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# Michigan High School Mock Trial Tournament



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## Tournament Rules and Mock Trial Procedure Guidelines

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This document provides the general rules and procedures for Michigan Mock Trial. As the specifics of each case may warrant additional rules, procedures, and notes, please look for year specific case updates in the Case Materials. As always, reach out to MCCE if we can be of assistance to better your experience.  
Thank you for your participation.

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*Educating for Vibrant Civic Communities*

Dear Mock Trial Community Member,

Welcome! Congratulations on making the decision to join Mock Trial. We warmly welcome all the students, teachers, attorneys, educators, judges, law students, legal assistants and others who will participate in the Michigan High School Mock Trial Tournament. Thank you for choosing the legal community.

We hope that you will find your involvement to be intellectually stimulating and personally rewarding. The Tournament's additional goals include:

- Further understanding of the law, court procedures and the legal system.
- Increase proficiency in basic life skills such as listening, speaking, reading and reasoning.
- Promote communication and cooperation between the school community—teachers and students—and the legal profession.

The Tournament is governed by the rules set out in the pages that follow. The specific fact patterns will be communicated year by year. Any deviation from these rules for a particular case will be communicated with those case materials.

For additional information on Courtroom Artistry and Courtroom Journalism program, please look online at [www.miciviced.org/programs/mock-trial](http://www.miciviced.org/programs/mock-trial). Additional information on Middle School Mock Trial opportunities are posted there as well.

We hope you find these materials interesting and educational, and we wish you the best of luck at this year's tournaments.

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## A. General Tournament Rules

### 1. Eligibility to Participate

The Tournament is open to all high schools in Michigan. A school may enter teams in any of the regional tournaments, but may not register in more than one regional tournament. An official team consists of from six to ten students from the same school and one or more adult coaches. Because there are a total of twelve roles to be played, depending upon the size of the team, two to six members of a team will have to take on dual roles. Requests to combine students from more than one school to form a team will be considered on a case-by-case basis. Such requests must be made before the registration deadline. Each school may enter up to 3 separate teams.

### 2. Regional Tournaments

The regional tournaments will be conducted at various courthouse locations throughout Michigan in February and March of the competition season. The minimum number of teams required at each regional will be decided by the MCCE at the time of the registration deadline. Upon registering, schools will identify a preferred regional to compete in. Schools will be assigned to regionals on a first come, first served basis.

### 3. State Final Tournament

A specified number of teams will compete in the State Finals Tournament at the Veteran's Memorial Courthouse in Lansing, MI. The finalists will be selected from the teams that performed the best in the four regional tournaments. The projected number of teams in the Final Tournament from each Regional Tournament will be in proportion to the total number of teams competing in each regional tournament. If the number of participating teams in any regional tournament changes (due to dropouts, etc.) the MCCE may revise its projections. One spot may be awarded as a wildcard, if warranted. The team awarded the wildcard will be the team with the highest record (wins, ballots, points) across all regional tournaments. Teams will be notified in advance if a wildcard will be awarded. MCCE has the right to change the number of qualifying teams at its sole discretion due to extenuating circumstances.

### 4. Tournament Structure

- a. At each Tournament, there will be three rounds of trials. All teams are assured to be assigned at least one round as the Plaintiff and at least one as the Defense. Each round will be judged by at least 2, and preferably 3, Tournament judges. In all rounds, each team will face a different team, but not necessarily a different school. Teams may meet other team(s) from their own school

- b. Tournament staff will make every effort to ensure that teams will not present the same side of the case before any judge to whom that team presented its case in an earlier round. However, should this occur, it will not be considered a violation of the Tournament Rules.
- a. Advancement to the state finals will be governed by the following criteria:
  - i) Win/Loss Record – equals the number of rounds won or lost by a team;
  - ii) Total Number of Ballots – equals the number of scoring judges' votes a team earned;
  - iii) Total Number of Points Accumulated;
  - 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 these point spreads will break the tie in favor of the team with the largest cumulative point spread.
- d. Winners in each individual round of the competition at the regional tournaments and state finals will be determined by the number of ballots earned by a team in that round. Ballots are determined by the total points assigned to a team by the judge on each ballot. The team with the higher number of total points will earn the ballot. A team earning at least 2 out of 3 ballots will win the round. Judges are instructed that no ballot may result in a tie score.
- e. Sides (plaintiff or defense) and pairings for the Regional Tournaments will be determined on site by random drawing. Each team is treated as an independent unit, therefore teams may compete against other team(s) from their own school. In the State Final Tournament, teams will be paired depending on their Regional totals.
- f. Sides and pairings in the first two rounds of the State Final Tournament will be determined by the teams' Regional totals. The team seeds will be released prior to the state tournament. The pairing will be made to maximize competitive equity, e.g. in a 12-team tournament, the top seed would meet the 2<sup>nd</sup> seed and 11<sup>th</sup> seed.
- g. Pairings in the semi-final round of the State Final Tournament will be determined by the totals from the first two rounds. With the four top teams ranked 1- 4, the pairings for the semi-final round will be: 1 v. 4, and 2 v. 3. **THIS CAN BE MODIFIED IN THE EVENT THAT A SCHOOL HAS TWO TEAMS IN THE SEMI-FINAL ROUNDS. IN SUCH A CASE, THE TWO TEAMS FROM THE SAME SCHOOL WILL FACE EACH OTHER IN THE SEMI-FINAL ROUND SO AS TO AVOID A FINAL ROUND WITH TEAMS**

## **FROM THE SAME SCHOOL.**

- h. In determining sides in the semi-final round of the State Final Tournament, the following procedure will be used:
  - i.) If paired teams represented opposite sides in the previous round, sides will be flipped for the semi-final round.
  - ii.) If paired teams represented the same side in the previous round, the following procedure will be used:
    - a. The team with the numerical code (not ranking) which comes first numerically will be considered the “Designated Team.”
    - b. A coin will be tossed by the tournament director or a designee.
    - c. If the coin comes up heads, the Designated Team will represent the prosecution. If the coin comes up tails, the Designated Team will represent the defendant.
  - iii.) If either method above creates a rematch (pairing and sides) from an earlier round (including regional tournaments), sides will be flipped.
  - iv.) At the discretion of the tournament director, this process may be altered to accommodate special circumstances.
- i. The same procedure as described above will be used for determining sides in the championship round of the State Final Tournament.
- j. A “bye” becomes necessary when an odd number of teams are present for any given round of the tournament. In the event of a circumstance resulting in an odd number of competing teams, the following procedure will apply:
  - i.) The team drawing the “bye” will, by default, receive a win and three ballots for that round.
  - ii.) For the purpose of determining placing at Regional rounds and for determining rankings at the State Finals, the team drawing the “bye” will be given points equal to the average of its own points earned in its other trials

## **5. Tournament Logistics**

- a. Coaches must report to the registration table to register their team between 7:45 and 8:15 a.m. on the day of the Tournament. At the time of registration, coaches or a designated adult may draw the number for the team.
- b. A Tournament Headquarters location will be announced at each courthouse. Observation of the Tournament is open to all.
- c. We are visitors in these courthouses and all participants should be especially careful to observe appropriate standards of behavior. Among

other things, the Code of Proper Conduct provides that participants should not go anywhere in the building other than courtrooms, eating areas, and restrooms and that food or beverages not be brought into the courtrooms or anywhere other than designated eating areas. See Code of Proper Conduct in these materials.

## **B. Rules of Procedure for Trials**

### **1. Competitors**

- a. Each participating high school team must be composed of from 6 to 10 students from that school. During a single trial/round six students from that team must participate, three as attorneys and three as witnesses. No more than six students from a team may participate in a single trial/round.
- b. Teams are not permitted to include alternates on their official team roster if including such alternates would create a team of more than 10 students.
- c. Where possible, all witnesses are gender neutral and may be played by either male or female students. If a witness must be male or female, the role may still be played by a male or a female student.

