



2013 / 2014
Battle of the Carolinas
Middle School Mock Trial
Competition Handbook

**Battle of the Carolinas
Middle School Mock Trial Competition**

is a project of the

SOUTH CAROLINA BAR

**NORTH CAROLINA BAR
ASSOCIATION FOUNDATION**

**LAW RELATED EDUCATION COMMITTEE
AND THE
MOCK TRIAL SUB-COMMITTEE**

**LAW RELATED EDUCATION COMMITTEE
AND THE
MOCK TRIAL SUB-COMMITTEE**

FUNDING FOR THIS COMPETITION IS MADE POSSIBLE BY:



BATTLE OF THE CAROLINAS
MIDDLE SCHOOL MOCK TRIAL PAST WINNERS

2014 Champion.....To Be Determined



[Champion's Team Photo Here]

**2014 Champion
To Be Determined**

INTRODUCTION
BATTLE OF THE CAROLINAS MIDDLE SCHOOL
MOCK TRIAL COMPETITION

The Battle of the Carolinas Middle School Mock Trial Program is a hands-on exercise in learning about due process. This competition is the result of teams participating and advancing from regional and state competitions in their respective states - North Carolina and South Carolina. This competition has the four top Middle School Mock Trial teams for North and South Carolina with a total of eight teams. This is a collaborative effort between the North Carolina Bar Foundation and the South Carolina Bar Law Related Education Division. South Carolina is hosting the inaugural competition with the competition alternating host states on an annual basis.

Through participation in the Mock Trial program, students will increase basic skills such as listening, speaking, writing, reading and problem analysis. Each participating school enters a team sponsored by a teacher volunteer that is ideally composed of between six and 16 students, but can have more students filling alternate roles. Teams try the same fictional case against other teams. The top team will be declared the first Battle of the Carolinas champion.

The case and other Mock Trial resources are available
<http://www.scbare.org/LawRelatedEducation/AllPrograms/battleofthecarolinasmiddleschoolmocktrial>.

DISCUSSION FORUM

The Mock Trial forum can have questions posted concerning the content of the case materials, the rules, and the competition.

The forum is located on the LRE website, which is located at
<http://www.scbare.org/LawRelatedEducation/AllPrograms/MiddleSchoolMockTrial/MiddleSchoolMockTrialForum.aspx>

The Discussion Forum which takes you to a page providing information on the forum. At the bottom of the screen, click on Middle/High School Mock Trial Discussion Forum, which takes you to a page to register for the forum. It can take up to 48 hours to gain access to the forum once registered. The forum should be checked often for postings. Responses posted to the questions could change rules, case materials, and/or competition specifics that will apply on competition day. Forum questions may be posted up until **ten (10) business days prior** to a competition.

Co - Host State Information:

Host State for 2014: South Carolina

Host Information:

SOUTH CAROLINA BAR

Law Related Education (LRE) Division

(803) 252-5139, lre@scbar.org

Cynthia H. Cothran, LRE Director, ccothran@scbar.org

Handles the following types of Mock Trial Questions:

Competition, Case, Forum, and any Mock Trial Concerns

Marian Kirk, LRE Coordinator, mkirk@scbar.org

Handles the following types of Mock Trial Questions:

Registration, Payment, Submission of Forms, and Updating Forms

Donald Lanier, LRE Manager, dlanier@scbar.org

Handles the following types of Mock Trial Questions:

Webinar Registration, Forum Registration, Downloading Mock Trial Document(s), LRE Website Questions, and Securing an Attorney Coach

Host State for 2015: North Carolina

Host Information:

NORTH CAROLINA BAR ASSOCIATION FOUNDATION

Law Related Education (LRE) Department

(919) 677-0561

Diane Wright, LRE Director, dwright@ncbar.org

Handles the following types of Mock Trial Questions:

Competition, Case, Forum, and any Mock Trial Concerns

JoAnn Petilli, LRE Coordinator, jpetilli@ncbar.org

Handles the following types of Mock Trial Questions:

Online Registration, Submission of Forms, Updating Website, and Updating Forms

**OVERALL
TABLE OF CONTENTS**



2013/14 BATTLE OF THE CAROLINAS
MIDDLE SCHOOL MOCK TRIAL
COMPETITION HANDBOOK

TABLE OF CONTENTS

RULES OF COMPETITION

<u>DIFFERENCES FOR NORTH CAROLINA TEAMS PARTICIPATING IN THE BATTLE OF THE CAROLINAS (BOC)</u>	1
<u>DIFFERENCES FOR SOUTH CAROLINA TEAMS PARTICIPATING IN THE BATTLE OF THE CAROLINAS (BOC)</u>	4
<u>SECTION I: ADMINISTRATION</u>	6
<u>Rules</u>	6
<u>Code of Conduct</u>	6
<u>Emergencies</u>	7
<u>Team Codes / Identity</u>	7
<u>Entry into Competition Venues</u>	7
<u>SECTION II: PROBLEM</u> (<i>aka "The Mock Trial Case"</i>).....	7
<u>Problem</u> (<i>aka "The Mock Trial Case"</i>)	7
<u>Witnesses</u>	8
<u>Creation of Material Fact</u>	8
<u>Gender of Witnesses</u>	10
<u>Voir Dire</u>	10
<u>Opening Statements</u>	10
<u>SECTION III: TEAMS</u>	11
<u>Team Eligibility</u>	11
<u>Team Composition and Allocation of Duties</u>	11
<u>Bailiff</u>	12
<u>Scrimmages are Permissible</u>	13
<u>Team Roster Form Description</u>	13
<u>School Information Sheet and Code of Ethical Conduct Agreement</u>	13
<u>Accommodations for Students with Disabilities</u>	14
<u>Withdrawing from the Competition</u>	14
<u>Communication with Co-Hosts</u>	14
<u>SECTION IV: THE TRIAL</u>	14
<u>Courtroom Setting</u>	14
<u>Stipulations</u>	15
<u>Reading into the Record Not Permitted</u>	15
<u>Trial Sequence</u>	15
<u>Timekeeping and Time Limits</u>	16

Motions	18
Sequestration	18
Bench Conferences	18
Costuming and Props	18
Trial Communication	19
Viewing a Trial	19
Electronics: Cell Phones, Video Cameras, and Cameras	19
Jury Trial	20
Standing During Trial	20
Objections to Opening Statement and Closing Argument	20
Objections	21
Reasons for Objections	21
Exhibits	22
Procedure for Introduction of Exhibits	23
Use of Notes / Technology	23
Redirect / Recross	24
Recess	24
Closing Arguments	24
Visitor Conduct	25
Most Effective Nominations Made by Teams	25
SECTION V: JUDGING AND TEAM ADVANCEMENT	26
Finality of Decisions	26
Composition of Judging Panels	26
Scoresheets / Ballots	26
Completion of Scoresheets	27
Scoring Matrix	27
Scoring Penalties	28
Power Matching	28
Round Format for Battle of the Carolinas Competition	28
Powermatching	30
Example of Ranking after First Round Results	30
Example of Power Matching for the Second Round	31
Example of Power Matching for the Third Round	32
Selection of Sides for Championship Round	33
Effect of Bye / Default	33
SECTION VI: DISPUTE RESOLUTION	33
Penalties: Post Trial Disputes	33
Other Penalties	34
Effect of Violation on Score	35
Scoring Penalties	35
Reporting of Rules Violation / Outside the Bar	35
MODIFIED RULES OF EVIDENCE:	
Overview of the Updates to the Modified Rules of Evidence	36
ARTICLE I. GENERAL PROVISIONS	36
Scope	36
Purpose and Construction	36

<u>ARTICLE II. JUDICIAL NOTICE</u>	37
<u>ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS & PROCEEDINGS</u>	37
<u>ARTICLE IV. RELEVANCY AND ITS LIMITS</u>	37
<u>Test for Relevant Evidence</u>	37
<u>General Admissibility of Relevant Evidence</u>	37
<u>Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons</u>	37
<u>Character Evidence; Crimes or Other Acts</u>	37
<u>Character Evidence</u>	37
<u>Prohibited Uses</u>	37
<u>Exceptions for a Defendant or Victim in a Criminal Case</u>	37
<u>Exceptions for a Witness</u>	38
<u>Crimes, Wrongs, or Other Acts</u>	38
<u>Prohibited Uses</u>	38
<u>Permitted Uses</u>	38
<u>Methods of Proving Character</u>	38
<u>Reputation or Opinion</u>	38
<u>Specific Instances of Conduct</u>	38
<u>Habit; Routine Practice</u>	38
<u>Subsequent Remedial Measures</u>	38
<u>Compromise and Offers to Compromise</u>	38
<u>Prohibited Uses</u>	38
<u>Exceptions</u>	39
<u>Offers to Pay Medical and Similar Expenses</u>	39
<u>Pleas, Plea Discussions and Related Statements</u>	39
<u>Prohibited Uses</u>	39
<u>Exceptions</u>	39
<u>Liability Insurance</u>	39
<u>ARTICLE V. PRIVILEGES</u>	40
<u>General Rule</u>	40
<u>ARTICLE VI. WITNESSES</u>	40
<u>General Rule of Witness Competency</u>	40
<u>Need for Personal Knowledge</u>	40
<u>Who May Impeach</u>	40
<u>A Witness's Character for Truthfulness or Untruthfulness</u>	40
<u>Reputation or Opinion Evidence</u>	40
<u>Specific Instances of Conduct</u>	40
<u>Impeachment by Evidence of a Criminal Conviction</u>	41
<u>General Rule</u>	41
<u>Probative Value Definition</u>	41
<u>Limit on Using the Evidence after 10 Years</u>	41
<u>Effect of a Pardon, Annulment, or Certificate of Rehabilitation</u>	41
<u>Juvenile Adjudications</u>	42
<u>Pendency of an Appeal</u>	42
<u>Religious Beliefs or Opinions</u>	42
<u>Mode and Order of Interrogation and Presentation</u>	42
<u>Control by Court</u>	42
<u>Scope of Direct Examination</u>	42
<u>Scope of Cross Examination</u>	42
<u>Leading Questions</u>	43

