

2015 JUDGE RICHARD N. WARE, IV

**MEMORIAL
HIGH SCHOOL
MOCK TRIAL COMPETITION**

Handbook

Sponsored by:
**Louisiana State Bar Association
Young Lawyers Division Council**



Serving the Public. Serving the Profession.

THE 2015 MOCK TRIAL CASE

75th JUDICIAL DISTRICT COURT FOR THE PARISH OF RIVIERE RAPIDE

THE STATE OF LOUISIANA

NO. 2014-20136

VERSUS

DIVISION “L”

LENNON C. OAKLEY

**IN MEMORY OF
JUDGE RICHARD N. WARE, IV
1949-1996**

This competition is dedicated to and named in memory of the Honorable Richard N. Ware, IV, district court judge for the 39th Judicial District Court of Louisiana. For nearly a decade, Judge Ware assisted the Young Lawyers Division of the Louisiana State Bar Association in the administration of its various public service projects. He was particularly devoted to serving each year as the presiding judge of the final round of the Louisiana High School Mock Trial Competition. Despite the fact that the competition was held in different parishes around the state and at different times each year, Judge Ware was always willing to clear his calendar and devote many hours to serve as a “real” judge for students who had worked so hard in preparing and presenting their cases. The Young Lawyers Division of the Louisiana State Bar Association dedicates this program to Judge Richard N. Ware, IV in honor and memory of his dedication and efforts throughout the years.

SPECIAL ACKNOWLEDGMENTS

This year’s mock trial problem was written by Members of the University of Louisiana-Monroe’s Mock Trial Team, Adam Nettles, Olivia Sage, Gabriel Silva and Raya Boyte, under the direction of Bob Noel. The Louisiana Young Lawyers Division expresses its sincere thanks to Mr. Noel and the ULM Mock Trial Team for their gracious assistance and support of this program.

The Louisiana Young Lawyers Division would also like to acknowledge the work of the Regional Coordinators from the four Louisiana High School Mock Trial Competition Regions, without which the State Competition would not be possible. These Coordinators provide the invaluable services of distributing the problem to the participating schools, organizing and running the Regional Competitions, and helping with the State Competition.

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ABOUT MOCK TRIAL

GENERAL OVERVIEW

The Louisiana High School Mock Trial Competition is designed to introduce young people to the art of advocacy, supplement their knowledge of the workings of our court system, and provide them with the opportunity to develop the skills of teamwork and oral presentation. In the state competition, teams from schools across the state are matched against one another in a courtroom setting. They will prepare a case for both the prosecution and the defense and will present their case before a judge and mock jury of performance judges at trial.

Each team is comprised of students who will portray each of the principal players in a courtroom trial. Some will act as the client whose rights or interests are the subject of the trial or as witnesses whose testimony is a necessary and valuable component of nearly every trial (student-witnesses). Others will portray the lawyers who will present their client's case and enjoy the responsibility of making persuasive legal arguments to the judge (student-attorneys).

MOCK TRIAL PROBLEM DISTRIBUTION AND REGISTRATION

This handbook contains the official materials that each team will need to prepare for the 2015 Louisiana High School Mock Trial Competition, sponsored and administered by the Young Lawyers Division of the Louisiana State Bar Association.

This handbook is available on the Louisiana State Bar Association's website, www.lsba.org under the Young Lawyers Division tab. Any questions regarding distribution of the handbook should be directed to the Regional Coordinator and/or the Mock Trial Committee Co-Chairs.

SCHOOL ELIGIBILITY AND RESPONSIBILITY

All schools within the State of Louisiana, whether public or private, are eligible to field teams at the regional level of the High School Mock Trial Competition. The top two (2) teams from each of the four regions will be permitted to advance to the State Competition scheduled to take place at the 14th Judicial District Court in Lake Charles, Louisiana on **March 28, 2015**.

Once a school receives the problem and has compiled one or more teams, it must register its team(s) with the Regional Coordinator. The registration form can be found on page 35 of this Handbook. Schools may enter multiple **teams of at least six (6) and no more than eight (8) students**, each led by one or more teacher-coach(es) and guided by one or more attorney-coach(es).

The schools are responsible for selecting the teacher-coach or coaches and team members (including three student-attorneys, three student-witnesses and two alternates). The schools are also responsible for arranging their teams' transportation to and from the Regional and State Competition sites. Further, each team entered in the Louisiana High School Mock Trial Competition is expected to conduct several practice sessions before the Regional Competition.

BAR ASSOCIATION ASSISTANCE

Teams may enlist one or more attorneys of their choice to assist them in preparing for the competition. If a team is unable to enlist an attorney on its behalf, volunteer attorneys will be requested to assist in preparing the teams for trial. If a team wishes to have a volunteer attorney assigned, it should contact the appropriate Regional Coordinator.

REGIONAL COMPETITION

Each participating region will sponsor a Regional Competition and declare the Regional Champion and a Regional Runner-Up from among the competing high schools. The participating regions (and their respective Regional Coordinators) may be found in this handbook. The Regional Champion and Regional Runner-Up from each region will be invited to compete in the State Competition in Lake Charles, Louisiana on March 28, 2015. In the event there is an odd number of teams slated for the State Competition, the host region will be invited to send an alternate team to participate in the State Competition.

STATE COMPETITION

If you become the Regional Champion or the Regional Runner-Up, please fill out the State Competition Registration Form located on page 36 of this handbook and mail it to the State Coordinator at the address set forth in the section on “Additional Contact Information” within one week of your Regional Competition. The State Coordinator will then send you a schedule of events, itinerary, and hotel information for the State Competition.

Registration for the State Competition is tentatively set to begin for all participating teams at **7:30 a.m. on Saturday, March 28, 2015**, at the 14th Judicial District Court in Lake Charles, Louisiana. On Saturday, there will be three rounds of competition. Each team will participate in round one and round two, lunch will be provided, then the final two teams will be announced and the final round will be held. Everyone is encouraged to attend the final round.

Following the competition, there will be a ceremony for all participants, guests, and judges, during which awards will be presented to the State Champion, State Runner-Up, Most Outstanding Witness, and Most Outstanding Attorney. Judges will be able to vote on the outstanding witness and attorney awards throughout the competition; ***the winners of these awards are not limited to the two final teams.*** In addition, all participating students receive certificates of merit for achieving a place at the State Competition.

NATIONAL COMPETITION

The Louisiana State Bar Association Young Lawyers Division has made a commitment to sponsor the winner of the State Competition as Louisiana’s representative at the National Mock Trial Competition which will be held in **Raleigh, North Carolina, on May 14-16, 2015**. The Louisiana State Bar Association Young Lawyers Division has sponsored a Louisiana team in the prestigious National Mock Trial Competition for over twenty-five years, and the Young Lawyers Division is proud to offer this additional opportunity for educational

enrichment to the State Champion.

Please note that the National Competition problem is different from the State Competition problem. The National Competition problem will be distributed to each of the teams from the numerous states that participate in the National Competition. We will provide a copy of the problem to the State Champion as soon as it is available. An information packet will accompany the problem. Room, meal, and airfare reservations, as well as t-shirt orders will need to be placed with the National Coordinators as soon as possible following the State Competition. If, for any reason, the State Champion is unable or unwilling to attend the National Competition, the State Runner-Up will have the opportunity to compete in its place.

We expect that student teams will be asked to register in Raleigh on Thursday, **May 14, 2015**, and to attend a get-to-know-you mixer with teams competing from other states. Teams usually bring souvenir items to trade with other students. These items symbolize each team's state and typically include pins, magnets, and other items bearing the state's name. For example, the Louisiana team may give out Mardi Gras beads. Practice rooms are available a few days before the competition begins. The competition begins on Friday morning and ends on Saturday afternoon. An awards banquet is held on Saturday evening.

The Louisiana State Bar Association Young Lawyers Division will assist in registering the winning team and its members in the National Tournament and agrees to provide partial funding (as available) for transportation and housing; however, it will be the responsibility of the winning school, school district, and parents of each individual student to provide the balance of the funding that may be necessary to participate in the National Competition. In previous years, the Young Lawyer Division has contributed funds to assist with travel and lodging expenses and hopes to be able to do so again this year.

PROGRAM OBJECTIVES

For the participating **students**, the Mock Trial Competition will:

- Increase proficiency in fundamental skills including listening, speaking, reading, and reasoning;
- Promote confidence in public speaking;
- Encourage teamwork;
- Further an understanding of the substantive law; and
- Provide exposure to the procedure by which our courts have applied the substantive law.

For participating **schools**, the Mock Trial Competition will:

- Promote cooperation and healthy competition among students of various abilities and interests;
- Demonstrate the achievement of high school students to the community;
- Provide hands-on experience outside the classroom from which students can learn about law, society, and themselves; and

- Provide a challenging and rewarding experience for participating teachers.

CODE OF ETHICAL CONDUCT

Students and teacher-coaches should read, understand, and discuss this Code of Ethical Conduct at the first team meeting.

