

# *Mock Sexual Assault Trial*

**Characters:** Judge  
Assistant District Attorney  
Defense Attorney  
Sexual Assault Nurse Examiner  
Officer:  
Melissa Stanton, Victim  
Joe Richards, Defendant  
Stacey Saunders, State Witness and Victim's Best Friend  
Mark Sanchez, Defense Witness

## **OPENING STATEMENT-**

May it please the Court, defense counsel, members of the jury. My name is [INSERT NAME], and I am the Assistant District Attorney here in [INSERT COUNTY] County.

The reason we are here today is because the defendant, Joe Richards (turns and points to the defendant), on September 25, 2005, committed the crime of third degree sexual assault when he engaged in sexual intercourse with the victim, Melissa Stanton, without her consent. This means that the state must prove both that sexual intercourse occurred and that it occurred without consent. Nobody is contesting the fact that sexual intercourse occurred. And I am going to show you through the evidence that Ms. Stanton did not give consent in the early morning hours of September 25, 2005. Consent requires overt words or actions indicating freely given agreement to engage in sexual intercourse. Ms. Stanton gave no such consent. She woke up with Joe Richardson top of her. She struggled against him and told him to stop. He didn't. He raped her.

I am going to show you through the evidence that Joe is a wolf in sheep's clothing, or should we say a predator in a lab coat. I am going to show you that what at first appearance seems like a drunken misunderstanding is instead an intentional, premeditated act of rape. No, Joe is not the man in the ski mask jumping out of the bushes with a knife. What I am going to show you is that Joe didn't need a knife. His weapon was alcohol and medical knowledge. I am going to show you that Melissa said no—over and over again- and Joe ignored her. Throughout the course of the evening, whenever Melissa said no, to a drink, to a ride home, to coming into her apartment, Joe ignored her. I am also going to show you that when Melissa said no to sex, Joe ignored her again and raped her.

Melissa Stanton is 23 years old. During the day she works full time as support staff at the ABC Telephone Company. At night she attends the Burrows School of Business to further her education. Melissa and her best friend Stacey Saunders went to the Wildlife Club here in [INSERT CITY] on September 24, 2004 to blow off a little steam after a long week. While there, they ran into the defendant, Joe Richards, a new doctor to this community, an anesthesiologist. Joe and Melissa hit it off and spent the evening dancing and socializing. I am not going to lie to

you. Melissa was excited to see Joe. She was flirting with Joe. She spent time dancing with Joe. I am also not going to lie to you about Melissa's level of intoxication. She was intoxicated. What I am going to show you is that Joe made sure she was intoxicated.

I will also show you that Joe targeted Melissa because he thought she was vulnerable. He specifically chose Melissa and made sure that when he was ready to rape her, she would be unable to stop him. Let me tell you what Joe did. Joe approached Melissa and her friend Stacey, invited them to a booth, and bought pitchers of beer. Joe probed Melissa, found out she was single and depressed over a recent breakup, and inserted himself next to her at the table. Joe filled Melissa's glass countless times. Against Melissa's wishes, Joe bought her a rum and coke, and ordered a double. Against her wishes, he got her to a shot of tequila. She asked for a glass of water and he brought her another tequila. He wouldn't let her leave until he bought her another rum and coke. She tried to tell him that she was too intoxicated and had to go home. He offered to drive her and she said no. She went outside to walk home. He got all creepy and drove by her three times in his car. The third time, he stopped and rolled the window down. He begged her to let him take her home. She reluctantly agreed but told him he couldn't come up to her apartment. She only agreed when he asked to go to the bathroom. While in the bathroom, he snooped through her cabinets and found out that she was taking Ativan. He is an anaesthesiologist, and he knew that Ativan and alcohol would make Melissa severely impaired. She vomited in the kitchen sink while he was in the bathroom. He poured himself a glass of wine and sat down on the couch. She asked him to leave and he didn't. She vomited again and then he concocted an excuse to stay. She said yes, that he could, but he would have to sleep on the couch. The couch. She went to bed and woke up with her underwear off and Joe Richards on top of her. She told him stop, tried to push him off, but he held her down and told her that he was almost done. He put his arm across her throat and held her down with all of her body weight while he raped her. When he was finished, he got dressed and left. This, ladies and gentleman, is a man who is not a gentleman, but a man who continuously over the course of the night took advantage of a severely intoxicated person and raped her.

You will hear testimony that this encounter was the final culmination of a night of flirting, that Melissa is upset because the defendant rejected her, that she initiated flirting and sexual interaction because Joe is such an eligible bachelor. As you are listening to the defendant's testimony, ask yourself whether this makes sense. I will present evidence to you that Mr. Richards lied about the evening from the start and was caught in multiple lies. From the moment he was interviewed until the trial today, Mr. Richards was caught in multiple lies. He told the law enforcement officer one story. After hearing from the bartender and watching the security camera, however, he is singing a different tune. Melissa has not lied, not once. Her story hasn't changed. Although some of the events of the evening are difficult and embarrassing for her to relay to you, she has done so and you have no reason to doubt her.

Finally, I'd like to remind you to think about the fact that the defendant is a doctor. He specializes in anesthesiology. If Melissa Stanton came to the hospital in the early morning hours of September 25, she could not have given informed consent to a medical procedure. He should have known that Melissa needed help, not rape, in the early morning hours of September 25.

**OPENING STATEMENT—[INSERT NAME], Defense Attorney**

Your Honor (nods toward Judge), Mr. [INSERT NAME OF DA], and members of the jury. I am [INERT NAME] and I represent Joe Richards. Let me begin by informing you that Mr. Richards is completely and totally innocent of the crime with which he is charged. As jurors, you must understand that at this time Mr. Richards is merely accused, and accused does not mean guilty. The one and only thing that the State told you that was true is that the State must prove BEYOND A REASONABLE DOUBT that Mr. Richards committed the crime with which he is charged. The rest of the State's story is just that – a story based on nothing more than the accusations of a jilted young lady.

Melissa was, in fact, very interested and very much attracted to Mr. Richards. You see, Mr. Richards is a single and successful anesthesiologist in a lucrative career. Frankly, he is the most eligible bachelor in the [INSERT NAME OF TOWN]. Ms. Stanton recognized this and was interested in Mr. Richards. She admits this. She admits to talking to her friend Stacey about Mr. Richards. She admits that she knew who he was by reputation even before she began speaking with him at the bar. When she got to the Wildlife club, she made certain that Mr. Richards noticed her. She asked the bartender about him, in fact. She flirted shamelessly with him and made sure that he knew she was single and looking for a good time. She and Stacey agreed to go to a booth where they could talk more intimately. She turned down a ride home from her friend Stacey and then slow-danced, drank, and made out with Mr. Richards at the Club. You will hear testimony about the escalating sexual tension between the two of them that led to the consensual sexual intercourse. You will hear about how Ms. Stanton accepted drink after drink after drink from Mr. Richards. You will hear how she left the bar with Mr. Richards.

