

Miller v. Trapp

Model answer: the outline, then the demand letter and the damages memo (annotated)

Two work products. Read the colors as in your marked-up File and Library: each highlight is the rule, element, or fact in play, and the same color links a rule to the fact that satisfies it.

Key: a highlighted phrase is the rule or fact; **the teal → text** after it is the shorthand takeaway (what it proves).

assault battery intent / motive consent Leffler's defenses compensatory punitive comparator cases

STEP ONE The outline (what you jot before you write)

Two claims, then two damage buckets, then the numbers. Note the authority by each rule.

Claim 1: assault

- A** *Brown v. Orr*: intend an imminent apprehension + Miller had a well-founded fear of an imminent battery; words + acts. → **assault**
- › Intent: 'beat the hell out of you' + raised his arm. → **intended the apprehension**
 - › Fear: she just saw him punch Pender + shove journalists; knows his assault record (Peel). → **well-founded**

Claim 2: battery

- B** *Horton; Polk*: intend the contact (not the harm) + a harmful/offensive contact results; object-contact counts. → **battery**
- › Grabbed the phone in her hand (Polk) + dislocated her shoulder. → **offensive + harmful**
 - › No consent to a forceful phone-grab. Rebut Leffler: accidental / jostling / no intent to harm. → **all fail**

Damages: compensatory then punitive

- C** **Compensatory** (mandatory, Polk): medical \$5,000 + wages \$100 + phone \$500; pain & suffering sized by *Little/Cook* + 3x-5x ratio. → **~\$25,600**
- P** **Punitive** (Polk): outrageous, evil motive; factors = act + harm + wealth; compare *Cook* \$300k, cap at Campbell 9x. → **~\$200,000**

STEP TWO The demand letter (persuasive, the firm's seven parts)

A persuasive letter to Trapp's lawyer following the firm's guidelines. Essay left, teaching notes right. Amounts left blank for the partner.

Stuart, Parks & Howard LLC · 1500 Clark Street · Franklin City, Franklin
33007

March 8, 2016

Letter frame. Business-letter frame: firm letterhead, date, addressee, a Re line naming the claims, and the greeting.

Saul Leffler, Esq., Counsel for Steve Trapp

Re: Claims of Katie Miller against Steve Trapp for Assault and Battery

Dear Mr. Leffler:

This firm represents Katie Miller in connection with the injuries she suffered at the hands of your client, Steve Trapp, after the Avengers concert on February 9, 2016. We write to demand that Mr. Trapp compensate Ms. Miller for his assault and battery of her, and to invite resolution of these claims before we file suit.

After the concert, Ms. Miller waited backstage with other credentialed journalists to interview your client. As your client left the stage, he punched photographer Nina Pender in the face, smashed her camera, and stormed through the crowd, yelling obscenities and shoving journalists aside.

Reaching Ms. Miller, your client yelled, "Get out of my way, you little punk, or I'll beat the hell out of you," and raised his arm as if to strike her. He then tore the phone from her hand with such force that he dislocated her shoulder, and smashed the phone on the ground. Ms. Miller endured hours of severe pain and required hospital treatment.

I. Mr. Trapp Committed an Assault Against Ms. Miller.

A person commits assault when he acts intending to cause a battery or the imminent apprehension of a battery, and the plaintiff is thereby put in well-founded apprehension of an imminent battery. *Brown v. Orr*. Although words alone are not enough, words combined with conduct can create a well-founded fear. *Holmes v. Nash*. Your client intended to place Ms. Miller in fear: he threatened to "beat the hell" out of her and raised his arm as if to hit her. Her fear was well-founded. She had just watched him punch Ms. Pender and shove other journalists, and she knew of his prior assault and battery conviction. As in *Brown*, where a shaken finger and the threat to "take [her] down anytime, anywhere" sufficed, your client's threat and raised arm created a jury question of assault, here on far stronger facts.

II. Mr. Trapp Committed a Battery Against Ms. Miller.

A person commits battery when he acts intending to cause a contact, and a harmful or offensive contact results; he need only intend the contact, not the harm. *Horton v. Suzuki*. Contact with an object so connected with the body as to be regarded as part of the person is a battery, even without touching the body. *Polk v. Eugene*. Your client intentionally seized the phone in Ms. Miller's hand and, in doing so, dislocated her shoulder. The contact was

***Represent + purpose.** Parts 1 and 2: state that we represent Miller, and the purpose of the letter (demand + invite settlement).*

***Persuasive facts.** Part 3: a succinct but persuasive statement of facts. Lead with Pender and the rampage so the threat to Miller reads as real.*

***Heading.** Part 4 begins: the assault claim, stated as a persuasive heading.*

***Argue assault.** Assault. Split the two elements (intent + well-founded fear); analogize *Brown* and *Holmes*; use the Pender attack and the record as fear-builders.*

***Heading.** The battery claim heading.*

***Argue battery.** Battery. State the intent-the-contact rule and the Polk object-contact rule, then apply both. Fold consent in here.*

offensive, because the phone was part of her person, and harmful, because it injured her. Ms. Miller **did not consent**: attending a concert and seeking an interview is not consent to having one's phone wrenched away.