### **2. Timekeepers**

- a. While Court Officers are responsible for keeping the official time for each round, each team is also responsible for providing an official timekeeper or timekeepers. The timekeeper may be a member of the team or a student or adult who is not part of the team. Coaches may not be timekeepers. Stopwatches will be provided by the tournament director. MCCE will make every effort to assign a Court Officer to each courtroom. In the event that a courtroom is not assigned a Court Officer, the teams' timekeepers will keep the official time for the round.
- b. Each team's official timekeeper is required to attend the scheduled on-site timekeeper orientation. If a team does not send an official timekeeper to the required orientation meeting, that team will defer to its opponents' official timekeeper(s) in all rounds.
- c. If a team chooses to assign more than one student to the timekeeper role, then all students who will be assigned to the timekeeper role must attend the timekeeper orientation. The team's official timekeeper will keep time for both sides during all competition rounds.

### **3. Judges and Court Officers**

- a. A single Tournament judge will preside at the trial. Preferably, two other judges will be present at all times to judge the performance of the competing teams; however, they may not participate in conducting the trial. The non-presiding judges must sit in the jury box and the participants must address them as though they were the jury. All judges

will score the competitors.

- b. The presiding judge will be responsible for swearing in witnesses.
- c. Every attempt will be made to have one court officer in each courtroom. In the event that is not possible, Court Officers will be assigned to a set of 2-4 courtrooms. Court Officers act as a liaison to the Tournament Director, keep time, swear in witness, collect and check score sheets, and generally assist and advise the judges. Court Officers also track the overall time of the trial to ensure that judges complete feedback in time to allow competitors to reach their next round of competition.
- d. Each judge will be supplied with a full Tournament packet and will attend an Orientation Meeting. Each Team's designated timekeeper and all Court Officers will attend a short training session immediately preceding the first round of the tournament.

#### **4. Identification of Teams**

A team's identity may not be revealed to any judge. Team numbers (or letters) will be randomly drawn in advance. Team members may not wear or carry any item that identifies the school the team members represent.

#### **5. Ban on Coaching During Trial**

- a. Once the trial begins no coaching is permitted by anyone for the duration of the trial. Student attorneys may consult with one another and with their witnesses.
- b. To avoid even the appearance of impropriety, no communication of any kind is allowed between the students participating in the case (the three attorneys and the three witnesses) and other team members, coaches, or observers until after closing arguments.
- c. Any team member (including team members not participating in the trial and coaches) who observes any violation of this rule must report it immediately to the presiding judge. The judge must order the clock stopped and inquire into the circumstances of the accusation. Where a violation is found, the judges must deduct 10 points from a team's total score on the performance rating sheet.
- d. These rules on coaching during trial remain in force during any emergency recess that may occur.

#### **6. Ban on Scouting**

No team members, alternates, teachers or attorney coaches or any other persons associated with the team's preparation may view other teams in competition, other than those paired against them, so long as they remain

in competition themselves.

## 7. Videotaping

A team may videotape its trials. The opposing team and the presiding judge should be notified prior to the calling of the case. The Court Officer should be consulted at the time of courtroom check in. See Code of Proper Conduct, page 30, for further information regarding videotaping.

## 8. Code of Proper Conduct; Signatures of Participants

- a. The Code of Proper Conduct governs all team members, coaches, and supporters, such as fellow students and parents who are present during the Tournament.
- b. A copy of the Code must be signed by all team members and coaches and submitted to the Tournament registration table between 7:45 and 8:15 a.m. on the day of the Tournament. Teams are responsible for making invited guests and parents aware of the Code and its rules regarding conduct during the Tournament.

## 9. Claims of Rule Violations

- a. Any claim of a violation of a Tournament rule should be immediately called to the attention of the presiding judge. A claimed violation of the ban on coaching during a trial may be raised by any team member through the Dispute Form on page 44. Only the attorneys trying the case may raise violations of all other rules.
- b. If, immediately after closing arguments, a team has serious reason to believe that a material rules violation has occurred, and the team was unable (as opposed to unprepared) to raise the issue at the time the violation occurred, a *student member* of the team must indicate that the team intends to file a dispute. The judges will proceed with their scoring uninterrupted, and the presiding judge will provide the student attorney with a dispute form. The student may communicate with counsel and/or student witnesses before 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.
- c. The presiding judge will collect the form. If the dispute is denied, the presiding judge will record the reasons for this, and announce the decision during the judges' critique. If the judges feel the grounds for the dispute merit a hearing, the form will be shown to opposing counsel for their written response. After this, each team will designate a spokesperson. After the spokespersons have had time (not to exceed three minutes) to prepare, the presiding judge will conduct a hearing on

the dispute, providing each spokesperson three minutes for a presentation. The judge may question the spokespersons. At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. The judges' decision will be recorded in writing on the dispute form and attached to the scoresheets, with no further announcement.

- d. The judges will consider the dispute before making their final scoring decisions. The dispute may or may not affect the final decision or scores, but the matter will be left to the discretion of the scoring judges.
- e. The above procedure is only intended to be used in the most unusual of circumstances. Routine rule violations, such as the wrong attorney objecting, must be brought to the attention of the presiding judge when the violation occurs. Similarly, any question regarding the application of tournament rules by the presiding judge must be raised prior to closing arguments.

## **10. Commencement of Trial**

- a. A team's six students who will try the case and an adult coach must report to the assigned courtroom and present themselves to the presiding judge.
- b. The presiding judge must inquire whether anyone present is connected with any school in the tournament other than the schools competing in that courtroom. Note that the judges should not know the identities of the schools (Rule 4) so this inquiry should be done without revealing the identity of any team to the judges. Anyone in the wrong courtroom should be directed to the correct courtroom or to Tournament Headquarters.
- c. The presiding judge will call the courtroom to order to commence the trial. The presiding judge will ask counsel to state their appearances for the record and thereafter the trial will proceed as in Rule 12.
- d. Each team will prepare a typed team roster and will deliver four copies of that roster before each trial. Three copies will be presented to the presiding judge, and one copy will be given to the opposing team. The roster must include (1) the name of each attorney and the names of each witness that attorney will examine; and (2) the name of each student who is portraying a witness, which witness that student will portray and the gender of that witness. (Sample Roster on p. 30-31)

Each team should bring 12 copies of the roster with them on tournament day.

## **11. Governing Law; Motions, Pre-trial Agreements**

- a. All trials will be governed by the Tournament Rules, and may rely on the

case law included in the Tournament Materials. No reference to other legal authorities (except for the ones provided in the case materials) should be made.

- b. No motions may be made by either party, nor entertained by the Court. In the event of an emergency, a recess may be called. Should a recess be called, teams are not to communicate with any observers, coaches, or instructors.
- c. Attorneys are encouraged to call the court's attention to particular parts of the case materials, as well as these Rules, in support of points being urged upon the Court.
- d. Pre-trial agreements between teams (such as agreements to not pursue certain lines of questioning) are not permitted. Agreements between parties are stipulated in the tournament packet. Teams are allowed to confer before trial to determine the gender of witnesses.

