan for closing argument, discuss Polish trial

Wednesday, March 1

10:00-10:30 Closing argument for Anna Kowalski. Closing argument for Jan Kowalski.
No more than fifteen minutes each.

10:30-11:30 Critique and discussion

Polish Trial

11:30-12:30 **Polish trial begins..** Judge Fryderyk Zoll presiding

12:30-1:30 Lunch

1:30 Polish trial continues

At close of Polish trial:

Decision

Judge Klein enters decision on American-style trial

Discussion

Most of this discussion will focus on comparisons between the systems.

Judge Zoll enters decision on Polish trial

The day should end between 4:00-5:00, depending on how long the Polish trial took to complete.

Plaintiff: Anna Kowalska, worker, resident at Morelowa Street 17/1, 37-016 Cracow,
represented by Tomasz Nowak, advocate, Grodzka Street 15/7

Defendant: Jan Kowalski, taxi driver, resident at Morelowa 17/1, 37 – 016 Cracow

Value of the dispute's subject: 1500 zł

Petition

On behalf of Anna Kowalska I am asking for:

- 1. An order for defendant Jan Kowalski to leave the apartment at Morelowa Street 17/1;**
- 2. Deciding the case also at the absence of the plaintiff;**
- 3. Giving the court's decision the effect of immediate execution;**
- 4. Relief of the plaintiff from the duty of paying the court costs;**
- 5. Decision that the costs of procedure will be awarded according to the existing rules;**
- 6. Calling the witness:
Maria Gruszka, resident at Powstańców Śląskich 5/40, 32-113 Cracow.**

Reasons

Plaintiff and defendant were married three years ago.

Evidence: Marriage certificate

They rent a one-room-apartment at Morelowa Street 17/1.

Evidence: Rental contract

At the beginning of the marriage, there were proper relations between spouses, but for almost two years defendant has behaved in a way that makes common living in the apartment impossible. Defendant abuses alcohol. He regularly comes back very late, yells loudly at the plaintiff, and wakes her up. This happens at least twice each week. Without consulting the plaintiff, he very often at night invites people, whose names are unknown to the plaintiff, into their apartment. Her husband and those people then drink through most of the night. This happens at least three times each month. The plaintiff cannot sleep

in such conditions. The defendant works at a factory, and she must be at work at seven in the morning. To be able to sleep, she often must leave the apartment to go and stay with friends.

Evidence: Testimony of the witness Maria Gruszka and testimony of the plaintiff

The defendant has been often asked by the plaintiff to stop his behavior, but he ignores her pleas.

Evidence: Testimony of the plaintiff

The behavior of the defendant fulfils the conditions of Article 13 Sec. 2 of the Statute on Inhabitants' Protection. His conduct is crassly reprehensible. The plaintiff should be able to rest in her own apartment without being forced to take part in the alcoholic parties of her husband. The only way to secure the plaintiff's right for peaceful life at home is to order the eviction of the defendant.

This court's order with immediate performance is necessary because continuation of the current situation may cause health damage to the plaintiff. She is deprived of sleep, although she has to work every day. Plaintiff is afraid that she will lose her job if she regularly comes tired and exhausted at the factory. This situation needs to be stopped at once. The conditions of Article 333 § 3 of the Code of the Civil Procedure are fulfilled.

The plaintiff earns about 840 zł a month. After payment of the rent (350 zł), she would be not able to pay the costs of this court procedure. She does not have any savings or property. Hence the application for relief of costs is justifiable.

Tomasz Nowak
Advocate

C/1783/04/Kr

Plaintiff: Anna Kowalska, worker, resident at Morelowa Street 17/1, 37-016 Cracow,
represented by Tomasz Nowak, advocate, Grodzka Street 15/7

Defendant: Jan Kowalski, taxi driver, resident at Morelowa 17/1, 37 – 016 Cracow,
represented by Monika Lipowska, advocate, Przy Rondzie 18/9

Answer to the petition

On behalf of the defendant I am asking for:

- 7. Dismissal of the petition;**
- 8. Relief of the defendant from the duty of paying the costs of the court;**
- 9. Decision that the costs of procedure will be awarded according to the existing rules;**
- 10. Calling the witnesses Renata Kos, resident at Morelowa 17/2, 37 – 016 Cracow and Grzegorz Bonk, resident at Wiejska 12/31, 38 – 001, Cracow**

Reasons

The petition is not justifiable. The defender is a taxi driver. He works hard. Because taxi driving is a very competitive business, he has irregular hours of work. This is why he sometimes comes home quite late. He and his wife live in difficult conditions (only one room) so it may happen that his wife is awakened when he must return home late. In the current economic situation, it is not possible for him to change his occupation. He is a very quiet man, and he does not make excessive noise at home. He does not yell at his wife.

