



## Buffalo Creek

- I. Stern
  - a. Finds meaning in fighting for the little guy
  - b. Works for Arnold and Porter – one of the biggest firms
  - c. Working pro bono.
  - d. Contingency fee system gets poorer people access to the courts
  - e. The downside is that it inspires frivolous lawsuits
    - i. No incentive to think about whether or not to sue
    - ii. It's cheaper to settle even if insurance knows they'll win (too expensive to go to trial)
  - f. Our system is rare in allowing contingency fee cases
- II. The People
  - a. Stern tells about the people's stories to personalize the disaster – not just a statistic
  - b. "One death is a tragedy; millions a statistic." – Stalin
- III. The Target
  - a. Wants to sue Pittston to get into federal court (New York based)
  - b. The Rub: Shareholders aren't liable for actions of the corporation
  - c. Piercing the Corporate Veil
    - i. When just using corporate form to protect liability but not acting like just shareholders
    - ii. Separate assets, shareholders' meetings, minutes, et cetera are all necessary
    - iii. Need to observe formalities of corporate existence
- IV. The Venue
  - a. If we're going into federal court, which one?
  - b. Want to study decisions on circuit courts
  - c. Want to study appeals too
  - d. Pick the venue with the best precedent
  - e. Start at the circuit level, then pick a district.
- V. Legal Theory of the Case
  - a. The theory by which the defendant is liable
  - b. Damages for wrongful death are severely limited
  - c. Needs to get more damages for everyone else.
  - d. Go after punitive damages too.
- VI. Discovery
  - a. How do we get information about the other side? We ask for it! Seems really strange.
  - b. Obligated to meet requests
  - c. Ongoing obligation to *update* information if you realized you missed something.
  - d. Purpose
    - i. Get the facts
    - ii. Begin to prepare for the trial
    - iii. Get a sense of the value of the case
    - iv. It's an audition!
  - e. Should be as broad in scope as possible.
  - f. Settlement: Process begins as soon as the complaint is filed.