Then you will hear about what happened when they got to her apartment. They had been flirting all night. Yes, Mr. Richards went into the bathroom for a long time. He wanted to get some Advil. He looked through her medicine cabinet for some Advil. Yes, when he was there, he saw that she was taking Ativan. He isn't the guy that the prosecution is making him out to be. He came out of the bathroom and when he saw that Ms. Stanton had vomited, he asked her if she wanted a glass of water. She went in the bathroom and brushed her teeth. Then she came out and started to make out with Mr. Richards. The defense acts like it is preposterous that she wanted to make out with Mr. Richards after she vomited. I ask you to consider whether Ms. Stanton may have felt better after vomiting and started to make out with Mr. Richards, and then moved to the bedroom. You will hear from Mr. Richards that Ms. Stanton pursued the sexual activity. You will hear that at every juncture, she pursued increased physicality. She wanted to dance with Mr. Richards. She wanted to slow dance. She wanted to kiss him. She led him toward the bedroom, and then she initiated sexual activity with him. They had consensual sex. Only after he told her that he didn't want to spend the night did she come up with this story about rape. There is no evidence that she wasn't capable of giving consent. There is no evidence that she suffered the kind of impairment that would lead a person to believe that she didn't know what was going on around her. She was intoxicated, yes, but she remembers all of the evening. She remembers kissing Mr. Richards at the bar and at home. She acts like Mr. Richards forced the alcohol down her throat. This couldn't be farther from the truth. She may have felt intoxicated, but by all accounts, she was having a good time and understood the decisions she was making.

Once you hear the testimony, you will know that Ms. Stanton was not only a willing participant in the sexual intercourse, she initiated a great deal of the sexual activity and was eager to engage in sexual intercourse. Afterwards, when Mr. Richards declined to pursue a relationship with Ms. Stanton, she became worried. Angry and embarrassed, she concocted this preposterous story in an effort to punish Mr. Richards for his lack of interest. Yes, Mr. Richards may not have wanted a long term relationship with Melissa. Yes, you might not think he's a gentleman for pursuing an affair with an attractive young woman. But you cannot punish Mr. Richards for pursuing a one night stand with someone who, at the time of the intercourse, seemed not only willing, but eager to have sex. She may be embarrassed now, but you can't punish Mr. Richards for that.

The prosecution wants you to believe that Ms. Stanton was so drunk she couldn't possibly have still been attracted to Mr. Richards. She asks you to think about how you feel when you are intoxicated. I ask you this: how many of you are sexually attracted to others when you are intoxicated? I think we all know the answer to that. We all know about beer goggles. Ms. Stanton may regret what she did, Mr. Richards shouldn't be held criminally responsible for a fling both parties were happy to engage in. Finally, I want to make clear that Mr. Richards will put forth a defense even though he is not obligated to do so. The complete and total burden is on the State. The State's evidence is weak at best and not enough to meet their burden of proof. I am certain that you will find that what I am telling you is true and you will find Mr. Richards is not guilty. Thank you.

#### **THE STATE PRESENTS ITS CASE**

**Judge.** Mr.[INSERT DA NAME], you may call your first witness.

**ADA.** The State calls Melissa Stanton to the stand. Good morning Ms. Stanton. Could you please tell the court your name, address, and age?

**MELISSA.** Melissa Stanton, 201 Oak Street, [INSERT CITY], Wisconsin. I'm 23 years old.

**ADA.** Are you currently employed?

**M.** Yes, I've been working at the ABC Phone Company for five years.

**ADA.** What is your educational background?

**M.** I graduated from North High School five years ago. Last year I enrolled in the Burrows School of Business where I currently attend night classes.

**ADA.** How are your grades at school?

**M.** Oh, they are mostly B's, but a few A's as well.

**ADA.** Miss Stanton, do you know Joseph Richards, the defendant?

**M.** Yes, I do.

ADA. How do you know Joseph Richards?

M. I met him at the Wildlife Club on September 24, 2005.

ADA. Outside of this evening, have you ever had any other interaction with the defendant?

M. No. I may have seen him at the Wildlife Club a couple of times before September, but I never talked to him before this night.

ADA. Tell me about that night.

M. My girlfriend Stacy Saunders and I had gone to the club for an evening out. I met Stacey at the club at around 9:30. We went up and took seats at the bar. We were kind of checking out the room, you know, and I noticed Joe and his friend. Stacey told me that she had heard that he was a new doctor in town. We talked about how cute we thought he was. He kept looking over at us and we kept looking at him. It was kind of fun then.

ADA. What happened next?

M. Well, they came up to us and introduced themselves. We chatted for a few minutes and then they suggested that we go sit at a booth together. We went to the booth. Joe bought us a pitcher.

ADA. Where were you seated?

M. I was next to Stacey and Joe was next to Mark on the other side of the booth.

ADA. How much beer did you consume that evening?

M. I'm not really sure. Joe kept filling my glass up. Sometimes, it wasn't completely empty when he filled it, so I don't really know. I just remember that he kept filling it up. It seemed that every time we would come back from the dance floor, or I went to the bathroom, or I turned to talk to Stacey, Joe would fill my glass up.

ADA. Did you have a conversation when you first sat down?

M. Yeah, Joe wanted to know if either of us had boyfriends. I said that my boyfriend of two years had just dumped me for someone else but that I was doing fine and ready to move on.

ADA. What happened next?

M. Well, then Stacey went to the bathroom. Joe got up and asked me if I wanted another drink. I told him I was still drinking my beer. He went to the bar anyway and came back with a rum and coke. He put it in front of me and sat down next to me.

ADA. Did you drink it?

M. Well, I didn't want to, but I thought it would be rude, so I did.

ADA. What happened next?

M. So then I was getting along really well with Joe. He kept telling me how great I looked and how much he liked my dress. He asked me more about my ex. At first I thought it was weird that he was asking me so many questions about my ex, but then he told me that he'd been cheated on, too. I told him that I had been a little depressed and was seeing a therapist, but that I was trying not to dwell on it. He seemed so understanding. We kept dancing and talking.

ADA. What next?

M. Well, at about 11:00, Stacey started to look kind of bored and told me that she was going to go home. She asked me if I was OK to go home myself, because she thought I looked tipsy. I told her I was fine and that I only lived a few blocks away, I could always walk. Joe said that he would make sure I got home OK. Mark left right after that.

ADA. Did you drink any more that night?

M. Yeah. After Stacey left, Joe told me that we had to celebrate my new freedom from my ex-boyfriend and bought shots of tequila. I told him I didn't want it, but he put it in my hand. He told me it was rude to decline a toast. I drank it and it tasted horrible. About 20 minutes later, he asked me to dance to a slow song. I told him that I was feeling too drunk to dance. He told me he'd help me. He put his arms around me on the dance floor and kissed me a couple of times while we were dancing.

ADA. Was that your last drink?

M. No, after we were done with the slow song, he asked if I was thirsty. I told him I needed some water. He came back with two more shots. I told him I didn't want any more shots, that I wasn't used to doing shots and that we needed to stop. He told me that this would be the last shot.

ADA. Was that your last drink?