Your stated defenses do not withstand scrutiny. That your client was "exhausted" or does not "recall" touching her is no defense; he **grabbed the phone deliberately**. Consent to "jostling" by attending a concert does not extend to a forceful phone-grab that dislocates a shoulder. And your argument that he **"did not intend to harm" her is legally irrelevant**: under Horton, it is enough that he intended the contact.

III. Ms. Miller Is Entitled to Compensatory and Punitive Damages.

Because your client is liable for assault and battery, Ms. Miller is entitled to **compensatory damages, which are mandatory once liability is found**. Polk. These include her **medical expenses, lost wages, the cost of her destroyed phone, and pain and suffering, both her physical pain and her mental suffering, insult, and fright**. Horton. Ms. Miller is also entitled to **punitive damages, which are available for outrageous conduct reflecting an evil motive or reckless indifference to the rights of others**. Polk. Your client's **threats, his violent rampage through the crowd, and his wealth** all support a substantial award.

We therefore demand that Mr. Trapp pay Ms. Miller \$_____ in **compensatory damages** and \$_____ in **punitive damages**. **Please respond within fourteen (14) days of the date of this letter**. If we do not hear from you by then, we will file suit against Mr. Trapp for assault and battery, seeking these damages, costs, and any further relief the court deems proper. Such litigation would expose your client to a public trial and the attendant publicity.

Very truly yours, Timothy Howard, Stuart, Parks & Howard LLC

Refute defenses. Rebut Leffler's three defenses head-on: accidental/exhausted, consent to jostling, and no-intent-to-harm.

Heading. The damages section of the letter (eligibility only, amounts blank).

Damages eligibility. Damages, eligibility only. Name each compensatory category and the punitive standard; the specific numbers go in the memo, not here.

Demand, deadline, consequences. Parts 5-7: the blank demand, a firm 14-day deadline, and the consequences (suit + publicity, which Trapp wants to avoid). Sign for the partner.

STEP THREE The damages memo (objective, category by category with numbers)

An objective memo to the partner recommending specific amounts, using the Library cases and the jury-verdict summaries.

MEMORANDUM

To: Timothy Howard, Partner From: Associate

Memo frame. Internal memo frame. Objective in tone, unlike the letter.

Date: March 8, 2016

Re: Recommended damages amounts, Katie Miller matter

Below are the amounts I recommend we insert in the demand letter, with my reasoning. I estimate a realistic recovery of roughly \$25,600 in compensatory damages and about \$200,000 in punitive damages.

1. Compensatory Damages: about \$25,600.

Three categories are fixed by the record: \$5,000 in medical expenses for her hospital bills, \$100 in lost wages for the week she missed at the school cafeteria, and \$500 to replace the phone your client destroyed. These are documented and should be requested in full.

For pain and suffering, there is no fixed formula (Horton), so I sized it two ways. First, by comparison: Ms. Miller's dislocated shoulder and public humiliation closely track *Little v. Franklin Chargers*, where a dislocated shoulder and humiliation before a crowd drew \$40,000, and *Cook*, where a broken arm and verbal abuse drew \$50,000. Her injuries are far less severe than the \$400,000 stabbing in *Alma*, but well above the \$1,000 in *Polk*. Second, by ratio: pain-and-suffering awards here run three to five times medical expenses; at \$5,000 in medical bills, that yields \$15,000 to \$25,000. Both methods point to about \$20,000.

2. Punitive Damages: about \$200,000.

Punitive damages turn on the character of the act, the harm, and the defendant's wealth. *Polk*. Your client's conduct was outrageous: he threatened Ms. Miller, rampaged through the crowd, and injured her, showing evil motive and reckless indifference. The harm was real but moderate. His wealth is substantial, reflected in a 15-bedroom home in Xanadu and an award-winning album, which supports a larger award. The closest verdict is *Cook*, where similar yelling and minor violence drew \$300,000 in punitive damages; Ms. Miller's facts are comparable, and your client is likely wealthier. The award should fall below the \$1,000,000 in *Alma*, whose stabbing was far worse.

One limit controls the ceiling. Under *State Farm v. Campbell*, punitive damages should not exceed roughly nine times compensatory damages. With about \$25,600 in compensatory damages, the ceiling is about \$230,400. I therefore recommend \$200,000 in punitive damages, close to *Cook*, justified by Mr. Trapp's greater wealth, and safely within the *Campbell*

Bottom line. Open with the bottom line so the partner can scan it.

Heading. Compensatory total heading.

Fixed categories. The easy numbers: medical, wages, phone. Documented, so request them in full.

Size P&S two ways. Pain & suffering, shown BOTH ways: comparators (*Little/Cook*, bounded by *Alma* above and *Polk* below) and the 3x-5x multiplier. Converge on ~\$20,000.