All participants must adhere to the high standards of scholarship expected of students in their academic performance. The teacher-sponsor is responsible for the team's adherence to these high principles. Suspected violations of this Code will be referred to the teacher-sponsors of the teams involved.

Plagiarism of any kind is unacceptable, and the Students' written work and oral presentations at both the Regional and State Competitions must be their own.

Students must exhibit good sportsmanship in both victory and defeat in their relations with other teams and individuals. They must at all times show respect for fellow students, opponents, judges, coaches, and competition coordinator(s) and volunteers. Trials will be conducted honestly, fairly, and with the utmost civility. Students shall not willfully violate the rules of the competition in spirit or in practice, and shall avoid tactics they know are wrong or in violation of the rules.

Each team is responsible for its conduct and the conduct of persons associated with that team (friends, relatives, etc.) throughout the competition.

All coaches agree to focus attention on the educational value of the mock trial competition, and to uphold the highest standards of the legal profession, encourage fair play, and discourage willful violations of the rules. Coaches will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the rules and Code of Ethical Conduct. Coaches should ensure that the students understand and agree to comply with this Code. Violations of this Code may result in disqualification from the competition.

JUDGING THE COMPETITION

GENERAL OVERVIEW

The competition will be comprised of successive rounds wherein a given team will be matched against another team in the presentation of the mock trial problem. Since teams are unaware of which side of the case they will present until shortly before the competition begins, they must prepare for both the plaintiff and defense.

At least one presiding judge will conduct the trial and at least one performance judge will evaluate each team's performance using a scoring sheet. The performance of each student-attorney and each student-witness will be judged on a scale of one to ten, with one being

the lowest score and ten being the highest. Each team should review and be familiar with the guidelines the judges are asked to consider in evaluating team and individual performances. Copies of the score sheet and the criteria for scoring are included in this handbook.

Judges have the option to orally critique the performance of each team following the conclusion of each round, but their written comments will not be dispersed. The expression, “beauty is in the eye of the beholder,” points out the differences that exist between human perceptions. That same subjective quality is present in the scoring of the Mock Trial. Even with rules and evaluation criteria for guidance, as in “real life,” not all judges and attorney-scorers evaluate a performance identically. While the organizers of this competition have done everything possible to ensure consistency in scoring, the competition reflects this “real life” quality that is a part of all human interactions, including legal proceedings.

PERFORMANCE JUDGES

Performance judges determine which team made the best overall presentation. Depending on how your Regional Competition is organized, the presiding and performance judge may be the same person.

When deciding which team made the best overall presentation, the performance judges should consider the performance of all student-witnesses and student-attorneys from both sides. To this end, each performance judge is provided a score sheet which he/she will complete as the trial progresses. Each performance judge will use a standardized point system to determine which team will advance. If the two performance judges select opposite schools as winners, the presiding judge will select a winner without regard to the number scores.

In addition to the score sheet, performance judges also will consider the following regarding student-witness presentation:

- Did the student-witness maintain eye contact with the student-attorney, the presiding judge, the performance judge(s), etc. while on the stand?
- Did the student-witness’ testimony appear unrehearsed?
- Could the student-attorney’s or student-witness’s questions and responses be heard by the entire court?

Credit should be given to the team which truly had a well-balanced presentation, with its strong points equally distributed among all student-attorneys and student-witnesses rather than relying on the strength of one student-attorney or student-witness.

Following the State Competition, each school participating in the State Competition will receive its score sheet and win/loss record. Ranking of state finalists will only be given through third place.

REGIONAL COORDINATORS

Region 1:

Andrell Cooper

Law Office of Andrell J. Bowman-Cooper
1900 North 18th Street, Suite 307
Monroe, Louisiana 71201
(318) 361-5004 - Phone
cooperandrell@aol.com

Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll, and Winn Parishes

Region 2:

Carolyn Cole

Neuner Pate
One Petroleum Center
1001 West Pinhook Road, Ste. 200
Tele: (337) 237-7000
CCole@neunerpate.com

Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Iberia, Jefferson Davis, Lafourche, Lafayette, St. Landry, St. Mary, St. Martin, Terrebonne, and Vermilion Parishes

Region 3:

Tavares Walker

Southern University Law Center
2 Roosevelt Steptoe Dr., Ste. 116
Baton Rouge, LA 70813
Tel: (225) 771-2142, ext. 147
twalker@sulc.edu

Assumption, Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, and West Feliciana Parishes

Region 4:

Micah Fincher

Graham Ryan

Jones Walker
201 St. Charles Avenue, Ste. 5100
New Orleans, LA 70170
(504) 582-8000
mfincher@joneswalker.com
gryan@joneswalker.com

Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, and St. Tammany Parishes

YOUNG LAWYERS DIVISION CO-CHAIRS/COORDINATORS
--

Kassie Hargis
7856 Main St, Suite 211
Houma, LA 70360
Tele: (985) 873-6550
khargis@32ndjdc.com

Lynsay Fontenot
Tele: (337) 274-5722
Lynsayfontenot@yahoo.com

APPLICABLE LAW

The statutory law of Riviere Rapide Parish applicable to the 2015 problem is included with the case materials. For purposes of the 2015 Mock Trial Competition, statutes and case law are applicable and binding only if they are from the jurisdiction of Riviere Rapide or from the Riviere Rapide Parish Statutes (RRPS).

All trials are governed by the National High School Mock Trial Rules of Evidence, which are provided, as well as the Rules of Competition provided below.

RULES OF COMPETITION

A. ADMINISTRATION

Rule 1.1: Rules –All trials will be governed by the Rules of Competition for the Louisiana High School Mock Trial Competition and the National High School Mock Trial Rules of Evidence. Questions regarding these rules or the interpretation thereof are within the discretion of the Young Lawyers Division Mock Trial Committee (“Committee”), whose decision is final.

Rule 1.2: Code of Conduct - The Rules of Competition, as well as proper rules of courthouse and courtroom decorum and security, must be followed. The Committee possesses discretion to impose sanctions, up to and including forfeiture or disqualification, for any misconduct occurring while a team is present for the State Championship, flagrant rule violations, or breaches of decorum which affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge, or the mock trial program. Such discretion is also granted to each of the Regional Coordinators.

Rule 1.3: Emergencies - During a trial, the presiding judge shall have discretion to declare an emergency and adjourn the trial for a short period of time to address the emergency.

B. THE PROBLEM

Rule 2.1: The Problem - The problem is a fictional fact pattern which may contain any or all of the following: statement of facts, petition, answer, stipulations, witness statement/affidavits, jury charges, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered. The problem shall consist of three witnesses per side, all of whom have names and characteristics which allow them to be played by either males or females. All three witness must be called at trial.

Rule 2.2: Witnesses Bound by Statements – Each witness is bound by the facts contained in his/her own witness statement, the Statement of Facts, if present, and/or any necessary documentation relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness’ statement. If, in direct

examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 2.3, “unfair extrapolation.” A witness is not bound by facts contained in other witness statements.

Rule 2.3: Unfair Extrapolation – A fair extrapolation is one that is neutral. Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial. If a witness is asked for information not contained in his/her statement, the answer must be consistent with the statement and may not materially affect the witness’ testimony or any substantive issue of the case.

Attorneys for the opposing team may refer to Rule 2.3 in a special objection, such as “unfair extrapolation” or “This information is beyond the scope of the statement of facts.”

Possible rulings by a judge include:

- (a) No extrapolation has occurred;
- (b) An unfair extrapolation has occurred;
- (c) The extrapolation was fair; or
- (d) Ruling is taken under advisement.

The decision of the presiding judge regarding extrapolations or evidentiary matters is final. When an attorney objects to an extrapolation, the presiding judge will rule in open court to clarify the course of further proceedings.

Rule 2.4: Genders of Witnesses – All witnesses and parties are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters area allowed. Any student of either gender may portray the role of any witness or party.

Rule 2.5: Voir Dire – *Voir Dire* examination of a witness is not permitted.

C. TEAMS:

Rule 3.1: Team Eligibility – Teams competing in the Louisiana High School Mock Trial State Competition must be comprised of the same students who participated in the Regional Competition. The Regional Coordinator may designate an alternate team should the Regional Championship team or Regional Runner-Up be unable to participate, so long as all students on the team are from the same original team. Regions may not combine members from different teams and/or enter an “all- star” team in the State Competition. The Committee shall determine what an “all-star” team is, and its determination will be final.

Rule 3.2: Team Composition – Teams consist of eight members assigned to roles representing the prosecution/plaintiff and defense/defendant sides. Only six members may participate in any given round. (See Rule 3.3 for further explanations referring to team participation.) Each team is responsible for having a timekeeper. An “official” timekeeper can be used in the Regional Competitions or State Competition. In the absence of an “official timekeeper”, each team should be prepared to provide its own timekeeper who, in conjunction with the timekeeper for the opposing team, will monitor and reconcile the duration of each team’s presentation during each phase of the competition. (*See*, Sample Timekeeper Sheet at page 54). The team roster becomes official at the time of on-site registration at the Regional Competition.