## **12. Order of Trial, Time Limits, etc.**

- a. Each party is required to call all three of its witnesses, but may do so in any order. Witnesses may not be ordered sequestered.
- b. The order of the trial and the time limits are as follows:
  - 1. Opening Statement \* .....5 minutes per side
  - 2. Direct and Redirect (optional) Examination.....25 minutes per side
  - 3. Cross and Re-cross (optional) Examination.....20 minutes per side
  - 4. Closing Argument.....5 minutes per side

\* Defense may reserve Opening Statement until after the Plaintiff's Case-in-Chief.
- c. Timekeepers will be provided with a stopwatch and one-minute warning signs. The timekeepers must keep track of time on a time sheet (Time Sheet p. 42), which must be available for inspection by either side at any time. The timekeepers must inform the appropriate participants and the judge whenever a party has one minute left in any portion of its allotted time by holding up a one-minute warning sign. When time is up, the timekeepers will announce "Time." A side may not continue beyond the time limits unless the presiding judge, for good cause shown, grants additional time.
- d. Time DOES NOT STOP for objections, responses, or the introduction of exhibits. Time for administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements.

- e. Attorneys are not required to use the entire time allotted to each part of the trial. However, time left over in one part of the trial cannot be carried over to another part.
- f. Requests for additional time are not permitted, except where opposing counsel has made frivolous objections in an attempt to waste time and the team can show good cause for the additional time in accordance with Rule B.12.c (above). Additionally, on request from a party responding to an objection, the presiding judge may—at his or her discretion—instruct the timekeeper to stop time while handling the issue at hand. Time must start upon the presiding judge’s ruling on the objection.
- g. In the event that a team believes an error has occurred with regard to timekeeping, the team must bring the issue to the attention of the presiding judge at the time the potential error is recognized.
- h. Voir dire examination of a witness is not permitted.

### **13. Attorneys**

- a. Of the three attorneys on a team, one must give the opening statement, and another must give the closing statement. The same attorney may not give both the opening and the closing statement. Each of the three attorneys must also conduct all direct examination and objections as for one witness for the attorney’s side and for cross examination and objections as that one witness for the opposing side. Attorneys may consult with one another and with the witnesses, but with no one else. See Rule 5, Ban on Coaching, pp. 10-11.
- b. The attorney must stand whenever addressing the court, a witness, or the jury. When arguing a point, attorneys should direct their remarks to the court, not to opposing counsel.

### **14. Opening Statements**

- a. Each side will have up to five minutes to present its opening statement. The Plaintiff gives the opening statement first. The Defense may present its opening statement immediately after the Plaintiff’s opening statement or may reserve it until after the close of the Plaintiff’s evidence.
- b. An opening statement should tell the jury and the court what that party intends to prove and should explain that party’s theory of the case. Argument is improper in opening statements.

### **15. Evidence**

- a. No evidence other than the testimony (not affidavits) of the six witnesses, and the exhibits included in the case materials, may be offered.
- b. Stipulations are to be considered part of the record and already admitted into evidence. Stipulations, charges, or the jury instructions will not be read into the record.
- c. No other exhibits or enlargements of exhibits may be offered. No demonstrative evidence should be offered or admitted.

## **16. Witnesses, Witness Statements; Extrapolation**

- a. Witnesses may not refer to notes when testifying. Witnesses may not be recalled.
- b. Absolutely no props or costumes are permitted unless authorized specifically in the case materials. Costuming is defined as hairstyles, clothing, accessories (such as glasses), and make-up which are case-specific. Witnesses are not permitted to adopt false accents.
- c. Each witness must admit that his or her witness statement is a true copy of a statement that he or she made and signed. The statement may be used to impeach the witness where appropriate, but is not itself admissible into evidence.
- d. Each witness is bound by the facts contained in his/her own witness statement. A witness is not bound by facts contained in other witness statements. A witness may not be cross-examined about facts or information contained in other witness statements.
- e. If a witness is non-responsive, the witness may be instructed by the judge to answer “yes” or “no” on a question by question basis. However, a witness is not bound to answer all questions “yes” or “no.”
- f. Minor extrapolations of facts not in the record are allowed, provided they may be reasonably inferred from the case materials and are neutral toward both sides. A fair extrapolation would be background information such as date or place of birth. This would be a minor extrapolation and would be allowed to amplify or humanize the case, assuming those facts are relevant. An unfair extrapolation would be one that adds material support to the party who called the witness or weakens the case of the other party.
- g. A party may object to testimony on the ground that it is “beyond the scope of the witness statement” or is an “unfair extrapolation.” Refer to Section G: Unfair Extrapolation for more on this objection. Attorneys are encouraged to refer presiding judges to Section G for instructions on handling the Unfair Extrapolation objection.

- h. If the objection is sustained, the court should strike the improper testimony. The Judges must also take account of unfair extrapolation in scoring the witness and opposing counsel.
- i. The decision of the presiding judge in ruling on this objection, as with other objections, is final. If the objection is overruled, it may be renewed as to further questions or answers.
- j. Attorneys should also recognize that unfair extrapolation can also be challenged through cross examination demonstrating the absence of the extrapolation in the witness' statement.
- k. Publishing to the jury is not permitted. The only documents that teams may present to the court are the individual exhibits as they are introduced into evidence and the team roster form.
- l. Exhibit notebooks are not to be provided to the judges. Exhibits are to be shown to opposing counsel and handed to the presiding judge.
- m. Rosters are to be provided to the opposing team and the presiding judge before the trial commences.

### **17. Procedure for Introduction of Exhibits**

As an example, the following steps effectively introduce exhibits:

- a. All evidence will be pre-marked as exhibits.
- b. Ask for permission to approach the bench. Show the presiding judge the marked exhibit. "Your honor, May I approach the bench to show you what has been marked as Exhibit \_\_\_?"
- c. Show the exhibit to opposing counsel.
- d. Ask for permission to approach the witness. Give the exhibit to the witness.
- e. "I now hand you what has been marked as Exhibit No. \_\_\_ for identification."
- f. Ask the witness to identify the exhibit. "Would you identify it please?"
- g. Witness answers with identification only.
- h. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No. \_\_\_ into evidence at this time. The authenticity of this exhibit has been

stipulated.”

- i. Court: “Is there objection?” (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
- j. Opposing Counsel: “No, your Honor,” or “Yes, your Honor.” If the response is “yes,” the objection will be stated on the record. Court: “Is there any response to the objection?”
- k. Court: “Exhibit No. \_\_ is/is not admitted.”

## 18. Closing Arguments

- a. Each side will have five minutes for closing argument. Plaintiff may reserve time for rebuttal.
- b. Closing argument should be directed at persuading the jury to render a decision for that attorney’s side, relying on argument and the testimony of the witnesses or admitted exhibit.
- c. It is improper closing argument to: (a) refer to facts where there was no evidence of them; (b) state a personal opinion as to the credibility of a witness; or (c) present arguments designed to inflame passion or prejudice.

## 19. Scoring; Announcement of Results

- a. Each judge should mark his or her performance rating sheet during the trial, at the end of each segment.
- b. After closing arguments, the Judges will retire to deliberate. Each judge must complete a rating sheet. Judges must add their scores to make sure that the team with the most points is their selected “winner.” The Judge will give the completed sheets to the Court Officer who will double-check the scores ***in the presence of the judges***.
- c. The Court Officer must deliver all copies of the rating sheets to Tournament Headquarters at the end of each trial.
- d. After the final round is complete, the identities of the advancing teams will be announced. Within two weeks after each tournament, coaches will receive Performance Summary Sheets for their school.

## 20. Judges’ Comments

- a. After the judges have completed the Performance Rating Sheets and have discussed the comments they will make, the presiding judge will reconvene the proceedings.

