

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**NOTICE:**

This tryout packet was authored for the sole purpose of providing aspiring USC Mock Trial Team members with a dynamic tryout opportunity. The characters are intentionally edgy and eccentric for that reason.

This year’s packet was inspired by headlines concerning a very popular recording artist’s comments at a concert and the ramifications of those comments. As is the case with almost everything that happens in America, there are plenty of legal issues involved – and many differences of opinion. This year’s tryout exercises explore those issues and differences.

Nothing is to be inferred, interpreted or gleaned from the extremities these characters traverse or the issues their materials encompass. These materials are not intended to communicate or advance any member (coaches & students, alike) of the Team’s political, religious or socio-economic beliefs. Please prepare carefully and completely. Good luck!

## Tryout Instructions (all tasks required)

**Your first task** is to perform a PLAINTIFF-SIDE opening statement as an attorney for DaChild. This task must be performed within five minutes. Use only the provided witness statements, case law blurbs and other materials. Remember, DaChild is suing upon a claim that his free speech and expression rights were violated.

**Your second task** is to perform a DEFENSE-SIDE cross examination of Alex Baylor (to benefit UCLF and Jones-Chen). This task must be performed within five minutes. The witness will be provided. Don't worry about bringing your own.

**Your third task** is to perform a three to five-minute monologue AS SCARLETT JONES-CHEN in this case (yes! "Scarlett can also be a man's name, look it up). Give Scarlett a backstory, passion, and make Scarlett's current predicament, motives, hopes, etc come to life. SPEAK YOUR TRUTH! A case summary, as well as affidavits from three witnesses, have been provided to assist you effectively communicate your version of the story. Do the best you can to make us believe that you are the character you have created. Make use of whatever creative attire or props you choose. WHEN YOU ARE THE CHARACTER, WE WANT TO FEEL IT!!! BE CREATIVE!!! BE BOLD!!! BE GREAT!!! THIS SHOULD BE VIEWED AS A FREESTYLE OPPORTUNITY TO MAKE THE COACHES SAY – **WOW!!!**

When performing these exercises, please exhibit the most skill and passion you can muster. We are looking for poise, intensity, oral dynamics and mental acuity. Remember, first impressions last longest.

1 Case Introduction

2

3 **DaChild v. UCLF, et al.**

4

5 Popular recording artist “DaChild” is suing UCLF (University of California Los  
6 Feliz) and Scarlett Jones-Chen for cancelling his performance at the UCLF Welcome  
7 Back Concert because of controversial comments he made at a prior show.  
8

9

10 Authored by:

11 Alyssa Matias and Mark Rodriguez  
12 (with light edits by Olu K. Orange)  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2 **Law of the Packet**  
3

4 **California Constitution Article I, Section 2:**  
5

6 “(a) Every person may freely speak, write and publish his or her sentiments on all  
7 subjects, being responsible for the abuse of this right. A law may not restrain or  
8 abridge liberty of speech or press.”

9 **Gerawan Farming v. Lyons, 24 Cal. 4th 468 (2000)**  
10

11 The protection of free expression provided by the California state Constitution is in  
12 most ways coextensive with that provided by the U.S. Federal Constitution.

13 **Tinker v. Des Moines Independent Community School District, 393 U.S. 503**  
14 **(1969)**  
15

16 In order to justify the suppression of speech, the school officials must be able to  
17 prove that the conduct in question would "materially and substantially interfere" with  
18 the operation of the school. In this case, the school district's actions evidently  
19 stemmed from a fear of possible disruption rather than any actual interference.

20 **Erznoznik v. City of Jacksonville, 422 U.S. 205 (1975)**  
21

22 The ability of government, consonant with the Constitution, to shut off discourse  
23 solely to protect others from hearing it is . . . dependent upon a showing that  
24 substantial privacy interests are being invaded in an essentially intolerable manner.  
25 Any broader view of this authority would effectively empower a majority to silence  
26 dissidents simply as a matter of personal predilections.