Evidence: Testimony of the witness Renata Kos, testimony of the defendant

The defendant does not abuse alcohol. Mr. Kowalski drinks only occasionally, when he does not have to work the next morning. He has organized a few parties at his home: for his birthday, name day and when he got his taxi license. The defendant was trying to organize these events together with his wife, but she did not want to help him at all. She opposes all social relations of her husband with his friends. When Mr. Kowalski tries to present guests in his home to his wife, she immediately leaves their apartment and disappears for the rest of the night.

Evidence: Testimony of the witness Grzegorz Bonk, testimony of the defendant

The defendant does not have any place to go. There is no reason for the eviction. Article 13 Sec. 2 of Statute on Inhabitants' Protection. The requirement of "crassly reprehensible" behavior of the defendant is obviously not fulfilled. It is true that in a one-room-apartment there are some inconveniences for family members, but that is a factor that is beyond the defendant's control. The defendant has the right to occasional contact with his friends and the right to invite them for an occasional visit. This is a normal thing in human relations. Article 13 Sec. 2 is a major exception from the general right of the tenant to live in his apartment and thus must be interpreted narrowly. (See: J. Ygrekowski, Commentary to Statute on Inhabitants' Protection, Warsaw 2003, p. 178).

The defendant has no savings or property, and he income ranges seasonally from 500-1500 złotys per month with an average of no more than 1000. Hence, relief from court cost should be granted to him because he is not able to afford them.

Monika Lipowska
Advocate

RAYON'S COURT FOR CRACOW
--KROWORZA
1 CIVIL DIVISION

ANNA KOWALSKA
Plaintiff,

v.

Civil Action #4578-05

JAN KOWALSKI
Defendant

COMPLAINT FOR EVICTION OF A CO-INHABITANT

Plaintiff, Anna Kowalska, through counsel, invokes the jurisdiction of this Court pursuant to Polish Statute on Inhabitant's Protection, Article 13, Section 2, and Polish Civil Procedure Code, Article 333, Paragraph 3, and alleges as follows:

1. Plaintiff and Defendant were married on June 3, 2001 in Cracow, Poland.
2. In August 2001, Plaintiff and Defendant entered a rental contract as co-tenants for a one-room apartment at Morelowa Street 17/1.
3. Plaintiff and Defendant have lived at the apartment at Morelowa Street continuously since August 2001.
4. From the beginning of their tenancy, Plaintiff has contributed one-half the share of the rent on the apartment on Morelowa Street.
5. Plaintiff is employed at the Bosch tire factory in Cracow where she must commence work at 7:00 a.m., Monday through Friday.
6. Defendant works as a taxi driver, typically commencing work in the afternoon, and working into the evening.
7. For almost two years, Defendant has behaved in a crassly reprehensible manner, which prevents Plaintiff's peaceful life in their common apartment, and leaves Plaintiff exhausted when she must rise early to go to her job.
8. At least twice per week, when Defendant returns to the apartment, he comes in drunk, wakes Plaintiff up, and shouts abusively at her.
9. Without consulting with Plaintiff, at least three times a month Defendant invites other people into the apartment, whose names are unknown to Plaintiff. Her

husband and these people then stay in the apartment, talk loudly, and consume alcohol through most of the night.

10. When these frequent disruptions occur, Plaintiff cannot sleep in the apartment and must often get out of bed and go elsewhere in order to get some rest before she goes to work.

WHEREFORE, Plaintiff respectfully requests that:

1. She be granted judgment under Polish Statute on Inhabitant's Protection, Article 13, Section 2, for eviction of her spouse from the apartment at Moralewa Street 17/1.

2. She be granted immediate execution of this judgment under Polish Civil Procedure Code, Article 333, Paragraph 3.

3. For such other and further relief as the nature of the case may require and which the Court deems just and proper.

Respectfully submitted,

Tomasz Nowak, D.C. Bar #22897
Counsel for Plaintiff
Columbus Community Legal Services
The Catholic University of America
Washington, D.C. 20064
202-319-5140

RAYON'S COURT FOR CRACOW
--KROWORZA
1 CIVIL DIVISION

ANNA KOWALSKA
Plaintiff,

v.

Civil Action #4578-05

JAN KOWALSKI
Defendant

ANSWER TO COMPLAINT FOR EVICTION OF A CO-INHABITANT

Defendant, Jan Kowalski, through counsel, responds as follows:

1. Defendant admits that Plaintiff and Defendant were married on June 3, 2001 in Cracow, Poland.

2. Defendant admits that on August 2001, Plaintiff and Defendant entered, as co-tenants, a rental contract for a one-room apartment at Morelowa Street 17/1.

3. Defendant admits that Plaintiff and Defendant have lived at the apartment at Morelowa Street continuously since August 2001.

4. Defendant admits that from the beginning of their tenancy, Plaintiff has contributed one-half the share of the rent on the apartment on Morelowa Street. Defendant has paid one-half the share of the rent on the apartment as well.

5. Defendant admits that Plaintiff is employed at the Bosch tire factory in Cracow where she must commence work at 7:00 a.m., Monday through Friday.