<u>Redirect / Recross</u>	43
<u>Permitted Motions</u>	43
<u>Writing Used to Refresh Memory</u>	43
<u>Prior Statements of Witnesses</u>	43
<u>Showing or Disclosing the Statement during Examination</u>	43
<u>Extrinsic Evidence of Prior Inconsistent Statement</u>	43
<u>ARTICLE VII. OPINIONS AND EXPERT TESTIMONY</u>	44
<u>Opinion Testimony by Lay Witness</u>	44
<u>Testimony by Experts</u>	44
<u>Bases of Opinion Testimony by Experts</u>	44
<u>Opinion on Ultimate Issue</u>	45
<u>In General – Not Automatically Objectionable</u>	45
<u>Exception</u>	45
<u>Disclosure of Facts or Data Underlying Expert Opinion</u>	45
<u>ARTICLE VIII. HEARSAY</u>	45
<u>Definitions</u>	45
<u>Statement</u>	45
<u>Declarant</u>	45
<u>Hearsay</u>	45
<u>Statements That Are Not Hearsay</u>	46
<u>A Declarant – Witness’s Prior Statement</u>	46
<u>An Opposing Party’s Statements</u>	46
<u>Hearsay Rule</u>	47
<u>Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant</u>	
<u>is Available as a Witness</u>	47
<u>Present Sense Impression</u>	47
<u>Excited Utterance</u>	48
<u>Then Existing Mental, Emotional, or Physical Condition</u>	48
<u>Examples of Then Existing Mental, Emotional, or Physical Conditions</u>	48
<u>Statements Made for Purpose of Medical Diagnosis or Treatment</u>	48
<u>Recorded Recollection</u>	48
<u>Records of Regularly Conducted Activity</u>	48
<u>Absence of a Record of a Regularly Conducted Activity</u>	49
<u>Public Records</u>	49
<u>Learned Treatises</u>	49
<u>Absence of a Public Record</u>	49
<u>Statements in Ancient Documents</u>	49
<u>Statements in Learned Treatises, Periodicals or Pamphlets</u>	49
<u>Reputation Concerning Character</u>	50
<u>Judgment of a Previous Conviction</u>	50
<u>Hearsay Exceptions; Declarant Unavailable</u>	50
<u>Criteria for Being Unavailable</u>	50
<u>Hearsay Exceptions</u>	50
<u>Former Testimony</u>	51
<u>Statement Under the Belief of Imminent Death</u>	51
<u>Statement Against Interest</u>	51
<u>Statement of Personal or Family History</u>	51
<u>Statement Offered Against a Party that Wrongfully Caused the</u>	
<u>Declarant’s Unavailability</u>	51
<u>Hearsay Within Hearsay</u>	51
<u>Title</u>	52

Special Rules Specific to Battle of the Carolinas

<u>Mock Trial Program</u>	52
<u>Limited Admissibility</u>	52
<u>Remainder of Related Writings or Recorded Statements</u>	52
<u>Oath or Affirmation</u>	52
<u>Assuming Facts Not in Evidence</u>	52
<u>Argumentative Questions</u>	52
<u>Ambiguous Questions</u>	52
<u>Lack of Proper Foundation</u>	52
<u>Procedures for Objections</u>	52

FORMS AND SUPPORTING INFORMATION:

<u>Bailiff Script</u>	54
<u>Bailiff Card Sample</u>	54
<u>Code of Ethical Conduct Agreement Directions</u>	55
<u>Code of Ethical Conduct Agreement and School Information Form (<i>Blank Sample</i>)</u>	56
<u>Completed Sample of Electronic Version Typed and E-Mailed</u>	57
<u>Completed Sample of Signed Version Faxed or Scanned/Emailed</u>	58
<u>Courtroom Layout</u>	59
<u>Forms Available On-Line</u>	60
<u>Listing of Mock Trial Online Links</u>	61
<u>Penalty Form – Rules Violations (Front Page)</u>	62
<u>Penalty Form – Rules Violations (Back Page)</u>	63
<u>Practice Scoresheet Completion Directions for Coaches</u>	64
<u>Practice Scoresheet (<i>Blank Sample</i>)</u>	65
<u>Completed Sample of Practice Scoresheet</u>	66
<u>Most Effective Nominations by Teams Directions/Information</u>	67
<u>Sample of Most Effective Certificates Filled in by Teams</u>	67
<u>Scoresheet Guidelines / Scoring Matrix</u>	68
<u>Talent Release Form Explanation</u>	69
<u>Talent Release Form</u>	70
<u>Team Roster Form (<i>Blank Sample</i>)</u>	71
<u>Completed Team Roster Sample #1 (Team CH)</u>	72
<u>Completed Team Roster Sample #2 (Team MG)</u>	73
<u>Timekeeper Record Form (<i>Blank Sample</i>)</u>	74
<u>Timekeepers' Helpful Information</u>	75

2013 / 14
RULES OF COMPETITION

(Section 1 of 3)



2013/14 BATTLE OF THE CAROLINAS
MIDDLE SCHOOL MOCK TRIAL
COMPETITION HANDBOOK

TABLE OF CONTENTS

RULES OF COMPETITION

<u>DIFFERENCES FOR NORTH CAROLINA TEAMS PARTICIPATING IN THE BATTLE OF THE CAROLINAS (BOC)</u>	1
<u>DIFFERENCES FOR SOUTH CAROLINA TEAMS PARTICIPATING IN THE BATTLE OF THE CAROLINAS (BOC)</u>	4
<u>SECTION I: ADMINISTRATION</u>	6
<u>Rules</u>	6
<u>Code of Conduct</u>	6
<u>Emergencies</u>	7
<u>Team Codes / Identity</u>	7
<u>Entry into Competition Venues</u>	7
<u>SECTION II: PROBLEM</u> (<i>aka "The Mock Trial Case"</i>).....	7
<u>Problem</u> (<i>aka "The Mock Trial Case"</i>)	7
<u>Witnesses</u>	8
<u>Creation of Material Fact</u>	8
<u>Gender of Witnesses</u>	10
<u>Voir Dire</u>	10
<u>Opening Statements</u>	10
<u>SECTION III: TEAMS</u>	11
<u>Team Eligibility</u>	11
<u>Team Composition and Allocation of Duties</u>	11
<u>Bailiff</u>	12
<u>Scrimmages are Permissible</u>	13
<u>Team Roster Form Description</u>	13
<u>School Information Sheet and Code of Ethical Conduct Agreement</u>	13
<u>Accommodations for Students with Disabilities</u>	14
<u>Withdrawing from the Competition</u>	14
<u>Communication with Co-Hosts</u>	14
<u>SECTION IV: THE TRIAL</u>	14
<u>Courtroom Setting</u>	14
<u>Stipulations</u>	15
<u>Reading into the Record Not Permitted</u>	15
<u>Trial Sequence</u>	15
<u>Timekeeping and Time Limits</u>	16