27 The plain, if at times disquieting, truth is that in our pluralistic society, constantly  
28 proliferating new and ingenious forms of expression, 'we are inescapably captive  
audiences for many purposes.' Much that we encounter offends our esthetic, if not

1 our political and moral, sensibilities. Nevertheless, the Constitution does not permit  
2 government to decide which types of otherwise protected speech are sufficiently  
3 offensive to require protection for the unwilling listener or viewer. Rather, absent the  
4 narrow circumstances described above, the burden normally falls upon the viewer to  
5 'avoid further bombardment of (his) sensibilities simply by averting (his) eyes.'

6 **Bethel School District No. 403 v. Fraser, 478 U.S. 675 (1986)**

7 These fundamental values of "habits and manners of civility" essential to a  
8 democratic society must, of course, include tolerance of divergent political and  
9 religious views, even when the views expressed may be unpopular. But these  
10 "fundamental values" must also take into account consideration of the sensibilities of  
11 others, and, in the case of a school, the sensibilities of fellow students. The  
12 undoubted freedom to advocate unpopular and controversial views in schools and  
13 classrooms must be balanced against the society's countervailing interest in teaching  
14 students the boundaries of socially appropriate behavior. Even the most heated  
15 political discourse in a democratic society requires consideration for the personal  
16 sensibilities of the other participants and audiences.

17 **Cohen v. California, 403 U.S. 15 (1971)**

18 Surely the State has no right to cleanse public debate to the point where it is  
19 grammatically palatable to the most squeamish among us. For, while the particular  
20 four-letter word being litigated here is perhaps more distasteful than most others of  
21 its genre, it is nevertheless often true that one man's vulgarity is another's lyric.

22 Additionally, we cannot overlook the fact, because it is well illustrated by the episode  
23 involved here, that much linguistic expression serves a dual communicative function:  
24 it conveys not only ideas capable of relatively precise, detached explication, but  
25 otherwise inexpressible emotions as well. In fact, words are often chosen as much for  
26 their emotive as their cognitive force. We cannot sanction the view that the  
27 Constitution, while solicitous of the cognitive content of individual speech has little  
28 or no regard for that emotive function which practically speaking, may often be the  
more important element of the overall message sought to be communicated. Indeed,

1 as Mr. Justice Frankfurter has said, '(o)ne of the prerogatives of American citizenship  
2 is the right to criticize public men and measures—and that means not only informed  
3 and responsible criticism but the freedom to speak foolishly and without moderation.'

4 **Meriwether v. Hartop, 992 F. 3d 492 (2021)**

5  
6 Universities have historically been fierce guardians of intellectual debate and free  
7 speech. ... The First Amendment protects the right to speak freely and the right to  
8 refrain from speaking at all. Thus, the government may not compel affirmance of a  
9 belief with which the speaker disagrees.

10 Without genuine freedom of speech, the search for truth is stymied, and the ideas and  
11 debates necessary for the continuous improvement of our republic cannot flourish.

12 Government officials violate the First Amendment whenever they try to prescribe  
13 what shall be orthodox in politics, nationalism, religion, or other matters of opinion,  
14 and when they force citizens to confess by word or act their faith therein.

15 Under the First Amendment, “the mere dissemination of ideas . . . on a state  
16 university campus may not be shut off in the name alone of ‘conventions of  
17 decency.’” ... The mere “fear or apprehension of disturbance is not enough to  
18 overcome the right to freedom of expression.”

19 In sum, “the Founders of this Nation . . . ‘believed that freedom to think as you will  
20 and to speak as you think are means indispensable to the discovery and spread of  
21 political truth.’”  
22  
23  
24  
25  
26  
27  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- 2
- 3
- 4
- 5

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 Duo Lips would not be performing, but at least we had DaChild. That was until the  
2 Rolling Quietly Festival incident.

3 It was horrifying to hear such hateful things coming out of DaChild's mouth. I  
4 just could not believe my ears. It is hard to believe that in 2021, there are still people  
5 who believe in such hateful things against our LGBTQ+ community. After Scarlett  
6 heard what DaChild had to say, Scarlett was furious. "There was no way that I would  
7 allow someone, no matter who, perform at UCLF after saying hateful, anti-LGBTQ+  
8 things like DaChild did," Scarlett screamed at me.