6. Defendant admits Defendant works as a taxi driver, typically commencing work in the afternoon, and working into the evening.

7. Defendant denies the allegations of Paragraph 7 of the Complaint.

8. Defendant denies the allegations of Paragraph 8 of the Complaint.

9. Plaintiff admits that he occasionally invites friends to the apartment but denies that the remaining allegations of Paragraph 9.

10. Defendant admits that Plaintiff sometimes leaves the apartment. Defendant has insufficient information to admit or deny the remaining allegations of Paragraph 10.

WHEREFORE, Defendant respectfully requests that:

1. Plaintiff be denied judgment under Polish Statute on Inhabitant's Protection, Article 13, Section 2, for eviction of Jan Kowalski from the apartment at Moralewa Street 17/1.
2. Plaintiff's complaint be dismissed.
3. Court costs and attorney's fees be assessed against the Plaintiff.
4. For such other and further relief as the nature of the case may require and which the Court deems just and proper.

Respectfully submitted,

Monika Lipowska, D.C. Bar #64701
Counsel for Defendant
Lipowska, Wortham & Klein
1400 L Street N.W.
Washington, D.C. 20007
202-444-4444

For the wife's lawyers

Fryderyk Zoll says that it is highly unlikely that any Polish advocate would take the time to write a memo to the file like this. We, however, are providing this for you in order that we are all working from common information. We also might include in our discussion at some point whether our goals include getting clinic students to adopt practice habits somewhat different from those prevailing in the profession.

Memo to the File

January 17, 2006

Matter of Anna Kowalska's application to evict her husband from their apartment

Court Date: February 28, 2006

Court: Rayon's Court for Cracow—Krowodrza, 1 Civil Division

Ms. Kowalska and her husband were married June 3, 2003. Soon after their marriage, in August 2003, they rented a one-room apartment at Morelowa Street 17/1, where they have lived together since.

The first year of their marriage was reasonably happy, but after about one year, the defendant started to drink more and more. He also acquired a group of friends, whom Ms. Kowalska does not really know, and from the little she knows about them, she does not like what she knows.

The defendant usually starts work at 1:00 p.m. (13:00). She is not sure what time he gets off, but he often comes home very late at night after drinking with his friends. She estimates that he comes home drunk at least twice a week—and it's often more frequently. When he comes home, he wakes her and finds some reason to start an argument. Sometimes he tries to order her to make him some food, even though it is very late at night. I asked if her husband ever struck her, and she said no—but she talked about the terrible things he says to her about how bad a wife she is and how upsetting that is.

Sometimes the group of buddies comes to her apartment to meet and drink. She estimates this to be at least three times a month over the past two years. The apartment has only a kitchen, a bathroom, and one other room that serves as a living room, dining room, and bedroom. When he comes in with his buddies to drink, the noise keeps her from sleeping. He invites her to drink with them, but she does not like to drink and she usually has to get up at 5:30 in the morning to go to work at the factory where she is employed. In order to get any sleep, she sometimes must try and find a friend who will take her in for the night. The person who has most often been willing to do that in recent months is Maria Gruszka. Ms. Gruszka shares a very small apartment with another woman so it is inconvenient for them to take Ms. Kowalska in, particularly in the middle of the night, but so far Ms. Gruszka has been willing to do this. She has given Ms. Kowalska a key to make this easier. But she has been encouraging Ms. Kowalska to seek to evict her husband so Ms. K will have a place to sleep quietly. Ms. Gruszka is available to be a witness and can testify about Ms. K coming to her apartment frequently because of the parties at Ms. K's home.

Ms. K earns 840 zlotys a month at her factory job. The rent is 350 zlotys per month. She thinks her husband earns about 1500 zlotys per month as a taxi driver, but she does not really know.

Relevant law:

Polish Statute on Inhabitant's Protection, Article 13, Section Two.

A co-inhabitant may file a petition for a court order to evict a spouse, a divorced spouse, or other co-inhabitant of the same dwelling if the party to be evicted behaves in a crassly reprehensible manner, such that common living in the dwelling is impossible.

Polish Civil Procedure Code, Article 333, Paragraph 3

Following application of the parties, the court may give the court's decision the effect of immediate execution when delay would make impossible or significantly difficult the performance of the decision or will establish a threat of damage to the plaintiff.

For the husband's lawyers

Fryderyk Zoll says that it is highly unlikely that any Polish advocate would take the time to write a memo to the file like this. We, however, are providing this for you in order that we are all working from common information. We also might include in our discussion at some point whether our goals include getting clinic students to adopt practice habits somewhat different from those prevailing in the profession.

Memo to the File

January 25, 2006

Matter of Jan Kowalski's answer to his wife's petition to evict him from their apartment

Court Date: February 28, 2006

Court: Rayon's Court for Cracow—Krowodrza, 1 Civil Division

Mr. K and his wife were married June 3, 2003. Soon after their marriage, in August 2003, they rented a one-room apartment at Morelowa Street 17/1, where they have lived together since.

