



## Judicial Decision-Making and the Constitution

**OVERVIEW:** The goal of this activity is to understand how judges make decisions through the interpretation and application of law. In this lesson, students will apply the Constitution and case precedent to a real case scenario. The scope of the individual right to due process of law will be explored.

### OBJECTIVES:

Upon successful completion of this activity, students will be able to:

- Analyze the Due Process Clause;
- Apply the Due Process Clause and case precedent to specific case studies; and
- Examine the individual right to due process of law from a constitutional framework.

### MATERIALS NEEDED:

Copy of Due Process Clause handout A  
PowerPoint Presentation  
Supreme Court Case Study Form/Handout B  
Caperton v. A.T. Massey Coal Co./ Handout C  
Constitutional Question/Handout D  
Court Decisions (for facilitator only)

**TIME REQUIRED:** 90 minutes recommended. Can be shortened or lengthened. Can also be divided into two lessons.

### SUNSHINE STATE STANDARDS:

Grades 6-8

Grades 9-12:

SS.C.1.3(3)

SS.C.2.4(3)

SS.C.1.3(5)

SS.C.2.4(5)

### ACTIVITIES:

1. Discuss with students that today you will be letting them experience the judicial branch first hand. Today they will become judges.
2. Ask participants what knowledge, skills, and qualities they think judges should have. Discuss their answers. Should judges be influenced by public opinion when deciding cases? Use PowerPoint to guide presentation.
3. Using the PowerPoint, have a student read the Due Process Clause (Handout A). Ask questions to generate interest.



## Amendment XIV.

No state shall . . . deprive any person of life, liberty, or property, without due process of law.

For example, ask students:

What is “due process?”

Are there different kinds of due process (i.e., substantive versus procedural)?

Does the “process” which is “due” vary based upon the situation?

4. Using the case study form and case abstract, review the attached case with the full group. Have the group read silently and underline all relevant facts. Initiate a dialogue to review the facts. Ask participants if the Due Process Clause was violated. Lead a discussion to elicit arguments for both sides. Follow the PowerPoint. **DO NOT announce the decision of the U.S. Supreme Court.** Frame the question before the U.S. Supreme Court. Ask participants individually and without discussion to determine how they would rule on the case and to list three reasons. See constitutional question.

5. Divide participants into groups of five to simulate a Supreme Court conference. In this Supreme Court conference activity, each group should:

- Select a Chief Justice in each group to maintain order and lead discussions. Remaining participants are associate justices.
- Discuss in each group whether the failure of Justice Benjamin to recuse himself violated the Due Process Clause of the Fourteenth Amendment.
- The Chief Justice will poll the justices to determine the final decision of the Court. This will be discussed to try and reach a unanimous court decision. Give at least 10-15 minutes.

6. Have each group’s Chief Justice come to the front and present the decision of their court. Tally response. Debrief with the actual U.S. Supreme Court decision.



**COURT DECISION: FOR THE FACILITATOR**

**DO NOT ANNOUNCE UNTIL CONCLUSION OF THE ACTIVITY:**

The U.S. Supreme Court concluded that Blankenship's/Massey Coal's significant financial support of Justice Benjamin, coupled with the temporal relationship between the election and the pending case, caused the probability of actual bias to rise to an unconstitutional level. Therefore, Justice Benjamin was constitutionally required to recuse himself from the proceedings. **NOTE:** The Supreme Court emphasized that this case involved an "extraordinary situation" and "extreme facts." (Caperton v. A.T. Massey Coal Co. was argued March 3, 2009, and decided June 8, 2009. See 129 S. Ct. 2252).



## **DUE PROCESS CLAUSE – UNITED STATES CONSTITUTION**

No state shall . . . deprive any person of life, liberty, or property, without due process of law.