Once this occurs, team member substitutions are strictly prohibited. No team, for any reason, shall be allowed to substitute any other person for an official team member.

A school may field more than one team. If a school chooses to do so, no substitutions are allowed between teams. In the event that a team is undermanned, the replacement may come from any other student in the school's student body.

Rule 3.3: Team Presentation – At the regional competition, teams must present both the prosecution/plaintiff and defense/defendant sides of the case, using six team members in each trial round. For each trial round, teams shall use three students as attorneys and three students as witnesses. Only in the case of an emergency occurring during a round of competition may a team participate with less than six members. In such a case, a team may continue in the competition by making substitutions to achieve a two attorney/three witness composition.

Given the scoring system at the three-round State competition, it is not guaranteed that each team will present both sides of the case, although each team will participate in two rounds.

If an emergency causes a team to use less than three attorneys, the team may be penalized by reduction of points for that round or may be caused to forfeit the round, depending upon the nature of the emergency. Final determination of emergency, forfeiture, or scoring record will be made by the Regional Coordinator or the Committee.

Rule 3.4: Team Duties – Team members are to evenly divide their duties. Each of the three attorneys will conduct one direct examination and one cross-examination. In addition, one will present the opening statements and another will present the closing arguments. In other words, the attorney duties for each team will be divided as follows:

1. Opening Statements
2. Direct Examination of Witness #1
3. Direct Examination of Witness #2
4. Direct Examination of Witness #3
5. Cross Examination of Witness #1
6. Cross Examination of Witness #2
7. Cross Examination of Witness #3
8. Closing Argument (including Rebuttal) [See Rule 4.5]

Opening Statements must be given by both sides at the beginning of trial.

The attorney who examines a particular witness on direct examination is the only person who may object while opposing attorney is questioning that witness on cross-examination, and the attorney who cross-examines a witness is the only one permitted to make objections during the direct examination of that witness.

Each team must call three witnesses. Witnesses may only be called by their own team during their case-in-chief and examined by both sides. Witnesses may not be recalled by either side.

Rule 3.5: Team Roster – Copies of the team roster form must be completed and

duplicated by each team prior to arrival at the courtroom for each round of competition. Teams must be identified by the code assigned at registration. No information identifying team origin should appear on the form. Before beginning a trial, the teams must exchange copies of the team roster form. The form should identify the gender of each witness so that reference to such parties will be made in the proper gender. Copies of the team roster form should also be made available to the judging panel and presiding judge before each round.

A. THE TRIAL

Rule 4.1: Courtroom Setting – The plaintiff/prosecutor team shall be seated closest to the jury box. No team shall rearrange the courtroom without prior permission of the judge.

Rule 4.2: Stipulations – Stipulations shall be considered part of the record and already admitted into evidence.

Rule 4.3: The Record – Stipulations, the indictment, or the charge to the jury will not be read into the record.

Rule 4.4: Swearing of Witnesses – The following oath may be used before questioning begins:

“Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?”

The swearing of witnesses will occur in one of two ways. Either the presiding judge will indicate all witnesses are assumed to be sworn, or the above oath will be conducted by (a) the presiding judge, (b) a bailiff, or (c) the examining attorney. The presiding judge will indicate which method will be used during all rounds of the current year’s tournament. Witnesses may stand or sit during the oath.

Rule 4.5: Trial Sequence and Time Limits

The trial sequence and time limits are as follows:

1. Opening Statement: 5 minutes per side
2. Direct and Re-direct Examination: Optional 30 minutes per side
3. Cross and Re-cross Examination: Optional 15 minutes per side
4. Closing Argument: 5 minutes per side

The prosecution/plaintiff gives its opening statement and closing argument first. The prosecution/plaintiff may reserve a portion of its closing time for a rebuttal, but ***rebuttal is limited to the scope of the defense’s closing argument.***

Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial may not be transferred to another part of the trial.

Rule 4.6: Timekeeping – Time limits are mandatory and will be strictly enforced. Each

team is required to have its own timekeeper and timekeeping aids and may use its own timekeeper and timekeeping aids even if an “official timekeeper” is used in the regional competitions. However, if an official timekeeper is assigned to each trial, that timekeeper’s tally of the duration of the presentation is “official” and final.

Time for objections, extensive questioning from the judge, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements. Time does not stop for introduction of exhibits.

Rule 4.7: Time Extensions – The presiding judge has sole discretion to grant time extensions. If time has expired and an attorney continues without permission from the Court, each scoring judge may elect to discount points for exceeding the time limit.

Rule 4.8: Motions Prohibited – No motions may be made.

Rule 4.9: Sequestration – Teams may not invoke the rule of sequestration.

Rule 4.10: Bench Conferences – Bench conferences may be granted at the discretion of the presiding judge, but should be made from the counsel table in the educational interest of handling all matters in open court. If the presiding judge orders the jury out of the room, the jury (performance judges) should remain in order to score the student-attorneys on their performances.

Rule 4.11: Supplemental Material/Costuming – Teams may refer only to materials included in the trial packet. *No illustrative aids of any kind may be used unless provided in the case packet. No enlargements of the case materials will be permitted.* Absolutely no props or costumes are permitted unless authorized specifically in the case materials. Costuming is defined as hairstyles, clothing, accessories, and makeup which are case specific. No computers, cellular phones, or other electronic equipment may be used by any team for any reason during any round of competition.

The only documents which the teams may present to the presiding judge or scoring panel are the individual exhibits as they are introduced into evidence and the team roster forms. Exhibit notebooks are not to be provided to the presiding judge or scoring panel.

Rule 4.12: Trial Communication – Coaches, teachers, alternates, guests, and observers shall not talk to, signal, communicate with, or coach their teams during the trial. This rule remains in force during any emergency recess which may occur. Team members may communicate among themselves during trial; however, no disruptive communication is allowed. Signaling of time by the teams’ timekeepers shall not be considered a violation of this rule.

Coaches, teachers, alternates, and observers must remain outside the bar in the spectator section of the courtroom. Only team members participating in a particular round may sit inside the bar and communicate with each other.

Rule 4.13: Viewing a Trial – Team members, alternates, attorney/coaches, teacher-sponsors, and any other persons directly associated with a mock trial team, except for those authorized by the Committee, are not allowed to view other teams’ performances in the State Competition as long as their team remains in the competition. If one school has more than one

team competing in the State Competition, the attorney/coaches may not view more than one team's competition per round (there shall be no "scouting" of a team's possible opponent by any team members, alternates, attorney/coaches, teacher-sponsors, or any other persons directly associated with a mock trial team).

Rule 4.14: Videotaping/Photography – Any team has the option to refuse participation in videotaping, tape recording, and still photography by opposing teams. Media coverage will be allowed by the two teams in the championship round.

Rule 4.15: Jury Trial -- The case will be tried to a jury, and arguments are to be made to judge and jury. Teams may address the performance/scoring judges as the jury.

Rule 4.16: Standing During Trial -- Unless excused by the judge, attorneys will stand while giving opening and closing statements, during direct and cross examinations, and for all objections.

Rule 4.17: Objections During Opening Statement/Closing Argument – No objections may be raised during opening statements or closing arguments. If a team believes an objection would have been proper during the opposing team's opening statement or closing argument, one of its attorneys may, following the opening statement or closing argument, stand to be recognized by the judge and may say, "If I had been permitted to object during closing arguments, I would have objected to the opposing team's statement that _____. The presiding judge will not rule on the "objection." Presiding and performance/scoring judges will weigh the "objection" individually. No rebuttal by opposing team will be heard.

Rule 4.18 Objections

1. Argumentative: An attorney shall not ask argumentative questions; however, the court may, in its discretion, allow limited use of argumentative questions on cross examination.
2. Lack of Proper Predicate/Foundation: Attorneys shall lay a proper foundation prior to moving for the admission of evidence. After the exhibit has been offered into evidence, the exhibit may still be objected to on other grounds.
3. Assuming Facts Not in Evidence: Attorneys may not ask a question that assumes unproven facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by evidence (sometimes called a "hypothetical question").
4. Questions Calling for Narrative or General Answer: Questions must be stated to call for specific answer. (Example of improper question: "Tell us what you know about this case.").
5. Non-Responsive Answer: A witness' answer is objectionable if it fails to respond to the question asked.

6. Repetition: Questions designed to elicit the same testimony or evidence previously presented in its entirety are improper if merely offered as a repetition of the same testimony or evidence from the same or similar source.

Teams are not precluded from raising additional objections which are available under the Rules of Evidence (Mock Trial Version).