9 Scarlett said how s/he believed that DaChild would say more anti-LGBTQ statements  
10 if he were to perform at our UCLF Welcome Back Concert. Scarlett yelled at me for  
11 a few minutes then ordered me to cancel DaChild's UCLF performance to prevent  
12 more hateful comments from being said. Ever since that day, Scarlett glares at me  
13 menacingly. Scarlett used to only glare at me when I made a mistake but now it's  
14 24/7. Because of this, now I eat my lunch in the bathroom.

15 The next day, I called DaChild's team and cancelled his performance at our  
16 Welcome Back concert. After that, I drafted UCLF's Concert Committee's statement  
17 regarding DaChild's canceled performance and I began looking for a new header for  
18 our concert. With some luck from Scarlett's contacts, we could probably get Tyler  
19 the Destroyer to fill in.

20 While I initially thought that students would be happy to not have an anti-  
21 LGBTQ performer on campus, there ended up being a group of students that  
22 supported DaChild and wanted him to perform at our concert. The head of the group  
23 was the president of the UCLF Branch of DaChild's Fan Club, Alex Baylor.  
24 According to a flyer that I retrieved from a board on campus, Alex Baylor was going  
25 to be holding a protest in support of DaChild performing on campus. Once again, I  
26 was shocked at how hateful people could be. Scarlett was furious. When Scarlett  
27 caught wind of a second protest being organized by Alex Baylor in support of  
28 DaChild, Scarlett called campus police and had them disperse the protest that was



1 happening on campus. From what I saw that day, there were a lot of students in  
2 support of DaChild at the protest.

3 Now it seems like DaChild wants to fight his cancelation by filing a lawsuit  
4 arguing that his free speech is being infringed upon. When I began working for the  
5 UCLF Concert Committee, I had to do a training on freedom of speech and the First  
6 Amendment. It was very bare bones and reminded me of law school. I am no lawyer,  
7 but I am starting to worry that DaChild may really have a good case for viewpoint  
8 discrimination. We may have really messed this up.

9 I am familiar with the following exhibits: Exhibit 1 is an accurate transcript of  
10 the DaChild's Rolling Quietly Festival comments. Exhibit 2 is an accurate picture of  
11 the statement released by the UCLF Concerts Committee after DaChild's show was  
12 cancelled. Exhibit 3 is an accurate picture of the flyer promoting the  
13 #BringBackDaChild protests at UCLF. Exhibit 4 is an accurate copy of the news  
14 story about DaChild's lawsuit.

15  
16 I swear or affirm the truthfulness of everything stated in this affidavit. Before giving  
17 this statement, I was told I should include everything that I know may be relevant to  
18 my testimony, and I followed those instructions. I know that I can and must update  
19 this affidavit if anything new occurs to me until the moment before opening  
20 statements begin in this case.

21  
22 *Archie Perez*  
23 \_\_\_\_\_

24 AFFIANT  
25  
26  
27  
28

1 **AFFIDAVIT OF ALEX BAYLOR**

2

3 *After being duly sworn upon oath, Alex Baylor hereby states the following: I*  
4 *am over 18 and competent to make this affidavit. I am testifying voluntarily and was*  
5 *not subpoenaed or compelled in any way to testify.*

6

7 My name is Alex Baylor, and I am a sophomore at UCLF. I live on campus in  
8 my dorm room. When I first got to UCLF, I was a really shy guy. I'm from Chicago,  
9 so moving across the country for college was hard. It was difficult for me to make  
10 friends, so I resorted to music for companionship.

11 One of my favorite things to do is go to concerts and music festivals. I've hit  
12 Lazypalooza, EBC, Bonnarave, everywhere! But ever since DaChild's concert was  
13 cancelled, I haven't felt the same.

14 Last year, I became DaChild's #1 fan. Ever since "Surge" came out, I would blast it  
15 in my dorm every single day. My RA got so tired of the noise complaints, but I didn't  
16 care. Anything for DaChild. I even started the UCLF Branch of the DaChild Fan  
17 Club. Let's go!

