

Mock Trial Toolkit

TOMATOES ON TRIAL

The Fruit V. Vegetable Showdown



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Watch the
book trailer!



About the Book

Is a tomato a fruit or a vegetable? The US Supreme Court takes on the case in this juicy history picture book. In the late 1800s, American produce king John Nix just wanted to sell tomatoes. But when import taxes on popular vegetables impacted his profits, he knew he had to remedy the situation. Nix set out to prove that tomatoes, which have seeds and grow on vines, were clearly fruits. That was the claim Nix argued all the way to the US Supreme Court. With Nix on Team Fruit and the US government on Team Vegetable, both sides slung definition after definition in an epic, legal food fight.

Ages: 7–10 years | **Grades:** 2–5 | **Publisher:** Calkins Creek/Astra
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Meet the Author

Lindsay H. Metcalf is an award-winning author of nonfiction and poetry for children and young adults. A seasoned journalist, she has covered many changemakers as a reporter, editor, and columnist for the *Kansas City Star* and other news outlets. She lives with her husband, two sons, and cuddly lapdog just a few miles from the Kansas farm where she grew up. Lindsay's books include *Farmers Unite!* and *Outdoor Farm, Indoor Farm*. Visit lindsayhmetcalf.com.



Meet the Illustrator

Edwin Fotheringham grew up in Sydney, Australia, was educated and still lives with his family in Seattle, Washington, where he savors raw tomatoes (like a fruit) in summertime. Ed has contributed to the *New York Times* and *Better Homes & Gardens*, among others, and illustrated many books for children, including *Full of Beans* by Peggy Thomas, which won Book of the Year from the American Farm Bureau Foundation. Visit edwinfotheringham.com.

Time Needed: 1–2 class periods (45–90 minutes)

Objective: Students use evidence, critical thinking, and oral presentation skills to argue whether a tomato is a fruit or a vegetable—just like the real Supreme Court case *Nix v. Hedden* (1893).

1. Quick Teacher Overview

This mock trial helps students:

- Learn the difference between **scientific classification** and **everyday usage**
- Practice persuasive speaking and listening
- Collaborate in teams
- Understand basic trial roles
- Have fun debating a silly but real historical question

2. Roles for Students

Assign roles based on class size:

Core Roles (minimum)

- **Judge** (1)
- **Bailiff** (1)
- **Attorneys**
 - Team Fruit:* Lead Attorney + 1–2 helpers
 - Team Vegetable:* Lead Attorney + 1–2 helpers
- **Witnesses**
 - Fruit Scientist
 - Vegetable Farmer
 - Chef or Grocer
 - Botanist

Optional Roles (larger classes)

- Jury (6–12 students)
- Court Reporter
- Timekeeper
- Additional “expert” witnesses
- News reporter who writes a short article afterward

3. Case Background

The Question:

Is the tomato a fruit or a vegetable?

What's at stake?

- In 1893, the Supreme Court had to decide this question for tax reasons.
- Scientists classify tomatoes as fruits (they grow from flowers and have seeds).
- But most people cook and eat tomatoes like vegetables.

Your classroom will re-argue the case!

4. Evidence for Each Side

Team Fruit Evidence

- Tomatoes grow from the **flower** of a plant.
- They contain **seeds**—a key trait of fruits.
- Scientifically, tomatoes are **berries**.
- Other seeded produce—cucumbers, peppers, squash—are also fruits.
- Categories in science don't depend on flavor.

Team Vegetable Evidence

- In the **kitchen**, tomatoes are treated as vegetables.
- They are served in **salads, soups, and sauces**, not desserts.
- People buy tomatoes in the **vegetable** section of stores.
- The 1893 Supreme Court ruled tomatoes are vegetables **for everyday use**, not science.

Judge

- Keep order.
- Listen to both sides.
- Allow objections (“Objection—irrelevant!”).
- Ask clarifying questions.
- Remind the jury to decide based on the evidence.