Rule 4.20: Procedure for Introduction of Exhibits – As an example, the following steps maybe used to effectively introduce evidence:

1. All evidence should be pre-marked as exhibits.
2. Ask the presiding judge for permission to approach the bench. Show the presiding judge the marked exhibit. Do this while saying, “Your honor, may I approach the bench to show you what has been marked as Exhibit No. ___?”
3. Wait for the judge’s response while showing the exhibit to opposing counsel.
4. Ask for permission to approach the witness and wait for the judge’s response. Give the exhibit to the witness while saying, “I am handing you what has been marked as the plaintiff/the defendants’ Exhibit No. ____ for identification.”
5. Ask the witness to identify the exhibit (tell you what it is) by asking, “Would you identify this please?”
6. Witness answers with identification only.
7. Offer the exhibit into evidence by saying, “Your Honor, we offer, file and introduce into the record Exhibit No. _____. The authenticity of this exhibit has been stipulated.”
8. Court: “Is there an objection?” If opposing counsel does not believe that a proper foundation has been laid, he should object at this time.
9. Opposing Counsel: “No, your Honor.” *Or* “Yes, your Honor.” If the response is “yes”, the objection will be stated on the record.
10. Court: “Is there any response to the objection?” You must respond to the objection or advise the Court that you will lay a proper foundation.
11. Court: “Exhibit No ____ is/is not admitted into evidence.”

Rule 4.21: Use of Notes – Attorneys may use notes when presenting their cases, but it is important to learn your questions and know your case without memorizing your questions like a speech. **Reading from notes is very ineffective and can reduce your score.** Always remember to listen to the witness’ answers and adjust your questions accordingly. Witnesses are not

permitted to use notes while testifying during trial. Attorneys may consult with each other at counsel table verbally or through the use of notes. No computers or cellular phones may be used in the competition for this purpose.

Rule 4.22: Redirect/Re-cross Examinations – Re-direct and Re-cross examinations are permitted, provided they conform to the restrictions in Rule 611(d) in the Rules of Evidence (Mock Trial Version).

Rule 4.23: Scope of Closing Arguments – Closing Arguments must be based on the actual evidence and testimony presented during the trial.

Rule 4.24: The Critique – The judging panel is allowed ten (10) minutes for debriefing. The timekeeper will monitor the critique following the trial. Presiding judges are to limit critique sessions to a combined total of ten (10) minutes. There is no critique in the championship round. Judges shall not make a ruling on the legal merits of the trial. Judges may not inform the students of score sheet results.

Rule 4.25: Offers of Proof – No offers of proof may be requested or tendered.

E. JUDGING AND TEAM ADVANCEMENT

Rule 5.1: Finality of Decisions – All decisions of the judging panel are final.

Rule 5.2: Composition of Judging Panels -- The judging panel will consist of at least three members. The composition of the judging panel and the role of the presiding judge will be at the discretion of the Regional Coordinator or the Committee, with the same format used throughout the competition, as follows:

1. One presiding judge and two performance/scoring judges (all three of whom complete score sheets); or
2. One presiding judge and three performance/scoring judges (only the performance/scoring judges complete score sheets); or
3. One presiding judge and two performance/scoring judges (only the performance/scoring judges complete score sheets and the presiding judge completes a form which selects only the winner and does not assign point totals for either team).

The performance/scoring judges may be persons with mock trial experience or attorneys. Each scoring panel shall include at least one attorney. The presiding judge shall be an attorney. At the discretion of the Regional Coordinator or Committee, the Championship round may have a larger panel, but the panel shall consist of an odd number of performance/scoring judges. All presiding and performance/scoring judges shall receive the mock trial manual, a memorandum outlining the case orientation materials, and a briefing in a judges' orientation.

Rule 5.3: Score Sheets/Ballots – The term “ballot” refers to the form on which each individual performance/scoring judge records his/her decision regarding which team made the best presentation in each round. The term “score sheet” is used in reference to the form used to

record speaker and team points. Score sheets are to be completed individually by the performance/scoring judges. Performance/scoring judges are not bound by the rulings of the presiding judge. The team that earns the highest points on an individual judge's score sheet is the winner of that ballot. The team that receives the majority of the three ballots wins the round. The ballot votes determine the win/loss record of the team for power-matching and ranking purposes. While the judging panel may deliberate on any special awards, (i.e., Outstanding Attorney/Witness) the judging panel should not deliberate on individual scores.

Rule 5.4: Completion of Score Sheets – Each performance/scoring judge shall record a number of points (1-10) for each team's presentation of the trial. At the end of the trial, each performance/scoring judge shall add each team's individual points to arrive at the team's total score.

Rule 5.5: Team Pairings and Advancement

1. At the Regional Competitions, the method of advancement will be dictated by the number of teams participating, at the discretion of the Regional Coordinator for each region. All teams must compete in at least 2 rounds. It is recommended that team advancement and pairings be conducted in a format similar to that of the National High School Mock Trial Competition.
2. At the State Competition, there will be a total of three rounds of competition. All eight teams will compete in both round one and round two, and teams will be rated based on the following criteria: (i) Win/Loss record – the number of rounds won or lost by a team; (ii) Total number of ballots – the number of scoring judges' votes a team earned in preceding rounds; (iii) Total number of points accumulated in each round; and (iv) Point spread against opponents - the point spread is the difference between the total points earned by the team whose tie is being broken less the total points of that team's opponent in each previous round. The greatest sum of each point spread will break the tie in favor of the team with the largest cumulative point spread. The two teams with the highest rating after the second round will be paired together in the third round – the championship round. The winner of the third round will be declared the State Champion.

i. Pairings of Teams at the State Competition:

Teams will randomly be paired in the first round of the competition.

For the second round, teams will be paired based upon their performance in the first round. The two teams with the highest rating from the first round will be paired together, the two teams with the next highest rating from the first round will be paired together, and so on, until all teams are paired.

Because of the limited number of teams and rounds in the State Competition, there is no guarantee that each team will be given

the opportunity to present both sides of the case, although every effort will be made. The goal of the first two rounds is to identify the best two teams for advancement to the final round.

Rule 5.6: Selection of Sides for Championship Round -- The following procedure shall be used to determine which team will represent which side in the Championship Round:

1. The team with the letter/numerical code which comes first will be considered the “Designated Team.”
2. The coin will be tossed by a designee of the Regional Coordinator or the Committee.
3. If the coin comes up heads, the Designated Team shall represent the plaintiff/prosecution in the Championship Round. If the coin comes up tails, the Designated Team shall represent the defendant.

F. DISPUTE RESOLUTION

Rule 6.1: Reporting a Rules Violation Inside the Bar – Disputes which involve students competing in a round and occur within the bar must be filed immediately following the conclusion of that trial round. Disputes must be brought to the attention of the presiding judge at the conclusion of the trial.

If any team believes that a substantial violation of the rules has occurred, a student- attorney must indicate that the team intends to file a dispute. The scoring panel will be excused from the courtroom, and the presiding judge will provide the student-attorney with a dispute form on which the student will record, in writing, the nature of the dispute. The student may communicate with counsel and/or student witnesses before lodging the notice of dispute or in preparing the form.

At no time in this process may team sponsors or coaches communicate or consult with the student-attorneys. Only student-attorneys may invoke the dispute procedure.

Rule 6.2: Dispute Resolution Procedure – The presiding judge will review the written dispute and determine whether the dispute should be heard or denied. If the dispute is denied, the judge will record the reasons for the denial, announce her/his decision to the Court, retire to complete his/her score sheet (if applicable), and submit the dispute form with the score sheets. If the judge feels the dispute merits a hearing, the form will be shown to opposing counsel for their written response.

After the team has recorded its response and transmitted it to the judge, the judge will ask each team to designate a spokesperson. After the spokespersons have had time (not to exceed three minutes) to prepare their arguments, the judge will conduct a hearing on the dispute, providing each team’s spokesperson with three minutes for a presentation. The spokespersons may be questioned by the judge. At no time in this process may team sponsors or coaches communicate or consult with the student-attorneys.

After the hearing, the presiding judge will adjourn the court and retire to consider her/his ruling on the dispute. That decision will be recorded in writing on the dispute form with no further announcement.

Rule 6.3: Effect of Violation on Score – If the presiding judge determines that a substantial rules violation has occurred, the judge will inform the scoring judges of the dispute and provide a summary of each team’s argument. The scoring judges will consider the dispute before reaching their final decisions. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring judges.

Rule 6.4: Reporting of Rules Violations Outside the Bar – Disputes which occur outside the bar only during a trial round may be brought by teacher-coaches or attorney-coaches exclusively. Such disputes must be made promptly to a trial coordinator or a member of the Committee, who will ask the complaining party to complete a dispute form. The form will be taken to the tournament’s communications center, whereupon a dispute resolution panel will (a) notify all pertinent parties; (b) allow time for a response, if appropriate; (c) conduct a hearing; and (d) rule on the charge. The dispute resolution panel may notify the judging panel of the affected courtroom of the ruling on the charge or may assess an appropriate penalty. The dispute resolution panel will be comprised of individuals designated by the Regional Coordinator or the Committee.