M. No, after that, we talked for a while and then I told him I wasn't feeling well and I needed to go home. He said OK, but only after we had another rum and coke. I told him that I didn't think that was a good idea, but he ordered it anyway. I drank only a little of it before I told him that I couldn't stay any longer.

ADA. So did you go home?

M. I did. He came outside with me and he told me he wanted to drive me home. I told him I was fine by myself. I felt like I might get sick and I didn't want him to see me that way. He walked toward the parking lot and I walked toward my house.

ADA. And what time did you leave the Wildlife Club?

M. At about 1:00 in the morning.

ADA. Did you see him again?

M. Well, I started walking home and I saw the same car drive by me twice. Then the car drove by a third time and rolled down its window. It was Joe and he told me that he couldn't live with himself if something happened to me. I told him that I didn't know if I'd make it home without puking and he said just to tell him to pull over if I needed to. I was feeling horrible and just wanted to be home so I got in the car with him.

ADA. What happened when you got back to the apartment?

M. Joe parked the car in front of my apartment building and I thanked him. He asked if he could come up. I told him that I just didn't feel well and I hoped he wouldn't think it was terrible that I was so drunk, but that I'd really like to see him some other time. He told me that he needed to use the bathroom and couldn't he come inside. I said sure.

ADA. Then what?

M. We went upstairs and I fumbled around with my keys until Joe took them and opened my apartment door for me. I sat on the couch while he went in the bathroom.

ADA. How long was the defendant in the bathroom?

M. A long time, about 10 minutes.

ADA. What did you do when the defendant was in the bathroom?

M. Well, I got sick. My kitchen is kind of open with my living room, so I just ran in there and threw up in the sink. It was terrible, I was really embarrassed.

ADA. What happened when the defendant came back from the bathroom?

M. He told me not to be embarrassed and told me to go clean up in the bathroom. I brushed my teeth, and started to go back to the living room. Before I got to the couch, I felt sick again, and I rushed back to the bathroom and was sick in the toilet. I brushed my teeth again and went back in the living room. When I got there, he had poured himself a glass of wine and turned on the TV.

ADA. What did you do?

M. I told him that I really needed to go to bed and that he really needed to go home.

ADA. And did he go home?

M. No. He asked if he could sleep on the couch. He said that he was worried that he might be pulled over by the cops on the way home and that if he were arrested for drunk driving, he might lose his driver's license. I didn't feel well enough to argue and agreed. He asked for a goodnight kiss and we kissed for a little bit. I stopped him because I felt dizzy and nauseous and told him I had to go. I left him sitting on couch watching TV.

ADA. What did you feel like kissing him?

M. I felt nauseous and embarrassed. I could smell the vomit in the sink and I felt that if I had to smell it any more, I would puke. I could feel bile in my throat. I could smell the wine on his breath and was disgusted by the smell of alcohol.

ADA. Then what happened?

M. I went into my bedroom and lay down on my bed.

ADA. What were you wearing at that point?

M. Just my dress and my underwear. I took off my shoes before I got in bed.

ADA. Then what happened?

M. I thought I would have a hard time falling asleep because when I closed my eyes, I thought the world was spinning. I sort of focused on my clock numbers until I didn't feel dizzy anymore and could fall asleep. The next thing I remember, I woke up sometime during the night and he was on top of me.

ADA. Can you explain what you mean by "he was on top of you?"

M. I mean that I didn't have any underwear on any more and he didn't have his pants or underwear on either and he was, you know, on top of me.

ADA. Was he having intercourse with you?

M. Not yet. He was kind of moving me around. He must have taken my underwear off.

ADA. What were you wearing then?

M. I was still wearing my dress but it was pushed up around my waist and I no longer had any underwear on. (crying).

ADA. What did you do?

M. I pushed against him and told him to stop. I tried to push on his chest with my hands.

ADA. What did you feel?

M. I was completely horrified. It was like he was a different person. I felt so violated. He pushed himself inside of me. He wouldn't stop. He told me to relax, that he was almost done. I started to cry. He held me down with his arm and put his whole weight against me.

ADA. When you say he held you down with his arm, can you tell me what you mean by that?

M. He had his arm here (shows his arm across her throat). His body was completely covering mine.

ADA. And how did that feel?

M. I couldn't breathe. I felt like I was gasping for breath. I felt like his arm was super heavy, like I had one of those lead vests from the dentist's office across my neck. I felt suffocated by his arm and his body. I began to just pray that it would be over.

ADA. Melissa, I know this is hard, but could you tell us what happened then?

M. I didn't know what to do. I couldn't believe something like this could happen to me. I wanted to scream. I wanted to cry. I felt like I couldn't breathe. I was so upset. Finally, he finished and got up off of me. He put on his pants and told me he'd see me later and he left my house.

ADA. When you say finished, what do you mean?

M. I mean that he came inside of me (crying harder).

ADA. Do you remember what time it was?

M. Yeah, I remember thinking that I didn't know what to do and I thought about calling Stacey, but then I noticed that it was 2:30 in the morning, so I thought I shouldn't call her.

ADA. What do you remember next?

M. I cried and cried and cried. It seemed like I just lay there frozen for hours crying. I must have fallen asleep because when I woke up, it was light out. I felt so dirty and disgusting and I didn't know what to do. I called in sick to work and went back to bed. Maybe an hour later, Stacey called to find out what had happened to me. I told her what happened. Stacey came right over. She told me I should go to the hospital or call the police. I didn't know what to do, because I didn't want this to get out. I didn't want everyone to know. I felt ashamed. I told her that I didn't want to call the police because I thought it was my fault for letting him sleep over, and I didn't want my parents to hear about it.

Stacey remembered that an advocate from the rape crisis center here in [INSERT TOWN] had talked to everyone at Burrows and said that we could call their crisis line anytime. I still had the card in my drawer and I called the crisis line and talked to an advocate.

I talked to her and decided that I should go to the hospital and get examined for diseases and stuff and to make sure I was OK. The advocate said she would meet me at the hospital.

ADA. And did you go to the hospital?

M. Yes. Stacey brought me and the police came and talked to me for a while and then the nurse did the exam.

ADA. What time did you get to the hospital?

M. At about 11:00 a.m. Stacey drove me.

ADA. Miss Stanton, is Joseph Richards in the courtroom today?

M. He is. He is in the blue suit sitting next to the man in the gray suit.

ADA. Let the record reflect that the victim has identified the defendant Joseph Richards.

Judge. So noted.

ADA. I have no further questions.

#### **CROSS EXAMINATION OF MELISSA STANTON**

Defense attorney (Def.). Miss Stanton, my name is [INSERT NAME], and I represent Joe Richards. I understand that you are under a great deal of stress, so I will be as brief as possible. How long have you known Mr. Richards?

M. Just since September.

Def. But you knew who he was before that?

M. Yes, he had started coming to the Wildlife Club over the summer. I guess he had moved here then.

Def. And you knew he was a doctor.

M. Well, I knew that a new doctor had come to town, everyone was talking about how cute he was. Stacey told me that night that it was him.

Def. And you liked him?

M. Yes.

Def. Would you even say you were interested in him?

M. Yes.

Def. Flirting with him?