Heading. Punitive total heading.

Punitive factors. Punitive: march the three *Polk* factors; anchor on *Cook* (\$300k) for character, bounded below *Alma* (\$1M).

Campbell ceiling. Apply the *Campbell* single-digit cap: $9 \times \$25,600 = \$230,400$. Recommend \$200,000, near *Cook* and under the cap.

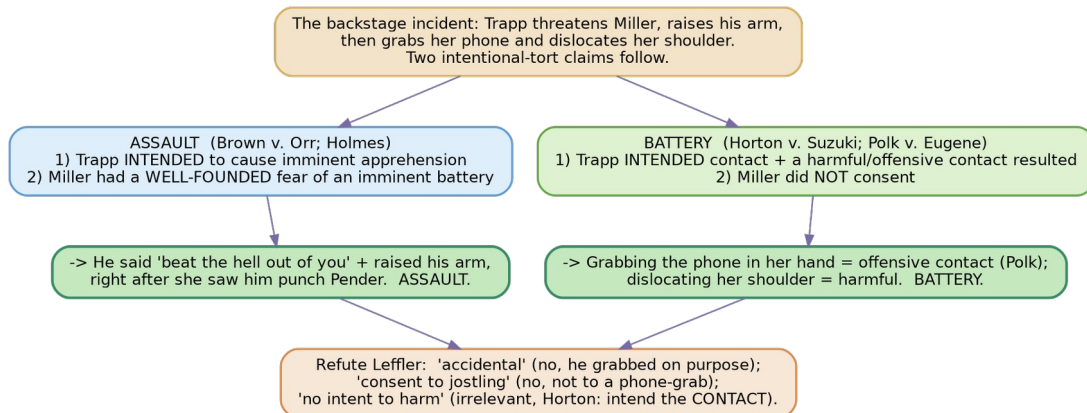
ratio (about 7.8 to 1).

In sum, I recommend requesting \$25,600 in compensatory damages (\$5,000 + \$100 + \$500 + \$20,000) and \$200,000 in punitive damages, for a total of about \$225,600.

Total. Close with the full tally the partner will drop into the letter.

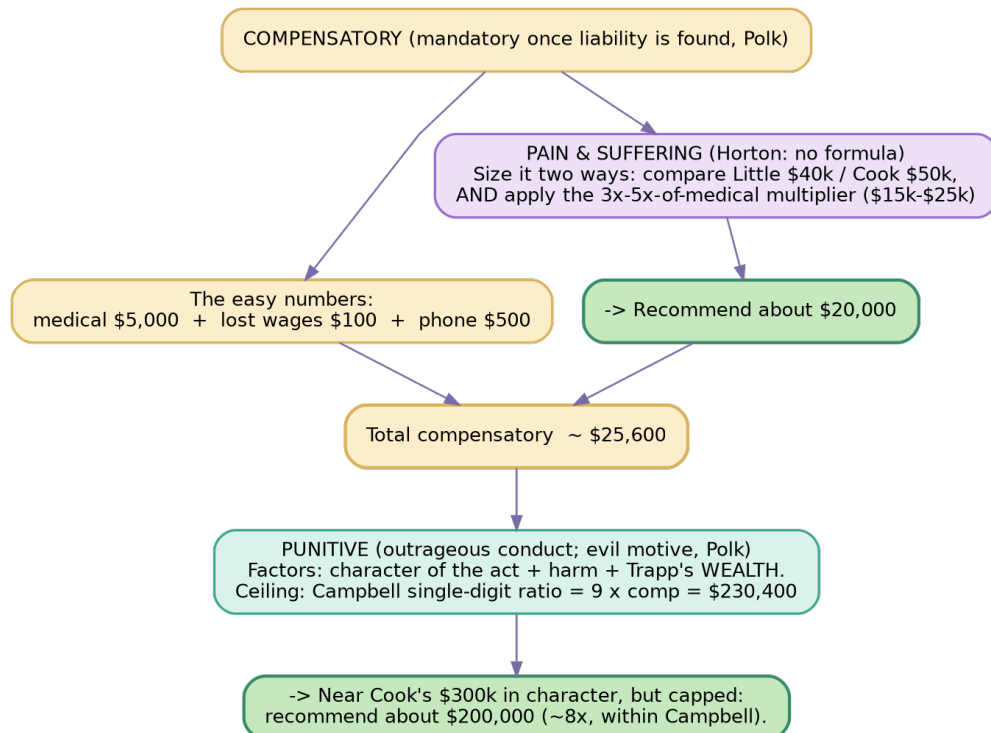
AT A GLANCE The two claims and the damages ladder

Two claims from one incident



Prove assault and battery, and Leffler's three defenses fail.

Sizing the damages



Fix the easy numbers, size pain-and-suffering two ways, then set punitive near Cook but under the Campbell ceiling.