Mr. K is a taxi driver, and his wife works in a tire factory. Mr. K says he is a quiet person. He never gets in fights like other guys. He says he doesn't yell at his wife like she claims. They live in a very small apartment and his wife is a very light sleeper. She works from 7:00 a.m. to 3:00 p.m. (15:00). His work hours are irregular, but most of the time he starts work between 1:00 p.m. (13:00) and 3:00 p.m. (15:00) and gets off at times varying from 9:00 p.m. (21:00) to 1:00 a.m. When he comes into the apartment to go to bed, his wife always wakes up. When she does, she often gets very angry at him.

You asked about violence in the family. He said he is not a person who ever gets in fights with anyone. However, he admits that two or three times when he came home late, he and his wife got into arguments, and she upset him so much that he slapped her. When this happened, he quickly said he was sorry. He said he felt bad about these incidents. He says he does not think men should hit women, and he only did this because he was so frustrated.

His wife refuses to go anywhere with his friends or even meet them. She wouldn't even take part in a party for his birthday, his name day, and when he got his taxi license.

Mr. K only drinks beer and does not get drunk.

People who can be witnesses that he doesn't have big drunken parties at his apartment are his neighbor Renata Kos and his friend, Grzegorz Bonk. In his building, there are only two flats, which are over a store. The store is a small neighborhood grocery that is open from 8:00 a.m. to 6:00 p.m. (18:00), and no one from the store is there except at that time. The apartment has only a kitchen, a bathroom, and one other room that serves as a living room, dining room, and bedroom.

Mr. K's income is quite variable. In the summer, he might earn as much as 1500 zlotys in a month, but out of tourist season, he might earn only 500-600 zlotys. He averages no more than 1000 zlotys. The rent is 350 zlotys per month. Ms. K earns 840 zlotys a month.

Relevant law:

Polish Statute on Inhabitant's Protection, Article 13, Section Two.

A co-inhabitant may file a petition for a court order to evict a spouse, a divorced spouse, or other co-inhabitant of the same dwelling if the party to be evicted behaves in a crassly reprehensible manner, such that common living in the dwelling is impossible.

Polish Civil Procedure Code, Article 333, Paragraph 3

Following application of the parties, the court may give the court's decision the effect of immediate execution when delay would make impossible or significantly difficult the performance of the decision or will establish a threat of damage to the plaintiff.

Instructions for wife (petitioner)--Anna Kowalska

You have a copy of the petition that your lawyer filed as well as your husband's answer. You went to a lawyer to get your husband out of the apartment you share with him because you are so frustrated with lack of sleep, your husband's drunken behavior generally, and that he has been so mean to you when he is drunk. You told your lawyer that you wanted to get your husband out of the apartment so you can get some sleep.

The lawyer did not ask if you wanted a divorce or legal separation from your husband. If you had been asked (or if your lawyers ask you now), you will say that you are not sure yet what you want to do about your marriage. If your husband were to quit drinking, or at least drink less, you would be willing to stay married. You do not really believe in divorce, and you did love your husband when you were first married. Before he started drinking too much, he was a pretty good husband, and you had fun together. You would like to have children. Your husband has nieces and nephews. When he is around them and is not drinking, he is very kind to them, and you think, if he would stop drinking, he would be a good father.

You are 24 years old. You work from 7:00 a.m. to 3:00 p.m (15:00), Monday-Friday, at a tire factory. In order to get to work on time, you must get up at 5:30 a.m. Your husband tells you that he goes to work as a taxi driver between 1:00 (13:00)-3:00 p.m. (15:00) at least five days a week and sometimes he works every day in tourist season when there is a lot of business. You understand that he normally does not get off work until 9:00 p.m. (21:00), and he tells you that he sometimes works until midnight or 1:00 a.m. He is rarely home when you come home in the afternoon after work, and he goes to work on most Saturdays and Sundays, at least in tourist season.

You are a light sleeper. Every night when your husband comes in you wake up. Sometimes he just goes right to bed, and you go back to sleep. Often, however, when it seems he has been drinking a lot, you get into an argument with him. This usually is about his claim that the house is a mess, that you don't cook for him, and that there is no food in the house.

In the first year of your marriage, you and your husband were pretty happy and you did a lot of things together. Then he started playing soccer with a group of guys on the Błonia. At first you went to the games and out with the group of guys and their wives and girlfriends, but the group drank a lot, which you didn't like, and you just didn't like them generally.

A lot of the guys are taxi drivers. They convinced your husband to try for a taxi license. A little over a year ago, your husband got his taxi license. He then quit his job at a furniture store, where he moved furniture and made deliveries, and started driving a taxi. He seems to make more money, but with working at night and hanging around so much with his buddies, you almost never see him—and when you do, he is with the group of friends that you don't like.