Witness: Fruit Scientist

Explain seed-bearing fruits. Prepare 3–5 talking points supporting your side.

Bailiff

- Open the trial: “All rise!”
- Swear in witnesses: “Do you promise to tell the truth?”
- Keep time and help maintain order.

Attorneys: Team Fruit

- Prepare opening statements.
- Ask your witnesses strong questions.
- Cross-examine the other side’s witnesses.
- Deliver closing arguments.

Witness: Botanist

Describe plant anatomy. Prepare 3–5 talking points supporting your side.

Attorneys: Team Vegetable

- Prepare opening statements.
- Ask your witnesses strong questions.
- Cross-examine the other side’s witnesses.
- Deliver closing arguments.



Scripted Role Cards

Witness: Farmer

Describe how tomatoes grow. Prepare 3–5 talking points supporting your side.

Witness: Chef

Explain how tomatoes are used in cooking. Prepare 3–5 talking points supporting your side.

Optional Roles

Jury (6–12 students)

Consider all evidence, then decide:

We find the tomato to be a **FRUIT** / **VEGETABLE**. (circle one)

Witness: Grocer

Explain how people shop for tomatoes in markets. Prepare 3–5 talking points supporting your side.

Timekeeper

Use a timer to keep track of the following:

Opening Statements

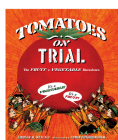
- Fruit Attorneys (1 minute)
- Vegetable Attorneys (1 minute)

Attorney questions a witness (1–2 minutes)

Opposing side cross-examines (30 seconds)

News Reporter

On a piece of notebook paper, write a short news article about the trial after it concludes.



Name: _____

Mock Trial Structure

My assigned role: _____

1. Opening the Court

Bailiff: “All rise! The Court of Food Classification is now in session.”

Judge: Gives a brief welcome and explains the question: “Is the tomato a fruit or a vegetable?”

2. Opening Statements

- Fruit Attorneys (1 minute)
- Vegetable Attorneys (1 minute)

3. Witness Testimony

For each witness:

1. Attorney calls the witness
2. Bailiff swears them in
3. Attorney questions the witness (1–2 minutes)
4. Opposing side cross-examines (30 seconds)

4. Closing Arguments

Each side summarizes why their classification is strongest.

5. Jury Deliberation

Jury discusses for 2–3 minutes and votes.

6. Verdict

Judge announces the verdict:

- “We find the tomato to be a **FRUIT / VEGETABLE.**”
(Optional twist: Let the class vote as citizens too!)

Name: _____

Mock Trial

Student Notes

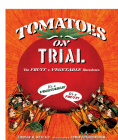
Do tomatoes belong on Team Fruit or Team Vegetable?

Consider the facts that support each argument, then decide.

What evidence supports
tomatoes as a “fruit”?

What evidence supports
tomatoes as a “vegetable”?

Which evidence is strongest and why?

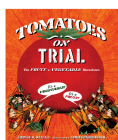


Reflection Questions

- What did you learn about evidence?
- Did your opinion change? Why?
- How can something be one thing scientifically and another in everyday life?
- Why did this case matter in real history?

Optional Fun Extras

- Have students create **lawyer name tags** or badges.
- Use real props: a gavel, folders, witness stand sign.
- Let students design a **trial poster** or **courtroom seal**:
“The Great Food Court of Justice”
- Hold a **post-trial press conference** with student reporters.
- Create a **“Tomato Case” bulletin board** showing both sides’ evidence.



Name: _____

Match the mock trial vocabulary word to its definition.