18 When UCLF announced that DaChild would be performing on campus, I was  
19 so excited. For weeks, I planned my outfit, and how I would manage to get front row  
20 seats. When the UCLF Concerts Committee head Scarlett Jones-Chen announced that  
21 DaChild was no longer performing, I was crushed. I haven't been that sad since my  
22 hamster died in 2011. I heard about DaChild's comments at the Rolling Quietly  
23 Festival. You can't say anything these days! I still don't understand why the concert  
24 was cancelled. At Rolling Quietly, DaChild said:

25

26 *"If you didn't show up today with syphilis, chlamydia, or any of*  
27 *those sexually transmitted diseases that'll have you blistered-up*  
28 *for two or three weeks, put your cellphone light in the air.*

1       *Ladies, if your arm pits are shaved clean and you ain't lookin'*  
2       *like you've got Kaepernick in a head-lock, put your cellphone*  
3       *light in the air. Fellas, if you ain't wearin' tight pants and*  
4       *lipstick in the parking lot, put your cellphone lights in the air.*  
5       *Keep it real dammit!"*

6  
7       I understand that DaChild's words were very ugly. But, aren't his words  
8 always ugly? For years, he's been rapping and talking about selling drugs and killing  
9 Black men. But, UCLF and Scarlett still invited him. How come they have a problem  
10 with him now – all of a sudden?

11       A few days after the cancellation was announced, I was making ramen in my  
12 dorm when I thought of the idea to protest. I handled all of the social media, and  
13 promoted the protest using #BringBackDaChild. My club coordinated everything that  
14 needed to be done on campus for the protest. We had a really good turnout for both  
15 protests! The second protest got shut down almost as soon as it started. Scarlett  
16 Jones-Chen showed up with campus police, who then chased everyone off campus.  
17 When I found out that DaChild was suing Scarlett Jones-Chen, I did some research. I  
18 found out about the California Constitution Free Speech Provision. I emailed it to  
19 DaChild and his manager so that they could check it out. Don't ask me how I got  
20 DaChild's manager's email; I have my ways.

21       I came to college to express and learn from many different viewpoints. In my  
22 opinion, it is a clear violation of free speech for a university to cancel an artist's  
23 performance just because *some* people disagree with its content. Can someone please  
24 bring back the Constitution!?!?

25       I am familiar with the following exhibits: Exhibit 1 is an accurate transcript of  
26 the DaChild's Rolling Quietly Festival comments. Exhibit 2 is an accurate picture of  
27 the statement released by the UCLF Concerts Committee after DaChild's show was  
28 cancelled. Exhibit 3 is an accurate picture of the flyer promoting the

1 #BringBackDaChild protests at UCLF. Exhibit 4 is an accurate copy of the news  
2 story about DaChild's lawsuit.

3  
4 I swear or affirm the truthfulness of everything stated in this affidavit. Before  
5 giving this statement, I was told I should include everything that I know may be  
6 relevant to my testimony, and I followed those instructions. I know that I can and  
7 must update this affidavit if anything new occurs to me until the moment before  
8 opening statements begin in this case.

9  
10 *Alex Baylor*  
11 \_\_\_\_\_

12 AFFIANT  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBITS

**TRANSCRIPT OF DACHILD'S COMMENTS**

2  
3  
4       *"If you didn't show up today with syphilis, chlamydia, or any of*  
5       *those sexually transmitted diseases that'll have you blistered-up*  
6       *for two or three weeks, put your cellphone light in the air.*  
7       *Ladies, if your arm pits are shaved clean and you ain't lookin'*  
8       *like you've got Kaepernick in a head-lock, put your cellphone*  
9       *light in the air. Fellas, if you ain't wearin' tight pants and*  
10       *lipstick in the parking lot, put your cellphone lights in the air.*  
11       *Keep it real dammit!"*

EXHIBIT 2



CONCERT COMMITTEE

WELCOME CONCERT  
INFORMATION

**Dear UCLF Community,**

It has come to the UCLF Concert Committee's attention that the header for the UCLF Welcome Back Concert, DaChild, made hateful comments towards the LGBTQ+ community during a recent performance. In light of these comments, the UCLF Concerts Committee has decided to end relations with Mr. DaChild and cancel his upcoming performance on our campus.

UCLF would like to remind everyone that our community does not tolerate hate towards any group nor discrimination of any kind. While it is perfectly within Mr. DaChild's right to make certain comments, it is this university's right to cancel Mr. DaChild's performance. As the #1 public university, UCLF is a welcoming community full of diversity and acceptance. We will continue to work towards being inclusive to everyone, one step at a time.