You told your lawyer that you are sure your husband comes home drunk and yells at you at least twice a week, and that he and his drinking buddies come to your apartment to drink at least three times a month. It may even be more often. For awhile you have been leaving the apartment when he and his friends come in to drink. Although they usually were in the kitchen, they still woke you up, and you are very angry that he brings others in when you see him so rarely and it disturbs you.

For the last six months, you mostly have been going to the apartment of your friend Maria Gruszka, who is a co-worker of yours at the factory. You started leaving the apartment more regularly after your husband slapped you during arguments on two occasions. This happened twice about six months ago—once in one week and once a couple of weeks later. Until then, you had had terrible arguments, but he had never hit you. Your husband seemed somewhat shaken after he hit you and apologized very sincerely. You even were less angry with him then because he was so upset at what he had done. Still, when it happened a second time, you decided not to stay around very long when arguments started and you go to Maria's more often now.

When you first went to the lawyer about filing the petition, the lawyer asked if your husband had ever hit you, and you responded that he had not. The lawyer seemed to say you probably could get your husband out because of the disruption of your sleep, and you did not want to discuss this embarrassing and personal thing with the lawyer. You have not told anyone except but Maria about the slapping incidents. Maria says that probably need to tell the court about these incidents because it might be important in getting your husband out of the apartment. You are still reluctant to do this. If the lawyer asks you about violence again in preparation for the hearing, you will now tell the truth. If the lawyer does not ask about violence in the session in the simulation, do not volunteer the information. Assume, however, that once you are testifying you are nervous that you will not win without this, and you should find a way to include in the testimony that your husband slapped you twice. For example, you might bring this up in explaining why you now go to Maria's so frequently.

On those nights that you go to Maria's when you must work the next day, you just go directly to work with her. If it is on a Friday or Saturday night, you go back to your apartment the next day. You usually find your husband asleep, with the apartment a mess. If he has been drinking with his buddies, you have sometimes found one or two of them still sleeping in the apartment too.

Maria lives about a fifteen minute walk from you. While it is unpleasant to walk that distance at night, especially if it is cold or raining, it is better than not sleeping. It also is inconvenient for her and her roommate when you go there because it is a smaller apartment than yours. You have had to go so frequently that you now have a key to their apartment so at least you do not have to call and wake them up before coming. Maria does not like her roommate very much, and her apartment is dark and small. She has said that if your husband gets evicted that she would be willing to share your apartment and pay half the rent. That would be good because you could not afford the rent on your own.

Maria has been very loyal to you in these difficulties, and you think that you would be able to get along well with her if you lived together.

Your husband yells at you and orders you around when he comes home drunk—and often says humiliating things. He says awful things to you when he is drunk about how you are a terrible wife, you won't cook for him, you are a terrible housekeeper, you won't talk to his friends and so on. When he comes in and demands that you cook for him, he claims he has been busy driving his cab and didn't have time to eat, but he just seems drunk to you. He leaves the apartment a mess when he gets up to go to work—particularly when he has been drinking there with his friends, and you have gotten tired of cleaning up after him. At first you cleaned up the mess, but now you just leave it the way he left it much of the time.

When you first got married, you decided to each pay half the rent from your paychecks, which were about the same, and you have continued to do that. That doesn't seem fair to you now because you think your husband earns a lot more money than you do. He sometimes gives you money for other things for the house, but it isn't a set amount or given on a regular basis. He complains you don't buy food, but you do not want to buy food to leave in the house so he and his buddies would eat it when they are drinking at your house.

After your husband filed his answer to your petition, your lawyer asked you about the witnesses who were listed. Renata Kos is the person who lives in the other flat in your building. You live above a small grocery store that is open 8:00 to 6:00 p.m. (18:00). There are only two small flats above the store. There is a hall separating the flats. The walls and floors are quite thick in the building so one doesn't usually hear noise. You do not really know Ms. Kos, but you know that is her name from the mailbox.

You assume that Grzegorz Bonk is one of your husband's drinking buddies; however, you do not know any of their names.

Instructions for husband—Jan Kowalski

You and your wife, Anna, were married June 3, 2003. Soon after your marriage, in August 2003, you rented together a one-room apartment at Morelowa Street 17/1, where you have lived together since. You are 24 years old.

You have a copy of the petition that your wife filed to evict you and the answer that your lawyer filed based on what you told him.

Your wife works in a tire factory. When you were first married, you worked in a furniture store moving and delivering things. Just over a year ago, you got your taxi license and started driving a cab, which you rent from the cab company.

About two years ago, you started to play soccer often on the Błonia. You met a group of guys you really like and you often socialize with them. Several of them are taxi drivers, and that is how you got interested in getting a taxi license. Some of the guys are married. The wives and girlfriends of lots of the other guys come along to parties and come to soccer games. Your wife came to the soccer field a few times and went out with the group a couple of times, but she quickly decided that she did not like these people, and she has been unwilling to do anything with them since.