## Case Study/Supreme Court Conference

I. What are the Facts? \_\_\_\_\_

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II. State the Issue to be Decided: \_\_\_\_\_

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III. Arguments For Petitioner/Appellant: \_\_\_\_\_

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IV. Arguments For Respondent/Appellee: \_\_\_\_\_

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V. What Would You Decide? \_\_\_\_\_

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VI. Reasons/Evaluation: \_\_\_\_\_

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VII. Mock Supreme Court Conference Decision: \_\_\_\_\_

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VIII. Actual Decision of the Court: \_\_\_\_\_

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## **Caperton v. A.T. Massey Coal Co.**

The Caperton plaintiffs filed a legal action against A.T. Massey Coal Co. in West Virginia state court alleging unlawful interference by Massey with Caperton's mining business. This interference later resulted in the destruction of Caperton's business. Following the trial, a West Virginia jury found that Caperton had sustained \$50 million in damages. The trial court then entered judgment in favor of Caperton in that amount.

### West Virginia's System of Contested Judicial Elections

West Virginia has one appellate court of last resort, the West Virginia Supreme Court of Appeals. According to article VIII, section 8-2 of the West Virginia Constitution, the five justices that serve on this court are elected through contested elections for a term of twelve years.

Realizing (1) that an appeal to review this verdict and judgment would be by the West Virginia Supreme Court of Appeals, and (2) that any appeal would shortly follow an election for one of these five justice positions, Mr. Don Blankenship—Massey Coal's chairperson and president—financially supported an attorney for this position whom he thought would be more favorable to Massey's interests. Through several methods, Blankenship donated over \$3 million to support this attorney-judicial candidate. Blankenship's contributions exceeded the total amount provided by all other supporters of this attorney candidate. Blankenship also ran misleading advertisements against the opposing, incumbent justice.



### Justice Benjamin and The Due Process Clause

Brent D. Benjamin, the candidate Blankenship financially supported, won the election. Due to the vast sums of money Blankenship expended to support now–Justice Benjamin, Caperton moved to disqualify Benjamin from being a judge on the case involving the appeal by Massey Coal based upon the Due Process Clause of the Fourteenth Amendment to the United States Constitution. Following the Civil War, this clause was adopted to prevent the States from denying “any person” fundamental rights guaranteed by federal law. The clause reads: “No State . . . shall deprive any person of life, liberty, or property, without due process of law.” In prior cases, the United States Supreme Court has held that the Due Process Clause ensures “a fair trial in a fair tribunal.”

Despite the motion of Caperton to recuse Benjamin due to the huge financial support he received from Massey Coal, Justice Benjamin refused to disqualify himself, and the West Virginia Supreme Court of Appeals voted 3–2 to reverse the \$50 million verdict entered against Massey Coal. Benjamin voted to reverse the judgment against Massey Coal, and the two dissenting justices contended that the majority’s decision was morally and legally wrong.

### Blankenship—A Friend of the Court?

Caperton asked the Court for a rehearing and to disqualify two members of the majority based upon their connections to Blankenship (Justice Benjamin and then–Chief Justice Elliott Maynard). Justice Maynard was discovered to have vacationed on the French Riviera with Blankenship while the case was pending. Maynard later removed himself from the case. On the other side, Massey Coal moved to disqualify Justice Larry



Starcher, who agreed to do so based on critical comments he had made regarding Blankenship's efforts to influence the Court.

When Justice Starcher removed himself from the case, he urged Justice Benjamin to do the same to preserve judicial integrity and impartiality. Justice Benjamin again refused to remove himself and, as acting chief justice, chose two trial-court judges to replace Justices Maynard and Starcher. The Court again reversed the \$50 million dollar verdict entered against Massey Coal by a 3-2 vote, with Justice Benjamin again voting in favor of Massey Coal. Once again, two dissenting justices were critical of the majority and questioned Justice Benjamin's refusal to step aside.

### Caperton's Petition to the United States Supreme Court

Based on Justice Benjamin's refusal to remove himself from this case, Caperton sought review in the United States Supreme Court through a petition for writ of certiorari. These petitions are requests for the High Court to review cases from other American appellate courts that raise issues of federal law. The writ is "discretionary," which means that the United States Supreme Court has the choice of whether to review the case.

In Caperton, the Court accepted the case for review and chose to decide "whether the Due Process Clause of the Fourteenth Amendment was violated when [Justice Benjamin] . . . denied a recusal motion" that was based on his financial support by a party in litigation.



## **Issue**

Is the Due Process Clause of the Fourteenth Amendment violated when a judge denies a motion to recuse himself from a case where the motion is based upon the extraordinary financial support that the judge received from the opposing party during his election campaign?