SUGGESTIONS FOR TEACHER-COACHES

SUGGESTED PREPARATION TIME: 2-4 weeks of daily meetings OR 2-3 meetings a week for 2-3 months

Work with student-attorneys, concentrating on what should be covered in an opening statement and a closing statement. Give them ideas, but don’t write the statements for them. Ask members of the team what they think should be included in the opening and closing statements. Student-witnesses are called to the stand; student-attorneys examine them. Have other team members make suggestions.

If time allows, practice opening and closing statements, how to lay the foundation for exhibits, and what to do when the opposition objects to a question. Your attorney-coach will be an important resource to help you understand these procedures. When practicing for the trial, allow students to act as the presiding judge and opposing counsel.

Attorney-Coach Assistance:

Students need to understand the legal terminology of the entire case. It is to your team’s advantage to have an attorney-coach. Obtain an attorney-coach from your community. If you do not know any attorneys, contact the Regional Coordinator in your parish and he/she will make efforts to secure a volunteer attorney-coach for your team.

Meet early with your attorney-coach. Review the points of the case and establish your strategy. Include all of the members of your team in these discussions so that they understand

the case. Your attorney-coach will help student-attorneys prepare key questions for direct and cross-examination. The attorney-coach should also question the witnesses to ensure that they know and understand their roles and points of law. Practice trials should be conducted with your attorney-coach and should include both direct and cross-examination in a courtroom setting.

General Suggestions:

Your team will benefit from observing a real trial before competing in the Mock Trial Competition. Contact the Clerk of Court for the court in your parish to find out when a trial is scheduled at the courthouse. The public is allowed to attend most trials.

Many mock trial materials and examples of mock trial methods are available on the internet. An attorney-coach and/or a teacher-coach may be able to find suitable examples of opening/closing statements and direct/cross examination methods.

SUGGESTIONS FOR ATTORNEY-COACHES

SUGGESTED PREPARATION TIME: Five two-hour sessions before the trial

SUGGESTED PLACE FOR MEETING: Meet in a local courtroom to help the students feel comfortable in a courtroom setting. Courtrooms are usually available in the evenings; arrangements may be made with the clerk of the district court.

PROPS: An easel or blackboard for visual aids that explain trial procedure concepts.

FIRST SESSION

1. Distribute information packets and instruct the team to read all the materials between the first and second meetings.
2. Explain trial procedures, i.e., opening and closing statements, direct examination, cross examination, calling witnesses, and making and responding to objections

SECOND SESSION

1. Determine the factual basis for the case.
2. Put the students on the stand with their notes then conduct a direct examination to show team members how it's done.

THIRD SESSION

1. Go through the trial, concentrating on what should be covered in an opening statement and closing argument. Give the students ideas, but do not write the statements for them. Ask members of the team what they think should be included in the opening and closing statements.
2. Call witnesses to the stand and allow student-attorneys to examine them. Encourage other team members to make suggestions.

SUBSEQUENT SESSIONS

1. Examine the opposition's witnesses and locate possible areas where objections may occur; look for other areas that your team's attorneys might want to focus on during cross examination.
2. If time allows, practice opening and closing statements, how to lay foundation for exhibits, what to do when opposing counsel objects to a question.

GUIDELINES FOR STUDENT-ATTORNEYS

I. GENERAL SUGGESTIONS

Trial attorneys control the presentation of evidence at trial and argue the merits of their side of the case. They introduce evidence and question witnesses to bring out the facts surrounding the allegations.

The Prosecution attorneys present the case for the State of Louisiana. By questioning witnesses, they will try to convince the jury that the Lennon Oaxley is guilty beyond a reasonable doubt of the crime of 2nd Degree Murder.

The Defense attorneys present the case for Lennon Oaxley. They will offer their own witnesses to present the defendant's version of the facts. The defense may undermine the Prosecution's case by showing that the Prosecution's witnesses cannot be depended upon or that their testimony does not make sense or is inconsistent. They will also try to convince the jury that Lennon Oaxley is not guilty of the crime he has been charged with.

Attorneys on both sides should:

- Always be courteous to witnesses, other attorneys, and the presiding judge.
- Always stand when addressing the judge, questioning witnesses, and arguing or asserting objections. Also, stand when the judge enters or leaves the room.
- Dress appropriately — this may mean a coat and tie for gentlemen and a dress or suit for ladies.
- Always respond with "Your Honor" when addressing the judge. For example, when responding to a question you should reply, "Yes, Your Honor" or "No, Your Honor" as appropriate.
- Student-attorneys should not make objections when it is unlikely that the judge will agree with the objection. Also, keep in mind that judges often do not like constant objections; numerous objections disrupt the flow of the trial. Finally, be able to explain the reason and basis for any objection.
- If the presiding judge rules against you on an objection, an argument, or in the overall case, take defeat gracefully.
- If an objection is made and the presiding judge sustains the objection, it means that

he agrees with the objection and believes that the question is improper. The question cannot be answered, and the questioning attorney must move on.

- If an objection is made and the presiding judge overrules the objection, it means that he does not agree with the objection and he believes the question is proper. The questioning attorney may continue.

II. OPENING STATEMENTS

Objective: To acquaint the jury with the case and outline what you are going to prove through witness testimony and the admission of evidence.

Method: Student-attorneys will introduce the judge and jury to themselves, their client, and the case by revealing the following in a clear and concise manner:

1. Name of case.
2. Name of attorney.
3. Name of client.
4. Name of colleagues.
5. A short summary of facts.
6. Mention of the burden of proof (the amount of evidence needed to prove a fact) and who has it.
7. A clear and concise overview of the witnesses and physical evidence that you will present, stating how each will help improve your case.

Other suggestions:

- Learn your case thoroughly (facts, law, burdens, etc.)
- Never promise to prove anything that you will not or cannot prove using the evidence and testimony contained in this handbook.
- Proper phrasing in opening statements includes: “The evidence will indicate that...”; “The facts will show that...”; “Witnesses [use full names] will be called to tell...”; and “The defendant will testify that...”.
- Write a clear, concise, and well organized statement and memorize it. Do not read it at trial.
- It is essential that you appear to have confidence in your case.
- Eye contact with the jury is recommended. Do not read from prepared materials. Use your notes sparingly. You should always appear confident.
- Use the future tense when describing what you will do (*e.g.* “The facts will show...” or

“Our witnesses’ testimony will prove...” etc.)

III. DIRECT EXAMINATION

Objective: To obtain information from favorable witnesses you call in order to prove the facts of your case; to present enough evidence to warrant a favorable verdict; to present facts with clarity and understanding; to present your witness to the greatest advantage; and to establish your witnesses’ credibility.

Method: Call for the witness with a formal request such as “Your Honor, I would like to call [full name of witness] to the stand.” The clerk will then swear in the witness. Student-attorneys will elicit from witnesses relevant facts that are favorable to their theory of the case. Consider the following:

1. Isolate the information that each witness can contribute to your case and prepare a series of questions designed to get that information.
2. Make sure all items that you need to prove your case will be presented through your witnesses.
3. Use clear and simple questions.
4. Elicit information through questions and answers.
5. Never ask a question to which you don’t know the answer.
6. Keep the witness from rambling about unimportant matters

Other suggestions:

- Avoid asking leading questions that require only a “yes” or “no” answer. Leading questions are only allowed during cross-examination.
- Practice with your witnesses.
- Don’t ask questions requiring opinion testimony, unless the witness has been certified as an expert by the court.

Advice in Developing and Presenting Favorable Testimony:

- Try to ask only the questions that you practiced with your witnesses and ask a limited number.
- Be prepared to think and respond quickly to an unexpected answer from a witness and add a short follow-up to be sure you obtained the testimony you wanted.
- Present your questions in a relaxed and clear fashion.
- Listen to the answers.
- If you need a moment to think, ask the judge if you can discuss a point with your co-counsel.

- Be sure all documents are marked for identification purposes before you refer to them during trial; refer to them as Exhibit “1”, etc. After you use the exhibit, if it helps your case, ask the judge to admit it as evidence.
- Be prepared to respond to objections from opposing counsel.

Suggestions for the Opposing Side:

- Listen closely to the testimony that is being introduced.
- Object to testimony or introduction of evidence when necessary.
- Write down pertinent testimony and prepare for cross-examination of witnesses.

IV. CROSS-EXAMINATION

Objective: To make the other side’s witnesses less believable in the eyes of the trier of fact; to negate your opponent’s case; to discredit the testimony of your opponent’s witnesses; and to discredit real evidence that has been presented.

Method: Student-attorneys will examine the opponent’s witnesses and elicit relevant facts that are intended to discredit that witness or the opponent’s theory of the case. Consider the following:

1. An attorney should attempt to explain, modify, or discredit that which has been introduced as evidence.
2. Use narrow, leading questions.
3. Do not have a witness repeat a statement unless you are leading somewhere.