You and your wife were pretty happy when you were first married but now it seems like you barely speak to each other. One problem is that your wife works from 7:00 a.m. until 3:00 p.m. (15:00), and you usually start driving a cab between 1:00 p.m. (13:00) and 3:00 p.m. (15:00) and do not get off until at least 9:00 (21:00 and sometimes drive until midnight or 1:00 a.m.—especially in tourist seasons when you can make more money that way. You sleep very soundly so it doesn't wake you up if your wife is leaving in the morning when you are there, but she is a light sleeper so almost any noise you make in the apartment wakes her up. When you come home from work and wake her up, she starts yelling at you. Sometimes you get angry back because it is very frustrating. Also sometimes you have been working really hard since early evening, and you are very hungry. She has been sleeping for awhile so you would like her to make you some food, but she won't do it. Lots of time there isn't even any food in the house when you come in. When she is so mean to you because you wake her up and just ask her about something to eat, you do get into arguments with her and say some mean things back. Sometimes those things are so mean that you later feel bad about it.

Once or twice you tried to apologize for things you said, but it just started the fight all over again because she was so angry. (If your wife testifies about things you said to her, those will be true things you said. If you are asked questions about it, you should respond on the stand as you think this man would. You know you might have said them, but you probably don't remember it very well because you were drinking and besides you feel justified because of the way your wife acts toward you. In other words, it is up to you to decide whether to deny them or otherwise how to respond.)

Your lawyer asked you about violence in the family when you saw him the first time in his office. You said you are not a person who ever gets in fights with anyone, and that is true. You told him that two or three times when you came home late, you and your wife got into such a terrible argument that you slapped her in frustration. You did tell her you were sorry then because you do not think men should hit women, and you only did this because you were so frustrated.

You are very angry and frustrated that your wife refuses to even have anything to do with your friends—and it seems like she won't have anything to do with you either. You still love your wife, and if things were like they were when you were first married, you would be happy.

Sometimes you go home right after work, but several evenings a week you and your friends, especially those who also work at night, get together to have a few beers. Usually you go to one of your houses. When you get off work, sometimes it's too late to pubs, and it's cheaper to drink at home. You leave the cab at the cab company and walk home or to a friend's house or pub where you drink. You are trying to save as much money as you can because you would like to buy a flat—to avoid paying rent and to have a bigger place. You know how hard it is to live in this small apartment. You think if you had a bigger place you and your wife could get along better, and you think this might make your wife happy. Unfortunately, however, your marriage has gotten so bad that you rarely talk to her about anything—or even see her that much—so you really haven't told her about your hopes to save money and buy a bigger flat.

You never drive after drinking. You don't pass out (until you go to bed at night) or vomit. Drinking beer is just part of what you and your friends do. Several of your other friends, including Grzegorz Bonk, also work from the afternoon into the evening, so mostly the only time you can see each other is after work—often after midnight or 1:00 a.m.

When you come to your apartment with friends, your wife almost always wakes up. There is a table in the small kitchen so you and two or three of your friends can sit in there. When you first started driving the cab and bringing friends home, you would sit around the table in the kitchen and try to be quiet so as not to disturb your wife. There might have been a time or two when there were more than four of you, and you went in the room where Ms. K was sleeping, but that was not normally what you did. For several months now, however, when you come home with even one friend, your wife gets dressed and leaves without even speaking to you. In that case, you go into the bigger room, watch tv, play music, and so on. Now that your wife is leaving anyway, you sometimes invite more guys to come over—perhaps five to eight. None of the guys in your group lives alone, and it's hard to find a place to go and relax a little after work where no one will be disturbed.

Your wife says she goes to a girlfriend's house when she leaves, but you don't know if that's true. You don't even know who her friends are.

You had only three big really organized parties in your apartment—for your birthday, your name day, and when you got your taxi license. You wanted your wife to help organize them, but she refused even to come. Sometimes some friends come home with you after work to drink, but you would not call those parties. You would say that's just a couple of guys or more sitting around in your apartment with a beer. You don't have friends in every week, but it might be about three times a month. If you are pressed on how often this occurs, answer as you think this person would answer in the circumstances.

You gave your lawyer the names of two witnesses who could support your account that there are not lots of big noisy parties at your house. One is the neighbor, Renata Kos, from the other apartment in the building. The other one is your best friend, Grzegorz Bonk. The walls and floors in the building are thick because it's an old building built in the old construction style. There are only two flats, which are over a small grocery store. The store is open from 8:00 a.m. to 6:00 p.m. (18:00), and no one from the store is there except at that time. The apartment has only a kitchen, a bathroom, and one other room that serves as a living room, dining room, and bedroom.

People have always told you that you are a quiet person. You never talked a lot in school. You always stayed out of the fistfights that other boys would have in school or even now sometimes people get into after drinking.