While there is no current information on who will be performing as the UCLF Welcome Back Concert's header, please continue to check our social media accounts for continual updates on our upcoming concert and future events.

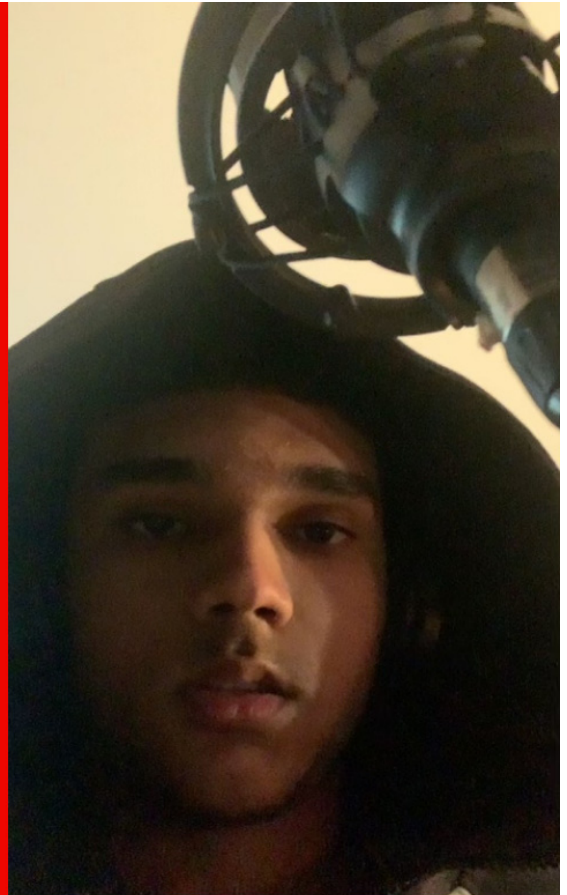
We look forward to welcoming you back to a safe, positive UCLF campus this coming fall. Until then, stay safe and continue to be a mighty Palomino!

**Sincerely,  
Scarlett Jones-Chen  
UCLF Concert Committee Head**

EXHIBIT 3

**#BRING  
BACK  
DACHILD**

*Protest Thurs.  
@5pm*





3 Min Read

August 2021

By: Sanderson Kooper

## DACHILD FILES SUIT AGAINST UCLF

**BREAKING:** Controversial rapper DaChild's lawyers have announced that they recently filed suit in the Superior Court of Los Angeles against UCLF and an employee, Scarlett Jones-Chen. We obtained a copy of the lawsuit and requested comments from DaChild, his lawyers, and Ms. Jones-Chen, and they agreed to speak with us.

DaChild alleges that his freedom of expression rights were violated by UCLF when his concert was cancelled this month. DaChild alleges that he has the right to speak freely, just as any student at UCLF does – and that colleges and universities are places where controversial viewpoints are to be “held up to the light of public scrutiny and debate, rather than suppressed.” His lawsuit also states that the content of his comments at the Rolling Quietly festival should not result in the cancellation of his performance at UCLF, where comments have yet to be made.

UCLF released a statement regarding the cancellation of DaChild's concert, stating, “While it is perfectly within Mr. DaChild's right to make certain comments, it is this university's right to cancel Mr. DaChild's performance.” Scarlett Jones-Chen, the named defendant in this suit, stated that “Mr. DaChild's comments were lewd and inappropriate. My mother and father would never forgive me if I allowed Mr. DaChild to perform on campus.”

DaChild additionally alleges that he was damaged in the amount of \$100,000, for which he was contracted by UCLF in exchange for a 20 minute performance at the UCLF concert.

DaChild's lawyers state that California's Free Speech Provision has been interpreted to apply to any action by government officials to prohibit free expression – and that action can be in the form of a law, policy or other action, such as canceling DaChild's concert because of the view point he expressed at an prior performance. Although most decisional law deals with speech by students on campuses, DaChild's lawyers are relying on well-established precedent that speech to students by non-students on campus has also been extended protection from suppression based upon viewpoint discrimination under the United States and California Constitutions, which both protect expression in the same ways.