- b. The judges will not announce the winning team.
- c. The judges are encouraged to make brief comments regarding the performances of the attorneys and witnesses. The judges should not indicate how they would rule on the merits of the case.
- d. Competition rounds will be limited to two hours, including Judges' comments. Judges' comments will be limited to 15 minutes (5 minutes per judge), whether there is time remaining in the two-hour round or not. Moreover, in no event may the Judges' comments extend beyond the two hour limit for the competition round. Court Officers are responsible for keeping an eye on the time and making sure that judges do not exceed their allotted time.
- e. The length of a trial may require the tournament director to exclude the comment session.

## C. Rules of Evidence

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 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.

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### ARTICLE I. GENERAL PROVISIONS

#### Rule 101. Scope

*These Rules of Evidence govern the trial proceedings of the Michigan High School Mock Trial Tournament.*

#### Rule 102. Purpose and Construction

*These Rules are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.*

### ARTICLE II. JUDICIAL NOTICE -

- Not Applicable

### ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS -

Not Applicable

## ARTICLE IV. RELEVANCY AND ITS LIMITS

### **Rule 401. Definition of “Relevant Evidence”**

“Relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

### **Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible**

All relevant evidence is admissible, except as otherwise provided by these Rules. Evidence which is not relevant is not admissible.

### **Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time**

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

### **Rule 404. Character Evidence Not Admissible To Prove Conduct; Exceptions; Other Crimes**

(a) **Character evidence generally.** Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

- (1) **Character of accused** - In a criminal case, evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the same, or if evidence of a trait of character of the alleged victim of the crime is offered by an accused and admitted under Rule 404 (a)(2), evidence of the same trait of character of the accused offered by the prosecution;
- (2) **Character of alleged victim** - In a criminal case, and subject to the limitations imposed by Rule 412, evidence of a pertinent trait of character of the alleged victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the alleged victim offered by the prosecution in a homicide case to rebut evidence that the alleged victim was the first aggressor;
- (3) **Character of witness** - Evidence of the character of a witness, as provided in Rules 607, 608 and 609.

- (b) **Other crimes, wrongs, or acts.** Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.

#### **Rule 405. Methods of Proving Character**

- (a) Reputation or opinion. - In all cases where evidence of character or a *character trait* is admissible, proof may be made by testimony as to reputation or in the form of an opinion. On cross-examination, *questions may be asked regarding relevant, specific conduct.*
- (b) Specific instances of conduct. - In cases where character or a character trait is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

#### **Rule 406. Habit, Routine Practice**

Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization, on a particular occasion, was in conformity with the habit or routine practice.

#### **Rule 407. Subsequent Remedial Measures**

When, after an injury or harm allegedly caused by an event, measures are taken that, if taken previously, would have made the 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, a defect in a product's design, or a need for a warning or instruction. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

#### **Rule 408. Compromise and Offers to Compromise**

- (a) **Prohibited uses.** Evidence of the following is not admissible on behalf of any party, when offered to prove liability for, invalidity of, or amount of a claim that was disputed as to validity or amount, or to impeach through a prior inconsistent statement or contradiction:

- (1) furnishing or offering or promising to furnish--or accepting or offering or

promising to accept--a valuable consideration in compromising or attempting to compromise the claim; and

(2) conduct or statements made in compromise negotiations regarding the claim, except when offered in a criminal case and the negotiations related to a claim by a public office or agency in the exercise of regulatory, investigative, or enforcement authority.

(b) **Permitted uses.** This rule does not require exclusion if the evidence is offered for purposes not prohibited by subdivision (a). Examples of permissible purposes include proving a witness's bias or prejudice; negating a contention of undue delay; and proving an effort to obstruct a criminal investigation or prosecution.

#### **Rule 409. Payment of Medical or Similar Expenses**

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

#### **Rule 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements**

Except as otherwise provided in this Rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:

- (1) a plea of guilty which was later withdrawn;
- (2) a plea of *nolo contendere*;
- (3) any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state proceeding regarding either of the foregoing pleas; or
- (4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which does not result in a plea of guilty or which results in a plea of guilty which is later withdrawn.

However, such a statement is admissible (1) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (2) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

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

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of

insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

## 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. Lack of Personal Knowledge

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses. *(See Rule 2.2)*

### Rule 607. Who May Impeach

The credibility of a witness may be attacked by any party, including the party calling the witness.

### Rule 608. Evidence of Character and Conduct of Witness

- (a) **Opinion and reputation evidence of character.** The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.
- (b) **Specific instances of conduct.** Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' character for truthfulness, other than conviction of crime as provided in rule 609,

may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination when examined with respect to matters that relate only to character for truthfulness.

### **Rule 609. Impeachment by Evidence of Conviction of Crime**

(a) **General rule.** For the purpose of attacking the character for truthfulness of a witness,

(1) evidence that a witness other than an accused has been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused; and

(2) evidence that any witness has been convicted of a crime shall be admitted regardless of the punishment, if it readily can be determined that establishing the elements of the crime required proof or admission of an act of dishonesty or false statement by the witness.

(b) **Time limit.** Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) **Effect of pardon, annulment, or certificate of rehabilitation.** Evidence of a conviction is not admissible under this rule if (1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other

equivalent procedure based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime that was punishable by death or imprisonment in excess of 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 adjudication.** Evidence of juvenile adjudication is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) **Not Applicable**

### **Rule 610. Religious Beliefs or Opinions**

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

### **Rule 611. Mode and Order of Interrogation and Presentation**

(a) **Control by Court.** - The Court shall exercise reasonable control over questioning of witnesses and presenting evidence so as to:

1. make the interrogation and presentation effective for ascertaining the truth,
2. avoid needless consumption of 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 of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

(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.*

### **Rule 612. Writing Used to Refresh 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. Prior Statements of Witnesses**

- (a) **Examining Witness Concerning Prior Statement.** In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.
- (b) **Extrinsic Evidence of Prior Inconsistent Statement of Witness.** Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate the witness thereon, or the interests of justice otherwise require. This provision does not apply to admissions of a party-opponent as defined in rule 801(d)(2).

## **ARTICLE VII. OPINIONS AND EXPERT TESTIMONY**

### **Rule 701. Opinion Testimony by Lay Witness**

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness' testimony or the determination of 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, if (1)

the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

### **Rule 703. Bases of Opinion Testimony by Experts**

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence in order for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference unless the court determines that their probative value in assisting the jury to evaluate the expert's opinion substantially outweighs their prejudicial effect.

### **Rule 704. Opinion on Ultimate Issue**

- (a) Except as provided in subdivision (b), testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.
- (b) No expert witness testifying with respect to the mental state or condition of a defendant in a criminal case may state an opinion or inference as to whether the defendant did or did not have the mental state or condition constituting an element of the crime charged or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.

### **Rule 705. Disclosure of Facts or Data Underlying Expert Opinion**

The expert may testify in terms of opinion or inference and give reasons therefor without first testifying to the underlying facts or data, unless the Court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross examination.

## **ARTICLE VIII. HEARSAY**

### **Rule 801. Definitions**

The following definitions apply under this article:

- (a) **Statement.** - A “statement” is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.
- (b) **Declarant.** - A “declarant” is a person who makes a statement.

(c) **Hearsay.** – “Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) **Statements which are not hearsay.** A statement is not hearsay if--

(1) **Prior statement by witness.** - The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is (A) inconsistent with the declarant’s testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant’s testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or

(2) **Admission by party-opponent.** The statement is offered against a party and is (A) the party's own statement in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a coconspirator of a party during the course and in furtherance of the conspiracy. The contents of the statement shall be considered but are not alone sufficient to establish the declarant's authority under subdivision (C), the agency or employment relationship and scope thereof under subdivision (D), or the existence of the conspiracy and the participation therein of the declarant and the party against whom the statement is offered under subdivision (E).

### **Rule 802. Hearsay Rule**

Hearsay is not admissible except as provided by these Rules.