M. Yes.

Def. And you thought him a friendly and personable gentleman?

M. Well, he seemed like a nice guy. Stacey's friend Teresa told her he was a nice guy.

ADA. Objection, hearsay.

Judge. Sustained. Ms. Stanton, please don't tell us what other people may have said. Only tell us what you know yourself to be true.

M. Well, I never had any real conversation with Joe Richards before that night.

Def. Ms. Stanton, you kind of had a crush on Mr. Richards, didn't you?

M. I guess so.

Def. Now that's OK, Ms. Stanton, there's no crime in that. So didn't you talk about how cute Mr. Richards was with Stacey that night at the Wildlife?

M. (stuttering) Well. . . ummm. Yes. .

Def. Did you ask the bartender about him?

M. It's not like that, I just told Stacey I was kind of curious about whether he had a girlfriend.

Def. But you did ask the bartender if the bartender knew whether he had a girlfriend?

M. Yes.

Def. And didn't you tell Stacey in front of the bartender that you hoped he and his friend would come over to you and that he would be a great catch if you could get him to like you.

M. Ummm. I . . .

Def. And you told Stacey when they started walking over that it looked like it was going to be a fun night?

ADA. Objection. Your Honor, defense counsel isn't letting the witness answer.

Judge. Sustained. Attorney [INSERT NAME], please let the witness answer the question before you ask another.

Def. I apologize, your Honor. Ms. Stanton, do you recall telling Stacey Saunders at the Wildlife Club that the most eligible bachelor in all of [INSERT TOWN] was coming over to talk to you?

M. Well, yeah, something like that.

Def. Well, there's nothing wrong with that. Let me just ask you this. What do you mean by "most eligible bachelor?" Single? Good-looking? Successful?

ADA. Objection, your Honor.

Judge. I'll allow it. The witness may answer the question.

M. I'm not sure . . .

Def. Ms. Stanton, please tell the court what you meant when you said that Mr. Richards was ABC's "most eligible bachelor"?

M. Well, I guess I meant he was good-looking.

Def. Does 'most eligible bachelor' also mean successful?

M. I guess.

Def. A good catch, right?

M. Mm-hmmm.

Def. So, Ms. Stanton, you thought Mr. Richards, as a 'most eligible bachelor' was a single, good-looking, successful, man— a good catch? Right?

ADA. Objection. Badgering the witness.

Judge. Move on Attorney [INSERT NAME].

Def. And you accepted his offer to share a table, did you not?

M. Well, I guess so.

Def. And when Joe said he would take you home, you told Stacey that you were really excited because you thought he liked you?

M. Well, yes, but that was before. . .

Def. And it is your testimony that Mr. Richards kept filling your beer glass with beer?

M. Yes.

Def. Did you ever tell Mr. Richards to stop filling your glass?

M. No.

Def. You stated that you didn't want the first rum and coke. Did you tell Mr. Richards that?

M. No.

Def. And you say you told him that you didn't want a shot of tequila?

M. Yes.

Def. But you did drink it, did you not?

M. Yes.

Def. Did Mr. Richards pour it down your throat?

M. No.

Def. So you changed your mind.

M. Well, not really, no, I mean. . . I just thought it would be rude . . .

Def. But you drank another shot of tequila.

M. I, but I .

Def. Just answer the question.

M. Yes.

Def. And another rum and coke.

M. Yes.

Def. And how intoxicated were you when your friend Stacey left?

M. Well, a little bit, I guess, I mean, I thought I could handle it, I mean, like, I had a buzz going and everything, but . . .

Def. So after Stacey left, you danced with Joe, and made out while you were dancing. Is that correct?

M. It wasn't like that.

Def. But you did kiss him while you were dancing?

M. Well, yes.

Def. Several times?

M. Right.

Def. And you left the bar with him.

M. I guess so.

Def. And then you let him come in your apartment?

M. Yes.

Def. And you told him that, although you were embarrassed to be drunk, you really liked him and wanted to see him again?

M. Yes.

Def. And then he came into the apartment.

M. Yes.

Def. In your apartment, when you kissed Joe, did you do so willingly then?

M. Well, Yes.

Def. Even though you had just vomited?

M. Well, it wasn't like I loved it, but I didn't say no.

Judge. The State may call its next witness.

**Narrator**

The State next called the sexual assault nurse examiner. She explained the sexual assault forensic evidence kit and the collection of evidence process. She testified that the defendant's semen was present in the victim's vagina. She testified that Ms. Stanton's vagina showed some redness consistent with intercourse. She explained that redness was consistent with the patient's reported history of the evening. She testified that the lack of tears on the labia or hymen was medically inconsistent. She explained that human vaginal tissue is extremely resilient and that in many instances, the vagina protects itself against physical trauma by the production of estrogen and other hormones that make the vagina pliant, resilient, and resistant to injury. She also testified that the demeanor of the victim was extremely upset, that she was crying intermittently during the exam. The SANE testified that Ativan combined with alcohol increases its depressant effects and when taken together, can severely impair the patient.

Upon vigorous cross-examination by the defense attorney, the SANE testified that she could not say that the sex was nonconsensual. She testified that her job was not to determine whether a rape occurred, but to determine what injury was present. She testified that although the redness was consistent with the victim's version of events, so too were they consistent with the defendant's version of events, a consensual sexual encounter.

**Narrator:**

The state called its next witness, Officer [INSERT NAME HERE]

Officer [INSERT NAME] stated that he interviewed the victim at the hospital. He testified that the victim was shaking, intermittently crying, and her eyes were puffy. He testified that she was very nervous about her parents hearing anything and kept saying that she never should have let him in and that she couldn't believe that he had done this to her. The officer's testimony about Melissa's account of the events of the evening almost exactly mirrored the previous testimony of the victim. Officer [INSERT NAME] testified that he asked the victim's permission to obtain her bedding and go into her apartment. When he entered, he could still smell vomit in the kitchen sink and he took the bedclothes and the wine glass as evidence. Only one wine glass was used and most of the bottle of wine was still in the bottle on the counter. Officer [INSERT NAME] testified that he interviewed Mr. Richards at home that evening. He testified that Mr. Richards was angry at first and kept saying things like "she wanted me." She was the one who wanted me. Some girl goes after a rich doctor and gets burned and then cries rape. I can't believe this." He said that maybe she was making this up because she was "unstable." When the officer asked him why he would say that, he said that he had noticed Ativan in her bathroom vanity. Mr. Richards provided the following account of the events to the police. He stated that he had spent the evening drinking, talking, and dancing with Ms. Stanton and then gone back to her apartment, where they flirted, shared a bottle of wine and had sex. He said that in the apartment, she kept running her hand up and down his chest under his shirt. He said that it got hot and heavy and that they went in the bedroom and engaged in consensual sex. He said that he had enjoyed the evening and she did, too. He said that when he left in the morning, she asked him if she would see him that night, and he said no. He said that when she asked if she would see him that weekend, he said no and that he didn't think she was looking for a relationship. He said that she then got really upset and almost became hysterical, claiming that he had "used her."