Your income is quite variable. In the summer, if you work a lot of hours, you sometimes can earn up to 2000 zlotys a month, but out of tourist season, it's more like 800 zlotys. You told your lawyer that you might earn up to 1500 zlotys a month in tourist times and as little as 500-600 zlotys a month at other times with an average of no more than 1000 zlotys per month. You always told your wife that you earned less than that. Your income is irregular, and you really want to try and save money for the bigger flat. The rent is 350 zlotys per month. Your wife earns 840 zlotys a month at the factory where she works. From the time you got married, you have given your wife money for half the rent. You give your wife some money every month for other things, but the amount varies with how much you are earning.

Instructions for Maria Gruszka—friend of the wife, Anna Kowalska

Anna Kowalska is your best friend. You are both 24 years old. You met her when you started working at the tire factory 2.5 years ago. Anna was already working there. When you first met her, she seemed pretty happily married, but then Anna told you that her husband met some friends with whom he now seems to spend all his time with and he is drinking more and more.

About two years ago, her husband started playing a lot of soccer. Anna told you she went to a few games, but she doesn't like the people her husband plays soccer with. After he started playing, he started drinking a lot and staying out late. Lots of the soccer guys were taxi drivers, and they encouraged him to get a taxi license. He has been working as a taxi driver for about a year. Anna says that he makes more money, but he usually doesn't give her money regularly except for rent. She also is unhappy that he works late into the night and goes drinking a lot of times when he gets off work.

Anna seems more and more stressed. She says she always wakes up when her husband comes home late. Sometimes he starts a fight about her cooking for him, whether the apartment is clean enough, and whether there is food in the house. She would cook for him if he was home at a decent time, but she has to get up at 5:30 to be at work at 7:00 a.m., and she cannot get up and cook for him when it is late at night. She doesn't want to buy food that just he and his drinking buddies will eat, and he doesn't give her money regularly for food. He goes to work in the afternoon after she has gone to work. He leaves the house a mess, and she is sick of cleaning up after him. But he is so mean to her about these things that it makes her very sad.

She says he also brings his drinking buddies to their house at least three times a month. Now Anna just walks out as soon as they come in. She doesn't like these people, doesn't like to drink, and can't sleep with all the noise.

Some time ago, she started coming to your apartment to sleep when his drinking buddies are at her house or when her husband starts a fight with her in the middle of the night. In the past six months, this has often been a couple of times a week. She started coming more often because there have been two occasions when Anna's husband slapped her. It happened twice about two weeks apart. You do not remember the exact dates but you know it was about six months ago and about two weeks apart. At first she didn't tell you about this because she was so embarrassed and hurt by it. But then eventually she did tell you. She said her husband actually was very upset after he did it and apologized to her. She even felt sorry for him then, but after the second time it happened, she decided not to stay around when arguments began to get heated. You think there is no excuse for a man hitting a woman.

Your apartment is about a fifteen minute walk from hers, and she walks there even when it is cold or raining. When she comes to your apartment, she just goes to work with you.

This whole thing is making Anna a nervous wreck, and she is afraid of losing her job at the factory from not getting enough sleep. You encouraged her to see a lawyer about what she could do about getting her husband to move out. You would be willing to move in with her and help out with the rent if that happens. Her apartment is lighter and bigger than the one you share with a roommate, and you do not like that roommate very much anyway. That roommate also is getting angry about how much time Anna is there, but you cannot turn your friend away. You recently gave her a key to your apartment so it would be easier for her to come in late at night.

You think it is very important for Anna to get her husband out of the house because the stress is really making her sick. She told you she didn't tell her lawyer about the two slapping incidents. People have told you that there would have to be proof he hit her in order to go have a judge evict him from the apartment. You have encouraged Anna that she needs to tell the court about the slapping incidents even if it is embarrassing, and she said she would think about it. If asked, you will tell the court what you know about the slapping incidents. You will not tell the lawyer or the court about the violence unless someone asks you because it's up to Anna whether she wants this to be public.

You like Anna very much and want to help her. You have never even met her husband. She has told you that she really loved her husband and probably still does. She wants to have children and does not believe in divorce. She thinks her husband would be a good father if he would quit drinking. In your opinion, that is a "lost cause"—men don't do that—and she should just divorce him—but you haven't said that quite so bluntly to Anna.

As described in her instructions, living in Anna's apartment with her would be a better situation for you than with your current roommate, and you think you would get along well with her because she is your good friend and a very nice person.

You have never talked to the lawyers on either side before. Try to act how you think the person you are asked to play would act—a not very well educated factory worker who is trying to help her friend.

If questions asked you are not covered by the instructions, just invent answers that seem consistent with the story and the characters.

Instructions for Grzegorz Bonk—friend of Jan Kowalski, witness for the husband

You have known Jan Kowalski for about two years. About that time, he started playing soccer with a bunch of guys on the Błonia, and you are one of them. You are a 27 year old taxi driver, and you are not married. After you became friends, you encouraged Jan to get a taxi license and he did so a little more than a year ago. Many of the soccer guys also drive taxis, and the group of you have similar work hours—starting to drive in the afternoon and often driving until late in the evening.