### **Rule 803. Hearsay Exceptions, Availability of Declarant Immaterial**

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) **Present sense impression.** - A statement describing or explaining an event or condition made while the declarant was perceiving the event or

condition, or immediately thereafter.

- (2) **Excited utterance.** - A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
- (3) **Then existing mental, emotional, or physical conditions.** - A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.
- (4) **Statements for purposes of medical diagnosis or treatment.** Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.
- (5) **Recorded recollection.** A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.
- (6) **Records of regularly conducted activity.** - A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.
- (18) **Learned treatises.** - To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may

not be received as exhibits.

- (21) **Reputation as to character.** - Reputation of a person's character among associates or in the community.
- (22) **Judgment of previous conviction.** - Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused.

#### **Rule 804. Hearsay Exceptions, Declarant Unavailable**

- (a) **Definition of unavailability.** "Unavailability as a witness" includes situations in which the declarant
- (1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or
  - (2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or
  - (3) testifies to a lack of memory of the subject matter of the declarant's statement; or
  - (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or
  - (5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means. A Declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.
- (b) **Hearsay exceptions:** The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:
- (1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered or, in a civil action or proceeding, a predecessor in interest, had an

opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

- (2) Statement under belief or impending death. In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be impending death.
- (3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.
- (4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as likely to have accurate information concerning the matter declared.
- (5) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

### **Rule 805. Hearsay within Hearsay**

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statement conforms with an exception to the hearsay rule provided in these rules.

#### **ARTICLE IX. AUTHENTICATION AND IDENTIFICATION -**

Not Applicable

#### **ARTICLE X. CONTENTS OF WRITING, RECORDINGS AND PHOTOGRAPHS -**

Not Applicable

#### **ARTICLE XI. OTHER -**

Not Applicable

## D. Code of Proper Conduct

1. Students promise to compete with the highest standards of deportment, showing respect for their fellow-students, opponents, judges, coaches, community members, and tournament personnel. Competitors should focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly, and with the utmost civility. All participants should act in accordance with these norms for behavior at all times at MCCE events. Students will avoid all tactics they know are wrong or in violation of the Rules, including the use of unfair extrapolations. Students will not willfully violate the Rules of the competition in spirit or in practice. Your integrity matters.
2. Teacher-Sponsors agree to focus attention on the educational value of the Mock Trial Tournament. They must discourage willful violations of the Rules. Teachers will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the tournament's Rules and this Code of Conduct. They have an affirmative obligation to promote conduct and decorum in accordance with the Tournament's Rules and this Code of Conduct.
3. Attorney and community coaches agree to uphold the highest standards of the legal profession and will zealously encourage fair play. They have an affirmative obligation to promote conduct and decorum in accordance with the Tournament's Rules and this Code of Conduct. Attorney-Coaches are reminded that they are in a position of authority and thus serve as positive role models for the students.
4. Trial Viewing/Scouting. No team members, alternates, attorney-coaches, teacher-sponsors, or any other persons associated with the team's preparation may view other teams in competition so long as they remain in competition themselves.
5. Coaching during Trial. Once the trial begins no coaching is permitted by anyone for the duration of the trial. Student attorneys may consult with one another and with their witnesses. To avoid even the appearance of impropriety, no communication of any kind is allowed between the students participating in the case (the three attorneys and the three witnesses) and other team members, coaches, or observers until after closing arguments.
6. Teams and observers may not go anywhere in the building other than the assigned courtrooms, the cafeteria/designated eating areas, and the restrooms.
7. Food or beverages may **NOT** be brought into the courtrooms or anywhere other than the cafeteria/designated eating areas.

8. For the first morning and afternoon trials, teams and observers may **NOT** enter the courtrooms until given permission to do so by the Court Officer, room supervisor, or tournament staff.
9. Teams and observers may not: a) touch any equipment, papers, exhibits, etc. that are not associated with the Tournament, b) erase anything written on a chalkboard unless written during a previous Tournament round, c) move anything in an assigned courtroom (including podium and chairs) without permission from a judge, d) move anything that does not belong to a team member or observer from one courtroom to another.
10. If a team videotapes any of its trials, that videotape is the sole property of the team and may not be made available to any other schools, including through social media, for any reason, especially for the purposes of scouting, etc.

*Code of Proper Conduct continued...*

**Code of Proper Conduct Signature Form**

Michigan High School Mock Trial Tournament

A copy of the Code must be signed by all team members and coaches and submitted by a team coach when s/he registers the team at the registration table between 7:45 and 8:15 a.m. on the day of the Tournament.

Name of School: \_\_\_\_\_

Date: \_\_\_\_\_ Regional: \_\_\_\_\_

*We, the undersigned, have read the Code of Proper Conduct and agree to uphold it throughout our participation in the Michigan High School Mock Trial Tournament. We also understand the release policy and agree to prior notification if any member chooses to opt-out. All adults also understand the additional code of conduct as outlined during registration.*

Students: *Type or print names clearly; sign name next to it.*

Student Name (Printed)	Student Signature
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Coaches and Educators: *Type or print names clearly; sign name next to it.*

SCoaches and Educators (Printed)	Coaches and Educators Signature
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# E. Sample Official Team Roster

**OFFICIAL TEAM ROSTER**

**TEAM ID/CODE** \_\_\_\_\_

## Plaintiff Case

Attorney 1: Student name \_\_\_\_\_  
Name of the witness they will examine \_\_\_\_\_

Attorney 2: Student name \_\_\_\_\_  
Name of the witness they will examine \_\_\_\_\_

Attorney 3: Student name \_\_\_\_\_  
Name of the witness they will examine \_\_\_\_\_

Time Keeper - student name \_\_\_\_\_

**Witness 1** (student name) will be portrayed by \_\_\_\_\_  
Preferred Pronoun (please circle): He She They Other: \_\_\_\_\_

**Witness 2**(student name) will be portrayed by \_\_\_\_\_  
Preferred Pronoun (please circle): He She They Other: \_\_\_\_\_

**Witness 3** (student name) will be portrayed by \_\_\_\_\_  
Preferred Pronoun (please circle): He She They Other: \_\_\_\_\_

## Defense Case

Attorney 1: Student name \_\_\_\_\_  
Name of the witness they will examine \_\_\_\_\_

Attorney 2: Student name \_\_\_\_\_  
Name of the witness they will examine \_\_\_\_\_

Attorney 3: Student name \_\_\_\_\_  
Name of the witness they will examine \_\_\_\_\_

Time Keeper - student name \_\_\_\_\_

**Witness 1** (student name) will be portrayed by \_\_\_\_\_  
Preferred Pronoun (please circle): He She They Other: \_\_\_\_\_

**Witness 2**(student name) will be portrayed by \_\_\_\_\_  
Preferred Pronoun (please circle): He She They Other: \_\_\_\_\_

**Witness 3** (student name) will be portrayed by \_\_\_\_\_  
Preferred Pronoun (please circle): He She They Other: \_\_\_\_\_

## F. Judge's Instructions

1. **Materials.** Every judge should have the Rules and Case Materials and the Judges Scoring Packet.
2. **Judges roles and Location.** The Presiding Judge (as designated by the Tournament Director) should sit alone behind the bench and act as a judge presiding at a common law trial. Rulings should be made according to the Tournament Rules and the Case Materials. Rules of Evidence are adapted from the Federal Rules of Evidence. The two other Judges should sit in the jury box throughout the trial as the jury. They should not participate in rulings by the Presiding Judge in conducting the trial.
3. **Opening Court.** The trial should commence in accordance with Rule 10.
4. **Role of Presiding Judge.** The Presiding Judge has a delicate task and restraint is required. A trial is an adversarial proceeding and this Tournament is a competition as well. The central goal is to give the participating young people a positive educational experience. But it would be unfair and contrary to the idea of law if one side or the other was given an unfair advantage. Obviously the judge must be evenhanded. Moreover, the judge should avoid injecting him or herself into the examination of witnesses even though in a real case that would be appropriate. Otherwise one side will gain an advantage they have not earned. In addition, the judge should take special care to avoid intimidating the student lawyers and witnesses so they feel comfortable and free to act at the true level of their capacity. The judge should be encouraging to both sides and still maintain the essential form of a trial.
5. **Scoring Student's Performances.** All of the Judges should score the teams according to the instructions in the Guidelines for Performance Rating Sheet. All Judges should familiarize themselves with that sheet in advance of the Tournament.
6. **Court Officer.** Every attempt will be made to have one court officer in each courtroom. In the event that is not possible, Court Officers will be assigned to a set of 2-4 courtrooms. Court Officers act as a liaison to the Tournament Director, keep time, swear in witness, collect and check score

sheets, and generally assist and advise the judges. Court Officers also track the overall time of the trial to ensure that judges complete feedback in time to allow competitors to reach their next round of competition.