When asked how much he had to drink, the defendant said he had an unknown number of beers, probably two or three, and then had two rum and cokes and two shots of tequila, just like the victim. When asked how many times he drove by the club before picking up the victim, he said once. When asked whether the victim was sick, he stated that she was not. When the officer told him that he could still smell vomit in the living room, he said that "yeah, maybe she got a little sick." He then said he thought she felt better after throwing up. When asked what time he left in the morning, he said he got home at 8:05, so he must have left her apartment at about 8:00 a.m.

Officer [INSERT NAME] stated that he interviewed the bartender.

**Narrator**

The State next called the bartender as a witness. The bartender testified to the following information: Melissa Stanton came to the bar at around 9:30 with Ms. Saunders and sat at the bar. Melissa asked the bartender if Mr. Richards was single and the bartender told her that he

was the new doctor in town and that as far as he knew, Mr. Richards was single. The bartender testified that Melissa and Stacey went to sit at a table with Mr. Richards. The Bartender testified that Mr. Richards purchased a double rum and coke and asked the bartender to “make it strong.” He testified that Mr. Richards next purchased two shots of tequila, then two more. He testified that when Mr. Richards purchased the last double rum and coke, he made some sort of Master Card joke and then made a comment to the bartender that the last shot of alcohol: “would put her just where you wanted her.” He testified that he saw Melissa do the second shot of tequila and was surprised to find a shot of tequila left on the table when he cleaned up for the night. He said that he had watched the security tape from the night that recorded the area right in front of the club and it showed Melissa leave the building, leave the foyer immediately, and turn right to and start walking down the street. He testified net that the security tape showed Mr. Richard’s car drive by the front door three times in the next 10 minutes, each time driving toward the direction that Melissa had walked.

Judge. Any other witnesses for the State?

ADA. No, your Honor.

Judge. Very well, Mr.[INSERT NAME], the defense may proceed.

Def. Thank you. The defense calls Mr. Richards to the stand.

Def. Mr. Richards, please state your name and address for the record.

Joe. Joseph Richards, 527 Lowe Street, [INSERT TOWN NAME], Wisconsin

Def. Mr. Richards, what is your education and where are you employed?

Joe. I received my B.A. from [INSERT COLLEGE NAME] in 1991. I received my M.D. from the University of Wisconsin in 1995.

Def. Mr. Richards, do you know the alleged victim, Ms. Stanton?

Joe. Yes, I do. I first noticed Ms. Stanton at the Wildlife Club. She and her friend were at the bar and they kept looking over at me and my friend Mark and laughing and giggling.

Def. Tell us about that.

Joe. My friend, Mark Sanchez, and I had met at the club around 8:30 p.m. Melissa and her friend came in at about 9:30. They seemed like really cool girls. We asked if they wanted to sit down at a table, and they did. I bought a pitcher of beer for the table, and we sort of hung out.

Def. What happened next?

Joe. Well, we were talking and Melissa told us that her boyfriend had cheated on her and left her. She went on and on about it, it was kind of weird. She told us all about her therapy and stuff.

Def. Did you ask her about her therapy?

Joe. No, I asked her how she was doing after the break up and she, like, couldn't stop talking about it. She kept saying that she was ready to move on and was out to have a good time and get over him.

Def. Then what happened?

Joe. Well, then it was obvious how much she was flirting with me, and I thought she was kind of cute and, well, to tell you the truth, I thought she might be looking for a little rebound relationship, you know what I mean, to get over her boyfriend.

Def. So you flirted with her?

Joe. Well, yeah. I bought her a couple of drinks and danced with her and stuff.

Def. Did she say she didn't want the drinks?

Joe. Well, she at first said that she didn't want to get too drunk, but then she kept throwing them back. When we hit the dance floor, a blind man would have been able to tell she was into me. She couldn't keep her hands off of me. During the fast music she would rub her body against mine. She was pressing her hips against me, too.

Def. So can you tell me what drinks you had besides the beer?

Joe. Yeah. We were ordering pitchers of beer. I didn't keep track of how many pitchers we ordered. Sometimes I would get a pitcher, sometimes Mark would. I think that I had about three or four beers. Then I ordered some rum and cokes and a couple rounds of shots of tequila.

Def. What time did Stacey leave?

Joe. Probably about 11:30 a.m. Ms. Stanton and I were getting along great. She told Stacey to go ahead and go. Ms. Stanton asked me if I wouldn't mind taking her home. I told her sure and told Stacey that I wasn't drunk and that I could bring Melissa home.

Def. What happened after that?

Joe. Well, we danced and talked some more. Melissa had a couple of more drinks. We both did a shot of tequila to celebrate her finally being over her boyfriend. I mostly drank beer, but she seemed to want to really let loose. Finally, she told me she thought we should go.

Def. Was she intoxicated at that point?

Joe. I'm not going to lie. She seemed a little tipsy, but she also seemed totally aware of what was going on and I'm telling you, she wanted me to come home with her. She had one more drink for the road and then we left.

Def. And did she tell you that she didn't want to drink?

Joe. Well, she was being a little coy at first, talking about how she didn't want to get too drunk, but as soon as she started dancing and having a good time, she got really into it and was drinking a lot.

Def. So what happened when you left the bar?

Joe. We left the dance floor and headed out to the car. I had my arm around her and she was pressing her body into mine. I told her to stay inside the foyer until I drove up and I would get the car. I did and when I drove up, she wasn't there, so I drove around again, and she still wasn't there. Finally, when I drove up the third time, she came out and got in.

Def. What happened when you got to the apartment?

Joe. She let us in.

Def. Then what happened.

Joe. I went to the bathroom. I kind of had a headache, so I looked for some Advil. I couldn't find any in her medicine cabinet or the little thing of drawers over her toilet or her linen closet. When I came back, she had puked in the sink. She went to the bathroom, and when she got back, I could tell that she had brushed her teeth. I had flipped on the tube and we started talking about late night talk show hosts. We got closer and closer and then we started kissing.

Def. Did you stop kissing at any point?

Joe. No. Things started to get really hot and heavy and Melissa sort of laid down on the couch and pulled me on top of her while she was kissing me. Then she kind of led me to her bedroom, where we fooled around for a while and then had sex.

Def. Did she say stop?

Joe. No.

Def. Did she give you any indication that she wanted you to stop?

Joe. No way. She was totally into it.

Def. How do you know she was totally into it?

Joe. You know, she was like moaning and arching her back and sort of really kissing me hard when I would touch her. She pulled me down on top of her when we were kissing.

Def. What happened next?

Joe. Well, the next morning, when I left, Melissa got all weird on me. She kept asking me when she'd see me next. I mean, we had fun and all, but I wasn't looking for a girlfriend. I started to feel a little pressured. I started worrying that maybe she was more into me than I was into her. I told her how I felt about that, and she got totally hysterical and kept talking about how I'd used her. I had to go to work, so I left to go home and take a shower.

I didn't think anything of it until that night when Officer [INSERT NAME] called me and told me that Melissa was accusing me of raping her. I couldn't believe it. I agreed right away to talk to Officer Maida so I could tell him what had happened. He came right over to the house and I told him everything just like I told you.