Suggested Types of Questions to ask:

- Questions to establish that the witness is lying on important points (*e.g.*, the witness first testifies to not being at the scene of the accident and soon after admits to being there).
- Questions to show that the witness is prejudiced or biased (*e.g.* the witness testifies that he/she has hated the defendant since childhood).
- Questions to weaken the testimony of the witness by showing his/her testimony is questionable because of poor perception (*e.g.* a witness who has poor eyesight claims to have observed all the details of a fight that took place 500 feet away in a crowded room).
- Questions to show that an expert witness or even a lay witness who has testified to an opinion is not competent or qualified because he or she does not have the proper training or

experience (*e.g.*, a psychiatrist testifying to defendant's need for dental work or a high school graduate testifying that in his/her opinion the defendant suffers from a chronic blood disease).

- Questions to tarnish the witness' credibility by showing that he/she gave a contrary statement earlier (*e.g.*, the witness' testimony is different from what he or she testified to during the pre-trial hearing).

Other suggestions:

- Anticipate each witness' testimony and write your questions accordingly. Be ready to adapt your questions at the trial depending on the actual testimony.
- Never ask anything but a leading question (questions that suggest the answers and usually only require a "yes" or "no" answer).
- Be brief. Don't ask so many questions that well-made points are lost. Prepare short questions using easily understood language.

Advice in Presenting an Effective Cross-Examination:

- Be relaxed and ready to adapt your prepared questions to the testimony that is actually heard during the direct examination.
- Always listen to the witness' answer.
- Don't give the witness an opportunity to reemphasize the strong points made during direct examination.
- Don't quarrel or bicker with the witness.
- Don't harass or intimidate the witness with the questions that you ask him or her. Know your case inside and out.
- Do not read the entire presentation; look at the witness, the judge, and the jury.

V. RE-DIRECT AND RE-CROSS EXAMINATION

If either attorney wishes, he/she can conduct a re-direct or re-cross examination. This is most often done to re-establish or again discredit a witness' statements.

VI. CLOSING STATEMENTS

Objective: To provide a clear and persuasive summary of the evidence you presented to prove the case and the weaknesses of the other side's case.

Method: Student-attorneys will address the judge and jury and summarize their theory of

the case. Consider the following:

1. Thank the jury for their time and attention.
2. Isolate the issues and describe briefly how your presentation resolved those issues.
3. Review the witness testimony. Outline the strengths of your side's witness and also the weaknesses of the other side's witnesses. Remember to adapt your final statement to reflect what the witness actually said rather than the anticipated testimony. Closing statements should not be composed entirely before trial since they should highlight the important developments which occurred during trial. Relaxed and informal statements are likely to be more effective.
4. Review the physical evidence. Outline the strengths of your evidence and the anticipated weakness of the other side's evidence. This too must be adapted at trial.
5. State the applicable statutes and any cases that support your side.
6. Remind the jury of the required burden of proof (amount of evidence needed to prove a fact). If you are the attorney for the plaintiff/prosecution, you must tell the jury how you have met that burden. If you are the attorney for the defense, you must tell the jury how the other side has failed to meet its burden.
7. Argue your case by stating how the law applies to the facts as you have proven them.
8. Don't forget to request the verdict/remedy you desire.

Other suggestions:

- Be sure your statement is well organized.
- Rehearse as much as possible.

Advice in Presenting an Effective Closing Argument:

- You must always be flexible. Adjust your statement to the weaknesses, contradictions, etc. in the other side's case that actually came out during the trial. You cannot anticipate everything perfectly before the actual presentation of the case.
- Argue your side, but do not appear to be vindictive. Fairness is important.
- Be relaxed and ready for interruptions by certain judges who like to ask questions during closing statements.

- Do not make objections during the other side's closing argument. Do not read your presentation.
- Maintain eye contact with the jury

SUGGESTIONS FOR STUDENT-WITNESSES

GENERAL SUGGESTIONS

- If you are going to testify about records, familiarize yourself with them before coming to trial.
- Do not try to memorize what you will say in court, but try to recall what you observed at the time of the incident.
- When you are called to the stand, don't be nervous. There is no reason to be.
- You will be asked to take an oath to tell the truth. Remember the seriousness of this oath during the entire time you are testifying. If you willfully fail to tell the truth while testifying, you will be subject to penalties for perjury.
- If asked whether you have discussed the case with anyone, you should indicate any occasion that you have talked with the prosecutor, the defense attorney, or anyone else.
- When answering questions, speak clearly so you will be heard. The judge must hear and record your answer; therefore, do not respond by shaking your head.
- Listen carefully to the questions. Before you answer, make sure you understand what was asked. If you do not understand, ask that the question be repeated.
- Do not give your personal opinions or conclusions when answering questions unless specifically asked. Give only the facts as you know them, without guessing or speculating. If you do not know, say you do not know.
- If you realize you have answered a question incorrectly, ask the judge if you may correct your mistake.
- If the judge interrupts or an attorney objects to your answer, stop answering immediately. Likewise, if an attorney objects to a question, do not begin your answer until the judge tells you to continue.
- Be polite while answering the question. Do not lose your temper with the attorney questioning you.
- Always be courteous to witnesses, other attorneys, and the judge.
- Always stand when the judge enters or leaves the room.

- Dress appropriately (this may mean coat and tie for gentlemen and dresses or equivalent for ladies) or other appropriate attire for your character, but remember, no costumes.
- Always say, “Yes, Your Honor” or “No, Your Honor” when answering a judge’s question.
- If the judge rules against you in the case, take the defeat gracefully and be cordial to the judge and the other side.

CRITERIA FOR EVALUATING PERFORMANCE

The Performance/Scoring Judge scores student performance in each category-NOT on legal merits of the case. Points will be awarded using the following criteria:

Points	Performance	Criteria
1-2	Not Effective	Disorganized, unsure of self, illogical, uninformed, demonstrates lack of preparation and understanding of task, simply ineffective in communication.
3-4	Fair	Minimal performance and preparation; performance is passable but lacks depth in terms of knowledge of task and materials; communication lacks clarity and conviction.
5-6	Good	Good; Acceptable; fundamental understanding of task can perform outside the script, but with less confidence than when using the script; grasps major aspects of the case, but does not convey a mastery of the case; communications are clear and understandable, but could be stronger on fluency and persuasiveness.
7-8	Excellent	Presentation is fluent, persuasive, clear and understandable; organizes materials and thought well and exhibits a mastery of the case and of the materials provided; presentation was both believable and skillful.
9-10	Outstanding	Spectacular performance; thinks well on feet; logical, keeps poise under stress; performance was resourceful, original and innovative; can sort out essential from non-essential uses of time effectively, to accomplish major objectives knows how to emphasize vital points of trial and emphasizes them.

Student participants should also be mindful of the following considerations which the Performance/Scoring Judges may take under consideration when considering their scores:

Opening Statements: Did the student-attorney:

- Provide a case overview;
- Mention the key witnesses;
- State the relief requested;
- Provide a clear and concise description of his or her case?

Direct Examination: Did the student-attorney:

- Use properly phrased questions (who, what, where, and how);
- Use proper courtroom procedure;
- Demonstrate an understanding of the factual and legal issues;
- Properly introduce and use evidence;
- Defend objections in clear, concise and well-reasoned terms;
- Use time effectively;
- Comply with all rules of the competition and the spirit of fair play?

Cross Examination: Did the student-attorney:

- Use leading questions;
- Properly and effectively impeach witnesses;
- Raise proper objections;
- Assert well-reasoned bases for objections raised;
- Demonstrate knowledge and familiarity with the Rules of Evidence;
- Refrain from asserting objections in a disruptive manner;
- Act courteously to the opponent;
- Comply with all rules of the competition and the spirit of fair play?

Witnesses: Did the student-witness:

- Appear credible;
- Demonstrate a knowledge and familiarity with the facts;
- Respond spontaneously (not rehearsed);
- Seem poised;
- Observe proper courtroom decorum?

Closing Statement: Did the student-attorney:

- Summarize the evidence;
- Emphasize the supporting points of his or her own case and point out weaknesses in the opponent's case;
- Concentrate on the important facts, not the trivial;
- Apply the applicable law;
- Respond to the judge's
- Respond to the judge's questions with poise and confidence?

SCORE SHEET

Prosecution:

Defense:

Date:

Round:

Using the below scale (1-10), please rate the prosecution (P) and defense (D) in the categories below.