1. The party being accused in a lawsuit: _____
2. The top court in the United States: _____
3. Something that gives proof: _____
4. A series of reasons, statements, or facts that support a point of view:

5. Grouping or categorizing according to set criteria: _____
6. A public official who decides questions brought before a court: _____
7. A statement made by a witness under oath: _____
8. The person who brings a lawsuit: _____
9. A decision in a court case: _____
10. A person who gives evidence: _____
11. A statement opposing part of a legal proceeding: _____
12. Someone who is legally allowed to do business for another person, also called a lawyer:

Word Bank

argument	classification	evidence	objection	Supreme Court	verdict
attorney	defendant	judge	plaintiff	testimony	witness



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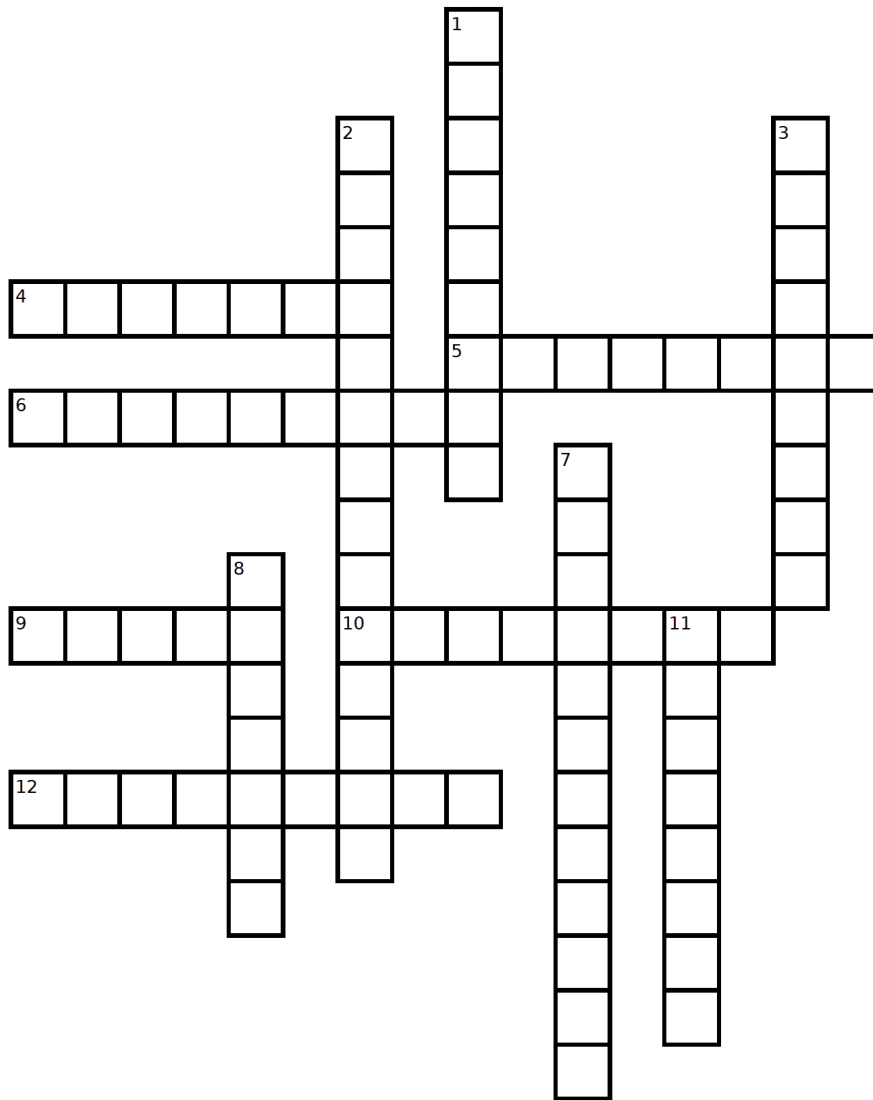
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2. The top court in the United States: Supreme Court
3. Something that gives proof: evidence
4. A series of reasons, statements, or facts that support a point of view:
argument
5. Grouping or categorizing according to set criteria: classification
6. A public official who decides questions brought before a court: judge
7. A statement made by a witness under oath: testimony
8. The person who brings a lawsuit: plaintiff
9. A decision in a court case: verdict
10. A person who gives evidence: witness
11. A statement opposing part of a legal proceeding: objection
12. Someone who is legally allowed to do business for another person, also called a lawyer:
attorney