Def. Mr. Richards, did you engage in sexual intercourse with Ms. Stanton against her will?

Joe. No way. I didn't have to do anything to Ms. Stanton against her will. She wanted it just as much, if not more, than I did.

Def. No further questions.

### **CROSS EXAMINATION OF JOE RICHARDS**

Judge. Your witness, [INSERT NAME OF DA]

ADA. Mr. Richards, you stated that you gave Ms. Stanton two drinks and two shots of tequila, in addition to buying pitchers all night. Is that correct?

Joe. Yes.

ADA. And when you bought her the first rum and coke, didn't you tell the bartender to make it a double and make it a strong one?

Joe. Well, yeah.

ADA. And did you get a rum and coke?

Joe. No.

ADA. But isn't it true that you told Officer [INSERT NAME] that you also had a rum and coke when you purchased Ms. Stanton a rum and coke?

Joe. Well, yeah, but. .

ADA. So you told Officer Maida that you had a rum and coke with Ms. Stanton but you are now telling the jury that you did not?

Joe. Well, yeah, but. . .

ADA. Just answer the question, Mr. Richards.

Joe. Yes.

ADA. So were you lying when you told the officer you had had a rum and coke or are you lying now?

Joe. Well, no.

ADA. And then you ordered two shots of tequila?

Joe. Yes.

ADA. And you did a shot with her?

Joe. Yes.

ADA. And then you ordered another round of shots?

Joe. Yes.

ADA. And did you do the second shot with her?

Joe. No.

ADA. But you do remember telling Officer [INSERT NAME] that you had a second shot of tequila?

Joe. Yes.

ADA. And you heard the bartender's testimony that he found a full shot of tequila on the table after you left.

Joe. Yes.

ADA. So you told Officer Maida that you had the shot of tequila and now you are telling the jury that you did not. Is that correct?

Joe. Yeah, but. . .

ADA. Again, Mr. Richards, just answer the question.

Joe. Yes.

ADA. So again I must ask you, were you telling the truth then or are you telling the truth now?

Joe. I am telling the truth now.

ADA. So you lied to an officer of the law, is that your testimony?

Joe. I just thought that. . .

ADA. Just answer the question, Mr. Richards.

Joe. Yes.

ADA. And did you order another rum and coke?

Joe. Yes.

ADA. Another double?

Joe. Yes.

ADA. Did you tell Ms. Stanton that the drinks were doubles?

Joe. Well, no.

ADA. And did you drink a rum and coke with her the second time?

Joe. No.

ADA. Do you remember telling Officer [INSERT NAME] that you drank the second rum and coke with Ms. Stanton?

Joe. Yes.

ADA. Again, Mr. Richards, I have to ask: Did you lie to Officer [INSERT NAME]?

Joe. I just didn't . . .

ADA. I would like to show the witness his statement to Officer [INSERT NAME]. (shows Joe piece of paper). Would you read the highlighted statement?

Joe. "The suspect stated that he drank several drinks with the alleged victim. The suspect stated that he had two rum and cokes, and two shots of tequila, in addition to drinking a few beers."

ADA. So did you change your story?

Joe. Well, I guess I just kind of forgot, I don't know.

ADA. So let's get this clear. You ordered two double rum and cokes and two shots of tequila for Ms. Stanton. That's 6 shots of alcohol. In addition, you ordered several pitchers of beer, and filled Ms. Stanton's glass multiple times. Is that correct?

Joe. Yes.

ADA. And you drank a few beers and consumed one shot of tequila. Is that correct?

Joe. Yes.

ADA. And did you not tell the bartender before you ordered the last rum and coke that “Alcohol \$24.95, drunk girl, priceless,” which I am assuming is a joke referring to the Master Card commercial.

Joe. Yes.

ADA. And what did you mean, “drunk girl, priceless.”

Joe. I just meant that she was a party girl.

ADA. But didn’t you also tell the bartender that it looked like the last rum and coke “would put her just where you wanted her?”

Joe. I just meant that she would finally not be thinking about her ex-boyfriend.

ADA. You weren’t intentionally trying to get Ms. Stanton drunk?

Joe. Well, I mean, we were just having a good time.

ADA. And is it your testimony that you did drive around the block three times, the last time stopping to ask Ms. Stanton for a ride home?

Joe. Yes.

ADA. But you in your statement to the officer, you said that you only drove by once.

Joe. Yes.

ADA. And you heard the testimony of the bartender that the security camera outside the bar showed your car driving by three times.

Joe. Yes.

ADA. And how do you explain that?

Joe. Well, she said she’d wait in the foyer and then she wasn’t there, so I kept driving around.

ADA. Were you stalking Ms. Stanton?

Joe. No.

ADA. And in your statement to the police, do you remember telling [OFFICER NAME] that Melissa waited for you in the foyer?

Joe. Yes.

ADA. But the tape showed her leaving and not waiting in the foyer. Did you hear the bartender's testimony about the security tape?

Joe. Yes.

ADA. So did she wait in the foyer or not?

Joe. I guess I don't remember.

ADA. But you were sober enough to offer her a ride home?

Joe. Yes. I don't drive drunk.

ADA. But you felt more intoxicated by the time you asked her if you could stay on the couch because you were worried about being pulled over.

Joe. Well, yes. I mean, I didn't ask her if I could stay on the couch.

ADA. OK. Let's talk about what happened in the apartment. According to your testimony, the victim puked in the sink and you told her not to be embarrassed, to go clean up in the bathroom. Is that correct?

Joe. Yes.

ADA. But you told Officer [INSERT NAME] that she wasn't so drunk that she got sick.

Joe. Well, I guess I forgot.

ADA. So you forgot until Officer [INSERT NAME] told you he could smell vomit in the room? Strike that question.

ADA. And while she was in the bathroom, you got yourself a glass of wine.

Joe. Yes.

ADA. Did you ask her if you could have a glass of wine?

Joe. Well, no.

ADA. But in your statement to Officer [INSERT NAME], did you not tell him that you shared a glass of wine?

Joe. Yes.

ADA. So you lied to the law enforcement officer when you made that statement?

Joe. I guess I forgot.

ADA. And, although you had a headache and couldn't find any Advil, you decided that having a glass of wine after drinking tequila and beer would help your headache?

Joe. I guess I wasn't thinking about it.

ADA. Are you in the practice of opening bottles of wine and taking a glass in other people's houses?

Joe. Well, not really, I just thought, you know, that it might be an occasion.

ADA. You thought there might be an occasion? Surely you could see the vomit in the sink as you were getting a glass out of the cabinet. Did you find that romantic?

Joe. Not really.

ADA. So your testimony is that when she came after the bathroom having puked first into the sink, then running back into the bathroom to puke again, both she and you were in the mood to make out.

Joe. Yes. It seemed like she felt better.

ADA. And you thought that was sexy.

Joe. Well, I wasn't really thinking about it.

ADA. You couldn't smell the vomit?

Joe. No, not really.

ADA. About how far away was the sink from the couch.

Joe. About 8 feet, maybe.