Not Effective	Fair	Good	Excellent	Outstanding
1	2	3	4	5
6	7	8	9	10

Prosecution		Defense	
Item	Score	Item	Score
Opening Statements		Opening Statements	
PROSECUTION'S 1 ST WITNESS			
• Direct Examination		• Cross Examination	
PROSECUTION'S 1 ST WITNESS			
• Witness Performance			
PROSECUTION'S 2 ND WITNESS			
• Direct Examination		• Cross Examination	
PROSECUTION'S 2 ND WITNESS			
• Witness Performance			
PROSECUTION'S 3 RD WITNESS			
• Direct Examination		• Cross Examination	
PLAINTIFF'S 3 RD WITNESS			
• Witness Performance			
• Cross Examination		DEFENDANT'S 1 ST WITNESS	
		• Direct Examination	
		DEFENDANT'S 1 ST WITNESS	
		• Witness Performance	
• Cross Examination		DEFENDANT'S 2 ND WITNESS	
		• Direct Examination	
		DEFENDANT'S 2 ND WITNESS	
		• Witness Performance	
• Cross Examination		DEFENDANT'S 3 RD WITNESS	
		• Direct Examination	
		DEFENDANT'S 3 RD WITNESS	
		• Witness Performance	
Closing Arguments		Closing Arguments	
Plaintiff Total		Defendant Total	

Please vote for the student you think was the best attorney and the best witness in this trial. You may identify them by name or role. **Best Attorney:**_____ **Best Witness:**_____

TIMEKEEPER SHEET

Prosecution:

Defense:

Date:

Round:

Plaintiff		Defendant	
<i>Item</i>	<i>Time</i>	<i>Item</i>	<i>Time</i>
Opening Statements- 5 mins		Opening Statements- 5 mins	
PLAINTIFF'S DIRECT EXAMINATION OF ITS WITNESSES- 30 mins total		DEFENDANT'S CROSS EXAM OF PLAINTIFF'S WITNESSES- 15 mins total	
PLAINTIFF'S 1 ST WITNESS			
• Direct Examination		• Cross Examination	
PLAINTIFF'S 1 ST WITNESS			
• Redirect Examination		• Recross Examination	
PLAINTIFF'S 2 ND WITNESS			
• Direct Examination		• Cross Examination	
PLAINTIFF'S 2 ND WITNESS			
• Redirect Examination		• Recross Examination	
PLAINTIFF'S 3 RD WITNESS			
• Direct Examination		• Cross Examination	
PLAINTIFF'S 3 RD WITNESS			
• Redirect Examination		• Recross Examination	
SUBTOTAL		SUBTOTAL	
PLAINTIFF'S CROSS EXAM OF DEFENSE'S WITNESSES- 15 mins total		DEFENSE'S DIRECT EXAM OF ITS WITNESSES- 30 mins total	
		DEFENDANT'S 1 ST WITNESS	
• Cross Examination		• Direct Examination	
		DEFENDANT'S 1 ST WITNESS	
• Recross Examination		• Redirect Examination	
		DEFENDANT'S 2 ND WITNESS	
• Cross Examination		• Direct Examination	
		DEFENDANT'S 2 ND WITNESS	
• Recross Examination		• Redirect Examination	
		DEFENDANT'S 3 RD WITNESS	
• Cross Examination		• Direct Examination	
		DEFENDANT'S 3 RD WITNESS	
• Recross Examination		• Redirect Examination	
Closing Arguments- 5 mins		Closing Arguments- 5 mins	
SUBTOTAL		SUBTOTAL	
Plaintiff Total		Defendant Total	

**LOUISIANA HIGH SCHOOL MOCK TRIAL COMPETITION
REGIONAL COMPETITION REGISTRATION FORM**

SCHOOL INFORMATION

Name: _____

Address: _____

Phone: ()	Fax: ()
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E-mail:

STUDENT INFORMATION

1.	
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5.	
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2.

6.	
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3.	
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ALT.

4.	
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ALT.

TEACHER SPONSOR(S) INFORMATION

Name: _____

Name: _____

Work Phone: ()

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ATTORNEY-COACH(S) INFORMATION

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LOUISIANA HIGH SCHOOL MOCK TRIAL COMPETITION STATE COMPETITION REGISTRATION FORM

SCHOOL INFORMATION	
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STUDENT NAMES AND T-SHIRT SIZE

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APPENDIX

RULES OF EVIDENCE

**NATIONAL HIGH SCHOOL MOCK TRIAL
CHAMPIONSHIP FEDERAL RULES OF EVIDENCE
(Mock Trial Version)
(ADOPTED 09/2012)**

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NATIONAL HIGH SCHOOL MOCK TRIAL CHAMPIONSHIP FEDERAL RULES OF EVIDENCE

(Mock Trial Version)

In American trials, complex rules are used to govern the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the judge will probably allow the evidence. The burden is on the mock trial team to know the National High School Mock Trial Rules of Evidence and to be able to use them to protect their client and fairly limit the actions of opposing counsel and their witnesses.

For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence and its numbering system. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure. Text in italics or underlined represent simplified or modified language.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate.

The Mock Trial Rules of Competition and these National High School Mock Trial Rules of Evidence govern the National High School Mock Trial Championship.

ARTICLE I. GENERAL PROVISIONS

Rule 101. Scope

These National High School Mock Trial Rules of Evidence govern the trial proceedings of the National High School Mock Trial Championship.

Rule 102. Purpose and Construction

These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

ARTICLE II. JUDICIAL NOTICE

Rule 201. Judicial Notice of Adjudicative Facts

(a) This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) The court may judicially notice a fact that is not subject to reasonable dispute because it is a matter of mathematical or scientific certainty. For example, the court could take judicial notice that $10 \times 10 = 100$ or that there are 5280 feet in a mile.

(c) The court must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) The court may take judicial notice at any stage of the proceeding.

(e) A party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed.

(f) In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS -- Not Applicable

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 401. Test for Relevant Evidence

Evidence is relevant if:

(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and

(b) the fact is of consequence in determining the action.

Rule 402. General Admissibility of Relevant Evidence

Relevant evidence is admissible unless these rules provide otherwise. Irrelevant evidence is not admissible.

Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Rule 404. Character Evidence; Crimes or Other Acts

(a) Character Evidence.

(1) Prohibited Uses. Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

(2) Exceptions for a Defendant or Victim in a Criminal Case. The following exceptions apply in a criminal case:

(A) a defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it;

(B) a defendant may offer evidence of an alleged victim's pertinent trait, and if the evidence is admitted, the prosecutor may:

(i) offer evidence to rebut it; and

(ii) offer evidence of the defendant's same trait; and

(C) in a homicide case, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

(3) Exceptions for a Witness. Evidence of a witness's character may be admitted under Rules 607, 608, and 609.

(b) Crimes, Wrongs, or Other Acts.

(1) Prohibited Uses. Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) Permitted Uses. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

Rule 405. Methods of Proving Character

(a) By Reputation or Opinion. When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct.

(b) By Specific Instances of Conduct. When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.

Rule 406. Habit, Routine Practice

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

Rule 407. Subsequent Remedial Measures

When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove:

- negligence;
- culpable conduct;
- a defect in a product or its design; or
- a need for a warning or instruction.

But the court may admit this evidence for another purpose, such as impeachment or — if disputed — proving ownership, control, or the feasibility of precautionary measures.

Rule 408. Compromise Offers and Negotiations

(a) Prohibited Uses. Evidence of the following is not admissible — on behalf of any party — either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

(1) furnishing, promising, or offering — or accepting, promising to accept, or offering to accept — a valuable consideration in compromising or attempting to compromise the claim; and

(2) conduct or a statement made during compromise negotiations about the claim — except when offered in a criminal case and when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative, or enforcement authority.

(b) Exceptions. The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Rule 409. Offers to Pay Medical And Similar Expenses

Evidence of furnishing, promising to pay, or offering to pay medical, hospital, or similar expenses resulting from an injury is not admissible to prove liability for the injury.

Rule 410. Pleas, Plea Discussions, and Related Statements

(a) Prohibited Uses. In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:

(1) a guilty plea that was later withdrawn;

(2) a nolo contendere plea;

(3) a statement made during a proceeding on either of those pleas under Federal Rule of Criminal Procedure 11 or a comparable state procedure; or

(4) a statement made during plea discussions with an attorney for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

(b) Exceptions. The court may admit a statement described in Rule 410(a)(3) or (4):

(1) in any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or

(2) in a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

Rule 411. Liability Insurance (*civil case only*)

Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. But the court may admit this evidence for another purpose, such as proving a witness's bias or proving agency, ownership, or control.

ARTICLE V. PRIVILEGES

Rule 501. General Rule

There are certain admissions and communications excluded from evidence on grounds of public policy. Among these are:

- (1) communications between husband and wife;
- (2) communications between attorney and client;
- (3) communications among grand jurors;
- (4) secrets of state; and
- (5) communications between psychiatrist and patient.

ARTICLE VI. WITNESSES

Rule 601. General Rule of Competency

Every person is competent to be a witness.

Rule 602. Need for Personal Knowledge

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under Rule 703. (*See Rule 2.2*)

Rule 607. Who May Impeach A Witness

Any party, including the party that called the witness, may attack the witness's credibility.

Rule 608. A Witness's Character For Truthfulness or Untruthfulness

(a) Reputation or Opinion Evidence. A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

(b) Specific Instances of Conduct. Except for a criminal conviction under Rule 609, extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:

- (1) the witness; or

- (2) another witness whose character the witness being cross-examined has testified about.

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(Rev. 10/2013)

By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness's character for truthfulness.