7. **Questions Regarding Tournament Rules.** If questions arise regarding application of the Tournament Rules, the Presiding Judge should entertain arguments by the attorneys regarding construction of the Rules and should encourage the attorneys to make reference to the Rule in question. The Presiding Judge has the sole authority to make decisions about the conduct of the trial.
  
8. **Procedure at End of Trial.** The presiding judge will clear the courtroom (Unless chambers are available) and the Judges should total the scores for each side. After all Judges have completed their Rating Sheets, the Presiding Judge will reconvene the proceedings. The Court Officer will take all of the Rating Sheets to Tournament Headquarters. In the absence of a Court Officer, the presiding judge will collect the three rating sheets and hold them until they are collected by tournament staff. There is a limit of 10 minutes for the Judges to complete the score sheets and 15 minutes for oral comments. In no event may the oral comments extend beyond the two-hour limit set on the competition round. Judges are encouraged to offer positive and constructive comments to the teams. Judges are not to announce the scores or the winner or rule on the merits of the case.

## G. Unfair Extrapolation

### Background

Each team competing in the Michigan High School Mock Trial Tournament has been provided with the same materials for this year's problem. Since there are strict time limitations for the examination of witnesses, opening statements and closing arguments, and so that all teams are trying the same case, the trial is limited to the materials provided to each team. Information from outside of the materials provided (known in the Tournament as "unfair extrapolation") is not permitted unless it is a minor detail used to humanize the case.

Thus a minor extrapolation of a fact not in the materials is permitted so long as it may be reasonably inferred from the case materials and is **neutral to both sides**. For example, a *fair* extrapolation would be background information such as the witness's date of birth or place of birth. An *unfair* extrapolation is one that *strengthens* the case of the party attempting to extrapolate or which *weakens* the case of the other party.

*A suggested procedure for dealing with this objection is as follows:*

### Dealing With an Unfair Extrapolation

When an opposing attorney objects on the basis of unfair extrapolation, the Presiding Judge should ask the questioning Attorney if the information sought is in the materials provided for the Tournament competition. If the Attorney says it is, he should be asked to point it out. If he can point it out, it is not unfair extrapolation and the objection should be overruled.

If the Attorney admits that the information is not in the materials provided, or if he cannot point it out, the Presiding Judge should then ask the questioning Attorney if the information sought is neutral to both sides. (Practice Pointer: If the Attorney is fighting to get the information in, it is probably not neutral to both sides or he/she wouldn't be wasting his/her time.)

If the Attorney claims it is neutral to both sides, yet it does not involve something innocuous like a date or place of birth, then the Presiding Judge should sustain the objection since information that is neutral to both sides is not going to help a court decide a case.

If the Attorney admits that the information sought is not neutral to both sides, then the objection should be sustained as being unfair extrapolation.

## H. Guidelines for Performance Rating

You are rating team performance, not the legal merits of the case presented. In deciding which team (Attorneys and Witnesses) has made the better overall presentation in the case you are judging, please use the following criteria.

It is recommended that you use the “5–6” range as an indication of an average performance, and adjust higher or lower for stronger or weaker performances.

**Rating must be on a whole point basis (partial points not allowed).**

<b>Points</b>	<b>Performance</b>	<b>Criteria for Rating Performance</b>
9–10	Outstanding	Thinks well on feet, is logical, keeps poise under duress; performance was resourceful, original and innovative; can sort out the essential from the non-essential and uses time effectively to accomplish major objectives; knows how to emphasize vital points of trial.
7–8	Excellent	Presentation is fluent, persuasive, clear and understandable; organized materials and thoughts well and exhibits a mastery of the case and of the materials provided; presentation was both believable and skillful.
5–6	Good (Average)	Good, but less than spectacular performance; has fundamental understanding of task and can perform outside the “script” but with less confidence that 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 more persuasive; acceptable but uninspired performance.
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.
1–2	Not Effective (Poor)	Disorganized, unsure of self, illogical, uninformed, demonstrates lack of preparation and understanding of task, simply ineffective in communications.

Judges should consider the following criteria when rating each of the following segments of the trial:

Opening Statement	In the opening statement, the attorney presented a clear description of their theory of the case, setting forth what their proofs expected to show and why the court should find in their favor.
Direct Examination	On direct examination of the witnesses, the attorney used non-leading, non-speculative and non-hearsay questions that brought out key information for their side of the case. The attorney exhibited a clear understanding of trial procedures and responded to objections appropriately.
Cross Examination	On the cross-examination of the witnesses, the attorney effectively impeached the witness or discredited the testimony. The attorney obtained favorable testimony although the other side called the witness. The attorney controlled the witness by asking good leading questions, demanding a “yes” or “no” answer where appropriate. The attorney exhibited a clear understanding of trial procedures and argued objections appropriately.
Witnesses	The witnesses were believable in their characterizations and convincing in their testimony. The witnesses were well prepared for answering the questions posed under direct examination. The witnesses responded well to questions posed under cross-examination.
Closing Argument	In the closing argument, the attorney effectively showed the reasons for their side prevailing and pointed out the flaws in the other side’s case. The attorney exhibited a clear understanding of the facts and the law. The attorney effectively responded to unexpected testimony or rulings.
Team Performance	Team Members were courteous, observed general courtroom decorum, and spoke clearly and distinctly. Team members worked together well. Team members had a coherent theory of the case. Team members exhibited a clear understanding of the facts, issues, and the law.

## I. PERFORMANCE RATING SHEET

Judge Name: \_\_\_\_\_

Round - Circle One: A.M. Round #1 A.M. Round #2 AFT Round #3 Semis

Courtroom: \_\_\_\_\_

Plaintiff/Prosecution/Respondent Team Number: \_\_\_\_\_ Defense/Gov't Team Number: \_\_\_\_\_

Points Guideline:\* Ineffective (1-2) Fair (3-4) Good (7-8) Outstanding (9-10)

*\*Please consult the Performance Rating Guidelines for explanation of rating criteria. Students and coaches will see this document. Please comment appropriately.*

Criteria (award 1-10 points for each row)		PROSECUTION	DEFENSE
<b>Opening Statements</b>			
<b>Plaintiff/Prosecution</b> First Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's performance		
<b>Plaintiff/Prosecution</b> Second Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's performance		
<b>Plaintiff/Prosecution</b> Third Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's performance		
<b>Defense</b> First Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's performance		
<b>Defense</b> Second Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's performance		
<b>Defense</b> Third Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's performance		
<b>CLOSING STATEMENTS</b> (and rebuttal, if any):			
<b>OVERALL TEAM PERFORMANCE:</b>			
<b>TOTAL POINTS:</b>			

## J. Timekeepers' Instructions (Court Officers and Student Timekeepers)

1. **Materials.** Every timekeeper should have this Tournament Packet and should read it before the day of the competition.
1. **Orientation.** All timekeepers must attend the timekeepers' orientation. Student timekeepers may bring their own stopwatches, but stopwatches will be available on the day of the tournament. Time will be provided to practice with the stopwatches during the orientation.
1. **Procedure Before Trial.** Timekeepers should sit at the clerk's desk in front of the bench. If using Student timekeepers, the trial may have two timekeepers (one from each team). If the clerk's desk is not large enough for both timekeepers, the timekeepers should coordinate with the presiding judge to find a place to sit where the presiding judge can see the timekeepers during the trial.
1. **Procedure During Trial.** Timekeepers should meet with their panels of judges prior to the beginning of each trial. It is important that all parties understand their responsibilities during the trial. Student timekeepers may inform the judges which team they represent, but may only refer to their team by team number or by the side of the case that they represent.