ADA. Eight feet away and you couldn't smell the vomit in the sink?

Joe. No.

ADA. Didn't you, in fact, take advantage of Ms. Stanton when she was intoxicated and use the fact that she had a crush on you to rape her?

Def. Objection.

Judge. Sustained. Save it for closing argument, counsel.

ADA. So, you knew she took Ativan, is that correct?

Joe. Yes.

ADA. And are you familiar with Ativan and its effects?

Joe. Yes.

ADA. And are you aware of Ativan's effects when combined with alcohol?

Joe. Yes.

ADA. But you didn't think that Ms. Stanton was too intoxicated or perhaps might even need medical attention?

Joe. No, like I said, she said she was feeling better and seemed fine.

ADA. And that seemed reasonable to you, given your knowledge of how much she had had to drink and her medical history?

Joe. Well, she seemed fine.

ADA. Now doctor, when you anaesthetize patients, do you ask them to sign consent forms before or after they are under the influence of an anaesthetic?

Def. Objection your honor.

ADA. OK, I'll move on. Let's talk about what happened next. You say that you parked in front of Melissa's building on Oak Street, is that correct?

Joe. Yes.

ADA. You say you left the next morning. What time did you leave?

Joe. At about 8:00 in the morning. I was home by 8:05. I don't live very far away.

ADA. And what kind of car do you drive?

Joe. A Jeep Grand Cherokee.

ADA. I'd like to show you a document. It is the police log of the tickets issued on Oak Street on the morning of September 25 for Melissa's block. Is your car listed on the highlighted section of the police log?

Joe. No.

ADA. And can you tell me what times the two tickets highlighted were issued?

Joe. One at 7:35 a.m. and one at 7:38 a.m.

ADA. And can you tell me at what block they were issued?

Joe. The 100 block of Oak Street.

ADA. And can you tell me what both citations were for?

Joe. Illegal parking due to street cleaning every 4<sup>th</sup> Friday morning of the month.

ADA. I'd like to note for the record that the defendant's car is not among those ticketed for parking on Oak Street on the morning of September 25<sup>th</sup>. So did you spend the night as you told the jury or did you leave at 2:30 in the morning as Ms. Stanton testified?

Def. Objection, your honor, badgering the witness. Asked and answered. She has made her point and should move on.

Judge. Sustained.

ADA. No more questions, your Honor.

Judge. Do you have any other witnesses, Mr. [INSERT NAME]?

Def. Yes, I'd like to call Mark Sanchez to the stand.

Narrator

Mark Sanchez provided testimony on the events that occurred at the Wildlife Club up until he left. His testimony largely corroborated the testimony of Mr. Richards.

Judge. Mr. [INSERT DEFENSE ATTORNEY NAME], would you like to call any more witnesses?

Def. No, your Honor. The defense rests.

Judge. Mr. [INSERT DEFENSE ATTORNEY NAME], are you prepared to present your closing argument?

Def. Yes, your honor.

Judge. You may proceed.

Def. Thank you, your Honor.

Ladies and gentlemen of the jury, we've now reached the conclusion of the presentation of evidence. Very soon the case will be submitted to you for your final decision. This is my opportunity to summarize the evidence you've heard, or better yet, the lack thereof, and most importantly, to illuminate for you the weaknesses of the State's case.

The State alleges that my client, Joe Richards, a clean-cut, college –educated, hardworking young doctor, had nonconsensual sex with Ms. Stanton.

I assure you, ladies and gentleman, that this is most preposterous! In order to make your decision, you must evaluate the credibility of the witnesses that took the stand beginning with the victim. Once you review, you will see that the victim and the other State witnesses are lacking in credibility.

Melissa Stanton was interested in dating my client and did everything to accomplish that goal. She asked the bartender about him. She partied with him. She did shots with him. She danced with him all night. She made out with him on the dance floor. She invited him back to her apartment. She had a crush on him and saw him as a likely prospect for a relationship. They went back to her apartment and started making out. Pretty quickly it escalated and – well frankly, hormones took over. Kissing led to more, which led to more and pretty soon, they were having consensual sex with each other. You heard what Joe said. They were so passionate, they could barely get their clothes off. I don't blame Ms. Stanton for this. And regardless of what I personally think, it's no crime to hook up for a night. Happens all the time, right? Lots of people end up in the sack after a night of drinking. That's not rape. They went out, had some fun, went home, and had sex. Consensual sex.

When he later made it clear that he didn't want a relationship, she became very angry. She probably worried that it would get around that she had slept with Mr. Richards and that he dropped her. She wanted a little revenge. So she made up this story that she had been raped to cover her own mistake.

Take a look at this situation in more detail. Ms. Stanton admitted to noticing my client at the bar. And frankly, to a single female, my client would be quite desirable. He's handsome, well-educated, personable, and in a career headed to the top. Ms. Stanton knew that Mr. Richards was single. The bartender told her he was single. She told Ms. Stanton that she thought he was the most eligible bachelor in [INSERT TOWN NAME].

Ms. Stanton then made sure that Mr. Richards new she was single and looking for a good time. She got his attention, and she wasn't about to lose it. You heard the description of how Ms. Stanton danced with Joe Richards. Although she trivialized it, both Mark and Joe described her sexy moves.

Ms. Stanton then arranges it so that Mr. Richards would take her home. She had the availability of a ride with Ms. Saunders, but she wanted to be with my client. She told Ms. Saunders to go ahead, and she would call her in the morning to know what happened. Ms Saunders knew this, too.

After a tipsy Ms. Stanton got Mr. Richards into her apartment and onto her couch, things started heating up. You heard Joe's testimony. Ms. Stanton eagerly and passionately began to kiss Joe. She went to the bathroom to get ready for the rest of the evening. She got back and they kissed some more. Then, Ms. Stanton pulled Joe down on top of her on the couch. They were so taken with the moment that they had sexual intercourse. They could barely get their clothes off. They moved to the bedroom and had sexual intercourse. Now I am not going to judge either of them for that. Two young single people after a night of drinking and dancing. They went home and had sex. Consensual sex. Joe didn't want a relationship. He never did. He thought Melissa wanted to have a good time. Does this make him a gentleman? Maybe not. Does this make him a rapist? The answer is unequivocally NO. Joe may have made a poor decision but he certainly didn't sexually assault Melissa Stanton. Disappointed, ashamed, and probably very embarrassed, Ms. Stanton needed to do this to save face. She was already emotionally reeling and unstable after being rejected by her last boyfriend. Having another person reject her was apparently too much for her. So she cried rape. First to Stacey, then to the Rape Crisis Center, and then she couldn't go back.

The State would have you believe that Joe Richards took advantage of Melissa when she was intoxicated. Ladies and gentlemen, that is utterly ridiculous. Melissa Stanton wanted to engage in sexual intercourse with my client. She pursued him actively. In fact, she wanted to have a relationship with him. She had had a crush on him for a long time. The only thing my client is guilty of is not wanting to date Ms. Stanton. That is not a crime.