Rule 609. Impeachment by Evidence of a Criminal Conviction

(a) In General. The following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

(1) for a crime that, in the convicting jurisdiction, was punishable by death or by imprisonment for more than one year, the evidence:

(A) must be admitted, subject to Rule 403, in a civil case or in a criminal case in which the witness is not a defendant; and

(B) must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant; and

(2) for any crime regardless of the punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime required proving — or the witness's admitting — a dishonest act or false statement.

(b) Limit on Using the Evidence After 10 Years. This subdivision (b) applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect.

(c) Effect of a Pardon, Annulment, or Certificate of Rehabilitation. Evidence of a conviction is not admissible if:

(1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the person has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or

(2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(d) Juvenile Adjudications. Evidence of a juvenile adjudication is admissible under this rule only if:

(1) it is offered in a criminal case;

(2) the adjudication was of a witness other than the defendant;

(3) an adult's conviction for that offense would be admissible to attack the adult's credibility; and

(4) admitting the evidence is necessary to fairly determine guilt or innocence.

(e) Pendency of an Appeal. A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency is also admissible.

Rule 610. Religious Beliefs or Opinions

Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility.

Rule 611. Mode and Order of Interrogation and Presentation

(a) **Control by the Court; Purposes.** The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

- (1) make those procedures effective for determining the truth;
- (2) avoid wasting time; and
- (3) protect witnesses from harassment or undue embarrassment.

(b) **Scope of cross examination.** The scope of the cross examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, **including** all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.

(c) **Leading Questions.** Leading questions should not be used on direct examination except as necessary to develop the witness's testimony. Ordinarily, the court should allow leading questions:

- (1) on cross-examination; and
- (2) when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

(d) **Redirect/Re-cross.** After cross examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross examination. Likewise, additional questions may be asked by the cross examining attorney or re-cross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.

(e) **Permitted Motions.** The only motion permissible is one requesting the judge to strike testimony following a successful objection to its admission.

Rule 612. Writing Used to Refresh a Witness's Memory

If a written statement is used to refresh the memory of a witness either while testifying or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross examine the witness on the material and introduce into evidence those portions which relate to the testimony of the witness.

Rule 613. Witness's Prior Statement

(a) **Showing or Disclosing the Statement During Examination.** When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's attorney.

(b) **Extrinsic Evidence of a Prior Inconsistent Statement.** Extrinsic evidence of a witness's prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision (b) does not apply to an opposing party's statement under Rule 801(d)(2).

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701. Opinion Testimony by Lay Witness

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- (a) rationally based on the witness's perception;
- (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and
- (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

Rule 703. Bases of an Expert's Opinion Testimony

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.

Rule 704. Opinion on Ultimate Issue

(a) **In General — Not Automatically Objectionable.** An opinion is not objectionable just because it embraces an ultimate issue.

(b) **Exception.** In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.

Rule 705. Disclosing the Facts or Data Underlying An Expert's Opinion

Unless the court orders otherwise, an expert may state an opinion — and give the reasons for it — without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.

ARTICLE VIII. HEARSAY

Rule 801. Definitions

The following definitions apply under this article:

(a) Statement. “Statement” means a person’s oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.

(b) Declarant. “Declarant” means the person who made the statement.

(c) Hearsay. “Hearsay” means a statement that:

(1) the declarant does not make while testifying at the current trial or hearing; and

(2) a party offers in evidence to prove the truth of the matter asserted in the statement.

(d) Statements That Are Not Hearsay. A statement that meets the following conditions is not hearsay:

(1) A Declarant-Witness’s Prior Statement. The declarant testifies and is subject to cross-examination about a prior statement, and the statement:

(A) is inconsistent with the declarant’s testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;

(B) is consistent with the declarant’s testimony and is offered to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or

(C) identifies a person as someone the declarant perceived earlier.

(2) An Opposing Party’s Statement. The statement is offered against an opposing party and:

(A) was made by the party in an individual or representative capacity;

(B) is one the party manifested that it adopted or believed to be true;

(C) was made by a person whom the party authorized to make a statement on the subject;

(D) was made by the party’s agent or employee on a matter within the scope of that relationship and while it existed; or

(E) was made by the party’s coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not by itself establish the declarant’s authority under (C); the existence or scope of the relationship under (D); or the existence of the conspiracy or participation in it under (E).

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these Rules.

Rule 803. Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant is Available as a Witness

The following are not excluded by the hearsay rule, regardless of whether the declarant is available as a witness:

(1) **Present Sense Impression.** A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

(2) **Excited Utterance.** A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

(3) **Then-Existing Mental, Emotional, or Physical Condition.** A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

(4) **Statement Made for Medical Diagnosis or Treatment.** A statement that:

(A) is made for — and is reasonably pertinent to — medical diagnosis or treatment; and

(B) describes medical history; past or present symptoms or sensations; their inception; or their general cause.

(5) **Recorded Recollection.** A record that:

(A) is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;

(B) was made or adopted by the witness when the matter was fresh in the witness's memory; and

(C) accurately reflects the witness's knowledge.

If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.

(6) **Records of a Regularly Conducted Activity.** A record of an act, event, condition, opinion, or diagnosis if:

(A) the record was made at or near the time by — or from information transmitted by — someone with knowledge;

(B) the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(C) making the record was a regular practice of that activity;

(D) all these conditions are shown by the testimony of the custodian or another qualified witness; and

(E) neither the source of information nor the method or circumstances of preparation indicate a lack of trustworthiness.

(7) **Absence of a Record of a Regularly Conducted Activity.** Evidence that a matter is not included in a record described in paragraph (6) if:

(A) the evidence is admitted to prove that the matter did not occur or exist;

(B) a record was regularly kept for a matter of that kind; and

(C) neither the possible source of the information nor other circumstances indicate a lack of trustworthiness.

(8) **Public Records.** A record or statement of a public office if:

(A) it sets out:

(i) the office's activities;

(ii) a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law-enforcement personnel; or

(iii) in a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and

(B) neither the source of information nor other circumstances indicate a lack of trustworthiness.

(10) **Absence of a Public Record.** Testimony that a diligent search failed to disclose a public record or statement if the testimony or certification is admitted to prove that:

(A) the record or statement does not exist; or

(B) a matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind.

(16) **Statements in Ancient Documents.** A statement in a document that is at least 20 years old and whose authenticity is established.

(18) **Statements in Learned Treatises, Periodicals, or Pamphlets.** A statement contained in a treatise, periodical, or pamphlet if:

(A) the statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and

(B) the publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.

If admitted, the statement may be read into evidence but not received as an exhibit.

(21) **Reputation Concerning Character.** A reputation among a person's associates or in the community concerning the person's character.

(22) **Judgment of a Previous Conviction.** Evidence of a final judgment of conviction if:

- (A) the judgment was entered after a trial or guilty plea, but not a nolo contendere plea;
- (B) the conviction was for a crime punishable by death or by imprisonment for more than a year;
- (C) the evidence is admitted to prove any fact essential to the judgment; and
- (D) when offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.

The pendency of an appeal may be shown but does not affect admissibility.

Rule 804. Hearsay Exceptions; Declarant Unavailable

(a) **Criteria for Being Unavailable.** A declarant is considered to be unavailable as a witness if the declarant:

- (1) is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies;
- (2) refuses to testify about the subject matter despite a court order to do so;
- (3) testifies to not remembering the subject matter;
- (4) cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness; or
- (5) is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure:
 - (A) the declarant's attendance, in the case of a hearsay exception under Rule 804(b)(1) or (6); or
 - (B) the declarant's attendance or testimony, in the case of a hearsay exception under Rule 804(b)(2), (3), or (4).

But this subdivision (a) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

(b) **The Exceptions.** The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

(1) Former Testimony. Testimony that:

(A) was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and

(B) is now offered against a party who had — or, in a civil case, whose predecessor in interest had — an opportunity and similar motive to develop it by direct, cross-, or redirect examination.

(2) Statement Under the Belief of Imminent Death. In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

(3) Statement Against Interest. A statement that:

(A) a reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and

(B) is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.

(4) Statement of Personal or Family History. A statement about:

(A) the declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption, or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or

(B) another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage or was so intimately associated with the person's family that the declarant's information is likely to be accurate.

(5) Not Applicable

(6) Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability. A statement offered against a party that wrongfully caused — or acquiesced in wrongfully causing — the declarant's unavailability as a witness, and did so intending that result.

Rule 805. Hearsay within Hearsay

Hearsay included within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule .

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION – Not Applicable

ARTICLE X. CONTENTS OF WRITING, RECORDINGS AND PHOTOGRAPHS – Not Applicable

ARTICLE XI. OTHER

Rule 1103. Title

These rules may be known and cited as the National High School Mock Trial Federal Rules of Evidence.

Host states have the discretion to eliminate rules that do not pertain to the trial at hand.

Last Revision:08/22/2012