Accurate timekeeping is very important. It is essential that timekeepers study the time limits (See Rule 12 and the Time Sheet prior to the trial.)

1. **Procedure After Closing Arguments.** Student timekeepers should give their copies of time sheets to the presiding judge and return to the gallery to await the judges' comments with their team.

## K. Time Sheet

Official time sheets are available online and will be provided at the events.

Courtroom # _____ A.M. - 1 <sup>st</sup> _____ A.M. - 2 <sup>nd</sup> _____ P.M. _____			
Plaintiff – Team # _____		Defense - Team # _____	
Plaintiff/Prosecution/ Respondent	Time	Defense/ Government	Time
Opening Statement (max 5 min) Give 1 min warning at 4 minutes		Opening Statement (max 5 min) Give 1 min warning at 4 min	
Plaintiff team has 25 min for this entire section, give one minute warning at 24 minutes		Defense team has 20 min for this entire section, give one minute warning at 19 minutes	
1 <sup>st</sup> Witness Direct Exam		1 <sup>st</sup> Witness Cross Exam	
1 <sup>st</sup> Witness Redirect (optional)		1 <sup>st</sup> Witness Re-cross (optional)	
2 <sup>nd</sup> Witness Direct Exam		2 <sup>nd</sup> Witness Cross Exam	
2 <sup>nd</sup> Witness Redirect (optional)		2 <sup>nd</sup> Witness Re-cross Exam	
3 <sup>rd</sup> Witness Direct Exam		3 <sup>rd</sup> Witness Cross Exam	
3 <sup>rd</sup> Witness Redirect (optional)		3 <sup>rd</sup> Witness Re-cross Exam	
Plaintiff team has 20 min for this entire section, give one minute warning at 19 minutes		Defense team has 25 min for this entire section, give one minute warning at 24 minutes	
1 <sup>st</sup> Witness Cross Exam		1 <sup>st</sup> Witness Direct Exam	
1 <sup>st</sup> Witness Re-cross Exam		1 <sup>st</sup> Witness Redirect Exam	
2 <sup>nd</sup> Witness Cross Exam		2 <sup>nd</sup> Witness Direct Exam	
2 <sup>nd</sup> Witness Re-cross Exam		2 <sup>nd</sup> Witness Redirect Exam	
3 <sup>rd</sup> Witness Cross Exam		3 <sup>rd</sup> Witness Direct Exam	
3 <sup>rd</sup> Witness Re-cross Exam		3 <sup>rd</sup> Witness Redirect Exam	
Each team is allowed 5 min for their closing arguments, Plaintiff is allowed to use part of the time to follow the Defense with a rebuttal.			
Closing		Closing	
Rebuttal			

## L. Court Officer Instructions

1. **Materials.** Every Court Officer should have the Tournament Packet and should read it before the day of the competition.
2. **Orientation.** All Court Officers must attend the Court Officers' orientation.
3. **Procedure Before Trial.** Court Officers should check in with the judges in their assigned courtrooms to introduce themselves.
4. **Procedure During Trial.** Court Officers should keep an eye on the overall time during trial. Each round is limited to two hours, and it is the Court Officer's responsibility to keep the rounds moving on time. (please see Timekeeper Instructions on p. 41)

Every attempt will be made to have one court officer in each courtroom. If enough Court Officers are present, tournament staff may ask Court Officers to serve in other capacities for the tournament.

5. **Procedure After Closing Arguments.** Court Officers should insure that all participants and observers adhere to items 7 through 9 of the Code of Proper Conduct.
6. **The Judges have 10 minutes to complete their Performance Rating Sheets.** It is the Court Officer's responsibility to enforce this time limit. If the teams must wait in the hall while the Judges are deliberating, the Court Officers should remind team members to not disturb other courtrooms with noise.
7. **When the Judges have completed their Performance Rating Sheets, the Court Officer will double-check the Performance Ratings Sheets using a calculator in the presence of the judges.** The Court Officers will then take all copies of the Performance Rating Sheets to Tournament Headquarters. The teams are not to be told their scores or the winner of the trial.
8. **After turning in the Performance Rating Sheets, the Court Officers will return to the courtroom and watch the clock.** If the judges' comments threaten to exceed the allotted 15-minute limit or delay the teams' departure for their next round, or lunch, the Court Officers should firmly but politely tell the Judges that time has expired.

### M. Dispute Form

<b>MICHIGAN HIGH SCHOOL MOCK TRIAL COMPETITION</b>	
<b>DISPUTE FORM</b>	
Round Number	
Plaintiff Team Number	Defense Team Number
Number of Team Lodging Dispute	
Grounds for Dispute:	
Initials of Team Spokesperson: _____	
Decision of Presiding Judge ( <b>CIRCLE ONE</b> ) Hearing Granted    Hearing Denied	
If hearing granted, response of opposing team:	
Initials of Opposing Team Spokesperson: _____	
Decision of presiding Judge - Please check ( <b>DO NOT ANNOUNCE</b> )	
_____ A substantial Rules Violation has occurred (report to panel).	
_____ No substantial Rules Violation has occurred (do not report to panel).	
Reasons (s) for presiding judge's decision:	
_____ Signature of Presiding Judge	

Please turn in form to the tabulation room.

## **N. Basic Trial Techniques**

The following trial tips are being provided to acquaint students with basic trial techniques as they prepare to be witnesses and attorneys in Mock Trials. These tips are adapted and modified in part from the Wisconsin High School Mock Trial Tournament. These tips are an introduction to the trial process and should be used to assist students understand that process. They are not intended to be a substitute for the advice of Teacher and Attorney Coaches.

### **I. General Suggestions**

- A. Always be courteous to witnesses, other attorneys and judges.
- B. Rise when addressing the judge.
- C. Never address remarks to opposing counsel.
- D. While natural movement of attorneys during trial is encouraged, do not approach the bench, jury box or witness without permission from the judge.
- E. Avoid making objections unless you are relatively sure that the judge will agree with you.
- F. If the judge rules against you on a point or in the case, take the defeat gracefully and act cordially toward the judge and jury and the opposing team.

### **II. Attorneys**

#### **A. Opening Statements**

- 1. Objective: to acquaint the judge and jury with the case and to outline what you are going to prove through witness testimony and the admission of evidence.
- 2. What should be included:
  - a. Introduction of you and your client.
  - b. A short summary of the facts.
  - c. The burden of proof (amount of evidence needed to prove a fact) and who has it.
  - d. A clear and concise overview of the witnesses and physical evidence that you will present and how each will contribute to proving your case.
  - e. What relief you are seeking.