After reviewing the evidence it is easy to see that the State has not met its burden of proof. That burden is proof beyond a reasonable doubt. When you begin your deliberations, ask yourself if you have doubt as to what happened that night. Because we have two versions of what happened that night, you are being called upon to make a judgment call about which witness is more credible. As you think about weighing the credibility of the witnesses, think about how Melissa sought a relationship with Joe. Think about Joe's willingness to come to the police station and give a statement. After thinking about all of this evidence, ask yourself if there is proof beyond a reasonable doubt that Mr. Richards engaged in sexual intercourse with Ms. Stanton without her consent. If not, you must acquit. After listening to the State's witnesses, you will have doubt and you must acquit.

Thank you for your time.

Judge. Mr.[INSERT DA NAME], are you prepared to present your closing arguments?

ADA. Thank you your Honor.

Ladies and gentlemen of the jury, at the beginning of this trial, I stood before you and told you this was a trial involving sexual assault. I told you that the defendant, Joseph Richards, was guilty of this crime. I also told you in my opening statement that the State would bring to you evidence that would prove the defendant guilty beyond a reasonable doubt, and the State has done just that. For you to find Mr. Richards guilty of third degree sexual assault, you need to find two things beyond a reasonable doubt. The first is that intercourse occurred. This is without dispute. The second is that the intercourse occurred without the consent of the victim. Consent means words or actions indicating a freely given agreement. The State has shown you

through the evidence that Mr. Richards failed to obtain Ms. Saunders consent when he climbed on top of her while she was sleeping and then, over her protestations, forced himself inside of her when she woke up and discovered him on top of her. The only way you could fail to find Mr. Richards guilty is to believe his preposterous web of lies.

Let's talk about what the evidence shows. I'm going to be quite frank. This guy's a creep. Although he didn't jump out of the bushes with a knife, although he didn't hide under a car in a parking lot, his acts were equally if not more despicable. He instead used his reputation as a doctor and his charm to fool the victim into thinking she was safe. Mr. Richards didn't need a weapon. He didn't need to hide in the bushes. He had alcohol, knowledge of the effects of depressants on the body and his reputation. These were his weapons. He used them to gain the victim's trust. He used them to fool the victim. Don't let him fool you.

I remind you that the victim did not lie. Not a single time. She recounted the events of the evening honestly, even though she is not proud of some of it and even when it was difficult or embarrassing for her. You have no reason to doubt any of what she said. The defendant on the other hand, lied multiple times. We know he lied about the number of drinks he had. We know he lied to the police when he told Officer [INSERT NAME] that the victim wasn't sick. We know he lied about how many times he drove by the club when he "picked the victim up." We know he lied about the victim waiting in the club foyer and coming out when he picked her up. He lied about sharing a bottle of wine at her apartment. And he lied about the time he left her apartment. He said he left at 8:00. All the cars that were on Oak Street after 7:30 were ticketed because parking is prohibited on Oak Street the 4<sup>th</sup> Friday of every month for street cleaning. The victim told the truth about the entire evening leading up to the assault.

Let's talk more about the defendant. As soon as he realized that Melissa was depressed and vulnerable, he decided to rape her. In fact, he stalked her all night and worked hard to push through her boundaries. He approached her at the bar. He asked her all sorts of questions about her vulnerable mental state. He plied her with alcohol, drink after drink after drink. He brought her alcohol when she didn't ask for it. He ordered doubles without telling her. He manipulated her into drinking more shots than she wanted to. He made lewd remarks about her intoxication level to the bartender. While she may have been into flirting with him at first, when she became intoxicated, she tried to back off. He did not. She told him she didn't want to dance. He insisted. She tried to go home by herself. He insisted on coming along. He drove by her two times before stopping the third time and insisting that he take her home. He concocted an excuse to get into her apartment. He concocted an excuse about why he was going to stay. He rummaged through her vanity and found out she takes Ativan. At that point, he knew that all he had to do was wait. And wait he did. He opened a bottle of wine and made himself comfortable on the couch. He says that she was into it, too. Does this make sense? He said he was only going to stay to go to the bathroom, but he opened a bottle of wine without asking and made himself comfortable on the couch. She had vomited in the sink, not 8 feet from where Mr. Richards claimed they soon thereafter got all "hot and heavy." All of this shows his planful and premeditated actions. When he learned at the Wildlife club that Melissa was single, and vulnerable, he set his plans in motion. Every act after that was calculated to make sure that Melissa would not be able to resist him when he raped her.

First let's take a look at the victim, Melissa Stanton. She's 23 years old. Not only has she been steadily employed by ABC Telephone Company for the last five years, but she's been going to school at night, furthering her education in an effort to improve herself and her situation in life. What is most important for you to remember about Melissa Stanton as you deliberate is that she said no. She said no not one time, but many times. Mr. Richards ignored her. She said no to a drink before Stacey left. She said no to a shot of tequila. She said no to dancing. She said no to another shot of tequila. She said no to a rum and coke. She said no to a ride home. She said no when Mr. Richards asked if he could come to her apartment. And she said no to sex. Mr. Richards wouldn't take no for an answer when she said no to the rum and coke, wouldn't take no for an answer when she said no to a shot of tequila, wouldn't take no for an answer when she said no to another rum and coke and another tequila, wouldn't take no for an answer when she said she wanted to go home alone, wouldn't take no for an answer her when she asked him to go home, and wouldn't take no for an answer when she said no to sex.

Mr. Richards is a predator. He used alcohol as a weapon and assaulted Ms. Stanton. Of all people, as an anaesthesiologist, he should have known that Ms. Stanton needed help when he discovered she was taking Ativan, that she was extremely vulnerable. Do you really believe that he thought she was OK? He didn't. He lied. Over and over and over. She didn't. He wouldn't take no for an answer. Melissa was fooled by Mr. Richards and as a result, she was raped. Please don't let him fool you. This has to stop. Find Mr. Richards guilty.

**Judge.** Thank you. Now, I will instruct the jury. For purposes of this trial, I am severely limiting the number of instructions I will give and also limiting the time you will have to decide. You will only have 10 minutes for deliberations. Here are your instructions.

You have 10 minutes to decide the following two issues. You must each decide whether the state has shown the following two elements beyond a reasonable doubt:

- 1) Whether the victim and the defendant had sexual intercourse.
- 2) Whether the victim gave consent to the sexual intercourse. This means that the victim must have engaged in overt words or actions indicating a freely given agreement to engage in sexual intercourse.

If you answer yes to question number one and no to question number two, then you must return a verdict of guilty.

A couple more comments:

Remember that evidence includes the sworn testimony of witnesses.

When evidence conflicts, it is your job to assess the credibility of the witnesses.

Beyond a reasonable doubt means doubt that would cause a person of ordinary prudence to pause or hesitate when called upon to act in the most important affairs of life. A reasonable doubt is not a doubt which is based on mere guesswork or speculation. A doubt which arises merely from sympathy or fear to return a verdict of guilt is not a reasonable doubt. A reasonable doubt is not a doubt such as may be used to escape the responsibility of a decision. While it is your duty to give the def the benefit of every reasonable doubt, you are not to search for doubt, you are to search for the truth.

You may now go to the jury room.