Jan has become your closest friend. You spend many evenings with him. He is very unhappy because he says his wife doesn't seem to want to have anything to do with him anymore. In fact, you have never even really talked to his wife. Jan has tried to introduce you, but every time you have come to his apartment, she just leaves and she refuses to go to parties with him.

Jan told you that his wife claims he comes home and wakes her up and yells at her and that there are loud parties in his apartment all the time that keep her awake and make her leave. He says in the papers his lawyer filed he said he had only three parties—for his birthday, for his name day, and when he got his taxi license. That is what you will tell the court. You, Jan, and your other friends sort of take turns drinking at different people's apartments and that happens a lot of nights—you go to Jan's apartment once in some weeks, but not in every week. Perhaps you go to his apartment about three times in a month. You plan in court to stick very strictly to supporting Jan's story of only three "parties" at his house. You think it's fair that the gatherings you have several times a week in different friend's houses are not really "parties." In fact, these gatherings usually are just three or four guys. When Jan's wife was home, you usually would sit around the table in the small kitchen and try not to be too noisy. There might have been an time or two when there were more than four of you, and you went in the room where Ms. K was sleeping, but that was not normally what you did. For several months now, however, when you go to Jan's place, his wife seems to leave the apartment soon after you, Jan, and whoever else is with you arrive. In that case, you go into the bigger room, watch tv, play music, and so on. Now that Jan's wife is leaving any time visitors show up, a bigger number of guys often go over to his place—perhaps five to eight. None of the guys in your group lives alone. Some are married; some live with their parents; you live with your brother. You invite friends to your place only on the nights that you know your brother works a night shift at his factory job.

You and Jan almost always just drink beer. You two don't think of yourself as getting drunk. Other people say that you and Jan are drunk sometimes, but you don't think that is true. You never pass out or throw up.

You think of Jan as a quiet guy. Although some of your friends sometimes get into fights, Jan never does. When he drinks he gets louder and more outgoing, but you think of him as one the nicer, more peaceful guys in your group of friends. He doesn't really talk about his personal feelings, but it seems to you that he probably loves his wife and is really very sad about the way she is treating him. You know guys who hit their

wives, but you don't think that Jan would do this. He has never given you a lot of details about their relationship, but you know the whole thing is making him very sad.

If you are asked questions that go beyond these facts—something about the parties, Jan's drinking, whatever—you should just answer as you think the character would—a not very well educated person who is trying to help his friend—someone who knows he is supposed to say that there were three parties at Jan's house, that he doesn't drink to excess, and that he doesn't yell at his wife or hurt her.

Instructions of Renata Kos—neighbor, a witness suggested by the husband

You have received a summons from the court to be a witness in a case. The papers you got from the court had the names of the people in the other flat in your building on them. It looked like the wife was bringing some kind of case against the husband.

You live at Morelowa, 17/2, Krakow, Poland, in the second flat above a small neighborhood grocery store. Your neighbors are a young couple who were living in the apartment when you moved in. You have lived in the building for about one year.

You are 27 years old. You are a cashier at an all night supermarket. You often work the night shift and sleep during the day. You also sometimes stay at your boyfriend's apartment, and when you have more than one day off, you often go to stay with your parents in Zakopane. You usually are not home more than two nights a week, but it varies from week to week.

Two or three times you were home at night in your apartment, and you were awakened by a lot of noise in your neighbor's apartment—loud music and laughing. Once or twice—you don't really remember which—you got back to sleep despite this noise. Once, however, the noise was so loud that you tried to go back to sleep but could not, and you went over to complain. The man in the apartment said it was his name day, and he and his friends were having a party. There were quite a lot of people in the small apartment. He asked you to join them. He seemed somewhat drunk but was nice enough. You declined to go to the party, and they did quiet down somewhat. If anyone asks you if his wife was there, you should say (honestly) that there were a lot of people in the apartment and you did not look to see who was there.

When you are home, you often are sleeping during the day because you usually work at night. It appears the wife in the other apartment goes to work early in the morning, and she is not home during the day. The man seems to come and go at different times on different days. You think he drives a taxi. You never have heard noise from the apartment during the day, when you trying to sleep or otherwise.

There is a long hall between the two apartments. It is an old building and the walls and floor are pretty thick. Sound really doesn't travel between the two apartments much unless it is really loud like the two or three times you described. Your kitchen shares a common wall with their apartment, but otherwise the hall is in between them. The store below your flats is open from 8:00 a.m. to 6:00 p.m. (18:00), and there rarely is anyone there before it opens or after it closes.

You really don't know the couple across the hall or talk to them much. You just say hello when you see them. As far as you can tell, they get along okay, but you don't really see them together much.