3. Advice in presenting an opening statement
  - a. Appear confident.
  - b. Use eye contact when speaking to the judge and jury.
  - c. Use the future tense in describing what you will do, i.e. "The facts will show," or "Our witness testimony will prove that..."
  - d. Outline the case from your point of view.
  - e. Try not to read. Look up at the judge/jury occasionally.
  - f. Learn your case thoroughly including the facts, law and burden of proof.
  - g. Do not exaggerate or offer facts that will not be proven.
  - h. Do not argue the law.

## **B. Direct Examination**

1. Objective: to obtain information from favorable witnesses you call in order to prove the facts of your case, to present your witness to the greatest advantage, to establish your witness' credibility and to present enough evidence to get a favorable verdict.
2. What should be included:
  - a. Isolate exactly what information each witness can contribute to proving your case and prepare a series of questions designed to obtain that information.
  - b. Be sure all items you need to prove your case will be presented through your witness.
  - c. Use clear, simple questions.
  - d. Never ask a question to which you do not know the answer.
3. Advice in presenting
  - a. Try to keep to the questions that you've practiced with your witnesses and ask a limited number.
  - b. Be relaxed and clear in the presentation of your questions.
  - c. Listen to the answers.
  - d. Do not rush yourself or your witness so that the judge and jury cannot hear or understand the question or answer.
  - e. Be sure to have all documents marked for identification before you refer to them at trial. Then refer to it by its name/number (i.e. Exhibit 1 or Exhibit A).
  - f. Avoid leading questions. These are questions that suggest the answer desired by the questioning attorney to the witness and often only require a "yes" or "no" answer.
  - g. Avoid complex and verbose questions.
  - h. Avoid redundant, monotonous questioning.
  - i. When your facts are in evidence, cease questioning.

## C. Cross-examination

1. Objective: to obtain favorable information from witnesses called by the opposing counsel, and if a witness has no testimony favorable to your case, to make that witness less believable.
2. Some of the types of questions to ask:
  - a. Impeachment: These are questions that reflect on a witness' credibility by showing that s/he has given a contrary statement at another time. Counsel may impeach a witness by use of the witness statement. If counsel chooses to proceed in this manner because a witness testifies inconsistently with his statement, wait until cross-examination. First, show opposing counsel the passage in the statement and then, having obtained the Judge's permission to approach the witness, hand the witness the statement. Counsel should ask questions of that witness that establish the witness made the statement. Then the attorney can read aloud, or ask the witness to read aloud, the part of the statement the attorney claims is inconsistent with the witness' testimony. The attorney may then further question the witness about the inconsistency or leave the matter for closing arguments.
  - b. Questions that indicate bias or prejudice or that the witness has a personal interest in the outcome of the case (i.e. tenant testifying against former landlord on trial for shoplifting who evicted tenant a month earlier).
  - c. Questions that weaken the testimony of the witness by showing that his or her opinion is questionable (i.e. a person with poor eyesight claims to have observed all of the details of a fight that took place over 50 yards away).
  - d. Admissions or other testimony that is helpful to your case.

### 3. Advice in Presenting

- a. Anticipate each witness' testimony and write your questions accordingly, but be ready to adapt your questions at trial depending on the actual testimony elicited during direct exam.
- b. In general, only ask leading questions.
- c. Always listen to the witness' answer.
- d. Avoid giving the witness an opportunity to re-emphasize the points made against your case during direct exam.
- e. Do not give the witness an opportunity to explain anything. Keep to the "yes" or "no" answers whenever possible.
- f. Do not harass or attempt to intimidate the witness or quarrel with the witness.

### D. Objections

4. Objections are a normal, natural part of any trial. Their purpose is to present to the judge a rule of evidence that will bar an answer to the question asked (or result in striking an answer from the record if already given). In mock trials, they may also be used to bring a procedural problem to the judge's attention, such as an unfair extrapolation or continuing past the expiration of time.
5. If you are asking questions either on direct exam or cross-exam and an attorney from the other side objects to your questions remember:
  - a. Do not panic, objections are normal.
  - b. Think about why you decided to ask the particular question in the first place (i.e. if on direct, is it a question that is relevant to proving your case? If on cross, is it asked to impeach the witness by showing bias?)
6. If you are the objecting party remember:
  - a. If you are going to object, try to do so before the witness answers the question.
  - b. Have the specific objection in mind when you do so. For example, you may say, "Objection Your Honor, the witness is being asked to provide hearsay testimony."
  - c. Be prepared to explain to the judge why the question is objectionable and why the witness cannot or should not be permitted to answer it.

## **D. Redirect/Re-cross (Optional)**

1. Objective: to rehabilitate a witness or repair damage done by your opponent.
2. Advice
  - a. If the credibility or reputation for truthfulness of the witness has been attacked on cross-examination, the attorney whose witness has been damaged may wish to ask more questions.
  - b. Try to keep questions at a minimum and ask only those necessary to save the witness' truth-telling image in the eyes of the judge and jury.
  - c. Limit questions to issues raised on cross-examination.

## **E. Closing Arguments**

1. Objective: to provide a clear and persuasive summary of the evidence you presented to prove the case, along with the weaknesses of the other side's case, and to argue for your position.
2. What should be included:
  - a. This is your opportunity to put the pieces together for the jury and judge.
  - b. Isolate the issues and describe briefly how your presentation addresses these issues.
  - c. Review the witnesses' testimony and physical evidence. Outline the strengths of your side's witnesses and the weaknesses of the other side's witnesses (i.e. bias, credibility or self-interest). Indicate why the physical evidence admitted into evidence supports your case or weakens your opponent's case. You may use these exhibits during your argument.
  - d. This is your opportunity to be an advocate. Forcefully argue your point of view. Argue your case by stating how the law applies to the facts as you have proven them.
  - e. This is also an opportunity to correct any misunderstandings that the judge or jury may have.
  - f. Remind the judge and jury of the required burden of proof. If you have the burden, tell how you have met it. If you don't, tell how the other side failed to meet its burden.
  - g. Try not to read. Maintain eye contact or at least look up occasionally.



### III. Witnesses

#### F. General Suggestions

1. Familiarize yourself with your witness statement.
2. If you are going to be testifying about records or documents, familiarize yourself with them before coming to trial.
3. Listen carefully to the questions. Before you answer, make sure you understood what has been asked. If you don't understand, ask that the question be repeated or clarified.
4. When answering questions, speak clearly, don't mumble or mutter.
5. If the judge interrupts your answer or an attorney objects while you are answering, stop talking. If an attorney objects to a question you are asked, do not begin your answer until the judge tells you to do so.

#### G. Direct Examination

1. Advice in preparing and presenting
  - a. Learn the case thoroughly, especially your witness statement.
  - b. Review your testimony with your attorney. Know the questions that your attorney will ask and prepare clear and convincing answers that contain the information the attorney is trying to get you to say.
  - c. Be relaxed as possible on the witness stand.
  - d. Make sure that if you paraphrase or put any of the witness statement in your own words, it is not inconsistent with or a material departure from the case materials.

#### H. Cross-examination

1. Advice in preparing or presenting
  - a. Think about all the possible weaknesses, inconsistencies or problems in your statement and be prepared to answer questions about them as best as you can.
  - b. Practice with your attorney, asking him/her to act as opposing counsel.

- c. Be as relaxed and in control as possible.
- d. Listen to the question carefully and make sure you understand what is being asked before you answer it. If you don't understand the question ask for it to be clarified. If you didn't hear the question, ask that it be repeated.
- e. Do not panic if the judge or an attorney asks you a question you haven't rehearsed. Think about your statement and the case materials and answer the question when you are ready.
- f. Be sure your testimony is never inconsistent with, nor a material departure from the case materials.