

# 2013 High School Mock Trial Forum Questions & Answers

(as of 02/12/13)

## Jury Verdict Form

**Question:** In the Jury Verdict Form, only the Plaintiff's complaint is addressed. Was the Defense's counterclaim intentionally left out? If so will the jury only make a verdict based upon the Plaintiff's complaint?

**Answer:** The omission of Defendant's counterclaim from the verdict form was an oversight. The jury will also be asked to render a verdict on the counterclaim.

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## Housekeeper Task List and Bed Bug Protocol

**Question:** When listing the tasks do the housekeepers strip the sheets every time they clean the room or just when the guest leaves?

**Question:** Do the housekeepers apply the bed bug protocol everyday along with the tasks or just when a guest complains and when a guest leaves?

**Answer:** The checklist represents daily room cleaning instructions for maids at the Meadows Inn and Resort.

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## Exhibit 5 and the Mattress

**Question:** In exhibit 5, is the photograph of the mattress the extent of the infestation in the mattress, or were there other bedbugs found throughout the mattress and exhibit 5 is simply a selection of the infestation? Thanks in advance!

**Answer:** Exhibit 5 reflects the state of the mattress at the time the photograph was taken, and teams should review all evidence and affidavits in the case for information concerning the alleged extent of the bedbug infestation.

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## Spelling Correction

There is a spelling correction in Alex Belton's affidavit, pg. 35, line 114. "Addition" should be changed to "edition."

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## Jury Charges – Actionable Per Se

**Question:** In the jury charges under defamation, it says that certain statements are "actionable per se".....What do you mean by this?

**Answer:** "Actionable per se" simply means that the Plaintiff need not prove actual malice or general damages; such malice and damages are presumed (although the Plaintiff would still need to provide evidence of the amount of such damages, and of entitlement to punitive damages).

In cases involving public controversy or matters of public concern, however, malice and damages are NOT presumed. Instead, the Plaintiff must prove malice and damages.

Finally, to recover punitive damages against a media defendant in a matter involving a "public figure," the Plaintiff must prove "constitutional malice," defined as either (i) knowledge that the statement in question was false or (ii) a reckless disregard for the truth or falsity of the statement.

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## Public Figure

**Question:** In the third affirmative defense in the answer and counterclaim it says that the Plaintiff is a public figure. Can you define public figure?

**Answer:** A "public figure" is a person who has voluntarily injected himself into a public controversy or matter of concern for the purpose of influencing the issues regarding such controversy or matter. In so doing, the person has assumed special prominence in the resolution of a public question.

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## Dog Trainer

**Question:** Where is the dog trainer?

**Answer:** A new stipulation was added as follows: 18. The dog trainer mentioned in Logan Gray's affidavit is unavailable and beyond the subpoena power of the Court.

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## State Statutes

**Question:** In previous SC High School Mock Trial Cases, the corresponding and relevant state statutes were always apart of the case. In this year's case there are no state statutes, could you tell me why it is different this year and brought upon this new change in SCHSMT cases?

**Answer:** The Case Writing Committee chose not to include any statutes in the case materials this year. Future cases may include statutes.

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## Clarification of Alex Belton's Affidavit

Starting on paragraph 14 of Alex Belton's affidavit, it reads:

"It may appear the hotel's accusations against Logan fabricating the bed bug story killed the deal for GBCN hiring Logan. That's not necessarily true. Let's just say I did not completely dismiss the hotel's claims. I had doubts."

Is this supposed to read that (s)he did not completely accept the hotel's claims at face value and had doubts, or are we misunderstanding the phrasing of the statement? Thanks in advance!

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## Answer and Counterclaim – Correction

A correction was made to the Third, Affirmative Defense on page 7, which was ".....concerning the Plaintiff will knowledge" to ".....concerning the Plaintiff with knowledge."

**The corrected statement reads as follows:** Any statement made by the Defendant or its agents concerning the Plaintiff was not defamatory because, among other things, the Plaintiff is a public figure, and neither the Defendant nor its agent published any statement concerning the Plaintiff with knowledge of its falsity or reckless disregard for its truth.