Word Bank

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Name: _____

Mock Trial Crossword



Down

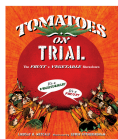
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4. A person who gives evidence.
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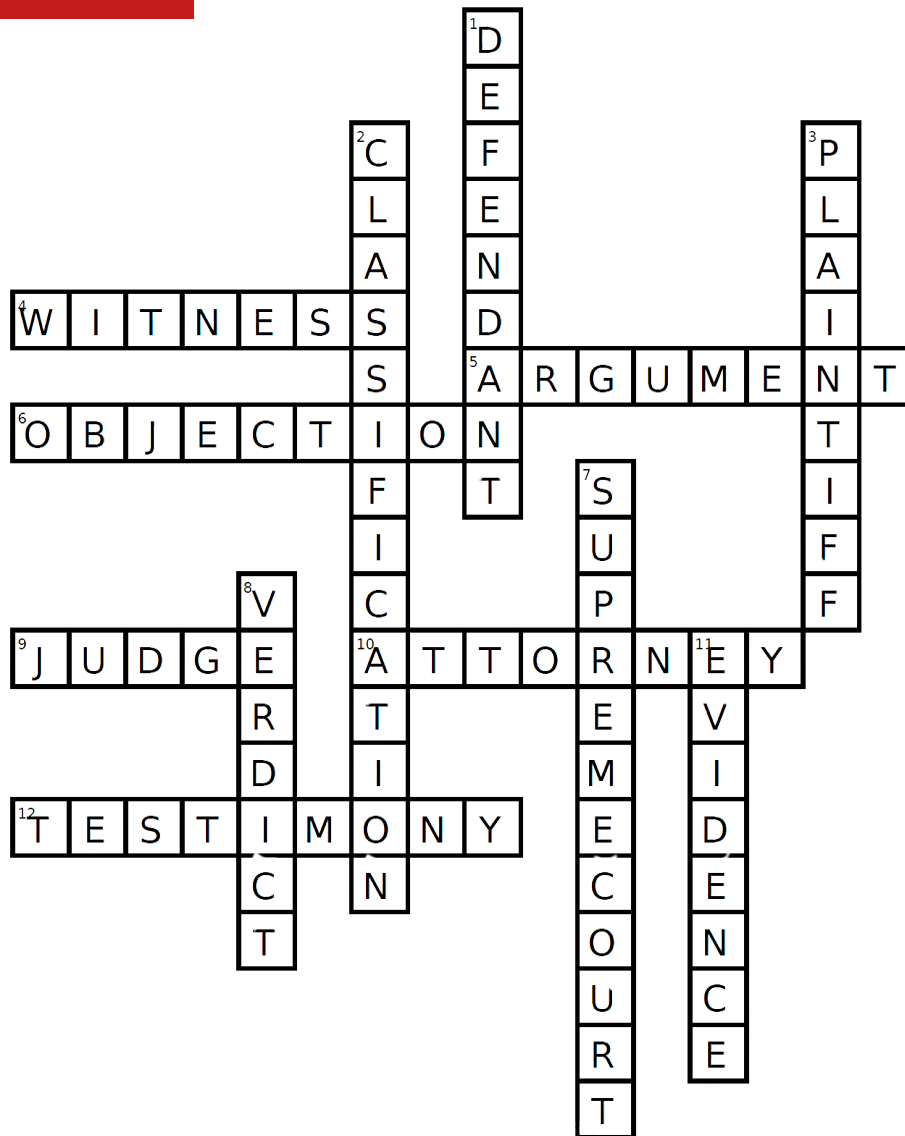
CALKINS CREEK



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lindsayhmetcalf.com



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TEAM

TRIAL



TEAM VEGETABLE