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## Clarification of Stipulation 16

**Question:** In Stipulation 16, it states: "There is no rebuttal. Both parties stipulate that the Plaintiff will present the Plaintiff's entire case and then the Defendant will present the Defendant's entire case." Does this mean that the Plaintiff may not rebut the Defense's closing argument?

**Answer:** No. It means that there are no "rebuttal witnesses" which are common in real trials. The Plaintiff can still rebut the Defendant's closing argument as provided in the Mock Trial rules.

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## Jury Verdict Form

**Question:** Is the verdict form correct? It seems to ask the same defamation question in 4 and 6, as well as 5 and 7?

**Answer:** Yes. Cut questions 6 and 7 from the jury verdict form.

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## High Schools with Two Teams

**Question:** Is there any feedback you can provide for a high school considering registering two teams?

**Answer:** Like anything, there are advantages and disadvantages to having two teams. Here are a few things to keep in mind if your school brings two teams. Two High School Mock Trial Teams

- Make for great scrimmaging;
  - Expands program to more students;
  - Can be harder to coach;
  - Doubles the expenses;
  - If LRE is limited on space, a school's second team could be pulled from competing (will know closer to drop deadline);
  - Both teams could be paired to play against each other with power matching;
  - Either team is eligible to advance to state if they are in the top teams to advance, but only one team from your school can advance;
  - If one of your teams does advance, only the students on the advancing team can participate at state;
  - There is no combining of teams for state;
  - Students can only be on one of the two team rosters; and
  - On competition day, coaches (teachers and attorneys) have to pick one team and stay with that team the entire day.
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## Examples of SC Bar Provided Materials at Competition

There will be two bound materials in the courtroom in addition to one large set of exhibits. One set of bound materials will be at the witness stand and one set of bound materials will be available to both teams. The first is the 2012/2013 Mock Trial Middle and High School Competition Handbook. It contains two tabs dividing the rules of competition and the modified rules of evidence. The second is the 2013 High School Mock Trial case. It contains eight tabs dividing the pleadings, each affidavit (6), and the exhibits.

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## Exposé on No Apologies – Logan’s Affidavit

**Question:** Line 45 of Logan's affidavit indicates that she was the first reporter, locally and nationally, to break the bed bug story. Please confirm that the July 17, 2008 story on No Apologies is the story that Logan is referring to and that she has not done a previous story on bed bugs. Several students read line 45 as indicating that Logan had done a previous story, and we just want to confirm that the July 17th story is the only one she has done.

**Answer:** The July 17, 2008, exposé on *No Apologies* is the story that line 45 is referring to in his/her affidavit.

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## Three Attorneys Per Side – New Rule Effective This Year

Rule 3.3 Team Composition and Allocation of Duties (High School): High school teams shall be comprised of 7 to 14 students. A maximum of 14 students will wear team badges. Remaining students associated with the team will be required to wear visitor badges and sit with the visitors. (Keep in mind that there are only 24 visitor badges provided to each team at regional competitions and 20 at state.) High school teams must have three attorneys per side. Each attorney must conduct a direct examination of one witness and a cross-examination of one witness. The opening statement and closing argument must be delivered by different attorneys.

**Question:** We have a small team this year and are not able to meet the new rule of having three attorneys per side. Will this make it impossible for us to compete?

**Answer:** No. You are still eligible to compete. However, your opposing team in each of your rounds may raise a dispute of unequal distribution of team members. The penalty for unequal distribution of tasks among the team (rules 3.2 and 3.3) can vary between 2 to 8 points each round and is determined by the scoring judges.

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## Testifying of Witnesses

**Question:** In the past, it has been acceptable for witnesses to be allowed to testify concerning statements that have previously been made in the trial. Is that rule going to continue to be in effect?

**Answer:** Students remain free to testify with respect to testimony made during the trial itself, provided that they comply with the following provision in Rule 2.3: "If a witness is asked information, either during direct or cross-examination, that is not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue of the case."

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