<u>Motions</u>	18
<u>Sequestration</u>	18
<u>Bench Conferences</u>	18
<u>Costuming and Props</u>	18
<u>Trial Communication</u>	19
<u>Viewing a Trial</u>	19
<u>Electronics: Cell Phones, Video Cameras, and Cameras</u>	19
<u>Jury Trial</u>	20
<u>Standing During Trial</u>	20
<u>Objections to Opening Statement and Closing Argument</u>	20
<u>Objections</u>	21
<u>Reasons for Objections</u>	21
<u>Exhibits</u>	22
<u>Procedure for Introduction of Exhibits</u>	23
<u>Use of Notes / Technology</u>	23
<u>Redirect / Recross</u>	24
<u>Recess</u>	24
<u>Closing Arguments</u>	24
<u>Visitor Conduct</u>	25
<u>Most Effective Nominations Made by Teams</u>	25
<u>SECTION V: JUDGING AND TEAM ADVANCEMENT</u>	26
<u>Finality of Decisions</u>	26
<u>Composition of Judging Panels</u>	26
<u>Scoresheets / Ballots</u>	26
<u>Completion of Scoresheets</u>	27
<u>Scoring Matrix</u>	27
<u>Scoring Penalties</u>	28
<u>Power Matching</u>	28
<u>Round Format for Battle of the Carolinas Competition</u>	28
<u>Powermatching</u>	30
<u>Example of Ranking after First Round Results</u>	30
<u>Example of Power Matching for the Second Round</u>	31
<u>Example of Power Matching for the Third Round</u>	32
<u>Selection of Sides for Championship Round</u>	33
<u>Effect of Bye / Default</u>	33
<u>SECTION VI: DISPUTE RESOLUTION</u>	33
<u>Penalties: Post Trial Disputes</u>	33
<u>Other Penalties</u>	34
<u>Effect of Violation on Score</u>	35
<u>Scoring Penalties</u>	35
<u>Reporting of Rules Violation / Outside the Bar</u>	35

DIFFERENCES FOR NORTH CAROLINA TEAMS PARTICIPATING IN THE BATTLE OF THE CAROLINAS

It is suggested that all the teams read the rules for the Battle of the Carolinas. While the rules may seem familiar, rules from both states were combined. Most notable differences are outlined below, but there could be small minor things overlooked.

1. Different rule numbers throughout.
2. Rule 2.1, The Problem: Teams may not cite anything not included in the case materials.
3. Rule 2.3, Creation of Material Fact: The presiding has a new Penalty Form to complete form for a COMF. Teams should make sure to review this rule for clarity.
4. Rule 2.6, Opening Statements: Time not used in the opening statements is lost and is not carried over anywhere.
5. Rule 3.2, Team Composition: If a student witness is not present when the presiding judge is announced, student receives a zero. If a team has more than 16 students, the remaining team members where badges from the limited number of 24 visitor badges.
6. Rule 3.6, School Information Sheet and Code of Ethical Conduct Agreement: North Carolina teams are also responsible for completing and signing the Code of Ethical Conduct Agreement prior to competition.
7. Rule 3.9, Communication with Co-Hosts: Only lead teacher coaches and attorney coaches are permitted to address concerns, issues, or feedback with the Co-Hosts before, during, or after the competition.
8. Rule 4.6, Timekeeping:
 - Time limits have changed as follows: openings: 5 minutes, directs: 25 minutes, crosses: 20 minutes, closings: 5 minutes;
 - Timing starts when the first word is spoken by the attorney;
 - Timekeepers bring and work with 2 stopwatches (one for each side's time);
 - Timekeepers report any time discrepancies at the end of each phase during a trial and may not report overages at the end of the trial. Phases are: end of both openings; at end of Plaintiff/Prosecution's case in chief, at the end of the Defense's case in chief, and at the end of both closings;
 - Timekeepers should be familiar with timekeeping form; and
 - A presiding judge can grant a time extension request up to 30 seconds.
9. Rule 4.11, Costuming and Props: No costumes worn, and nothing can be brought in or anything used in the courtroom as a demonstrative prop.
10. Rule 4.14, Electronics: Cell Phones, Video Cameras, and Cameras: A team has the option to refuse participation in videotaping and photography in the courtroom. (Especially if a team is missing one or more talent release forms.)

11. Rule 4.16, Standing During Trial: The Battle of the Carolinas is making a special exception regarding the rule of standing during a trial as each co-host state has a different rule regarding standing in a trial. North Carolina teams are familiar with standing only during opening statements, raising and responding to objections, and during closing arguments, while South Carolina teams are familiar with standing during the opening statements, during direct and cross examinations, raising and responding to objections, and giving the closing arguments. Both procedures are accepted for the Battle of the Carolinas competition and no team shall be penalized for following their state's customary practices regarding this procedure.
12. Rule 4.17, Objections to Opening Statement or Closing Argument: The attorney that delivers the opening statement or closing argument that is subject of the objection, may NOT deliver a rebuttal.
13. 4.18 Objections: In addition to the seven reasons to object, the teams now also have the following: lack of proper foundation, questions calling for narrative or general answer, non-responsive answer, repetition, improper character testimony, and **creation of material fact.**
14. 4.19 Exhibits / 4.21 Use of Notes/Technology: Teams do not have to bring exhibits. The Co-Hosts will provide 11x17 exhibits to be used in the courtroom, which can be published to the jury. In addition, a bound set of case materials also containing the exhibits will be available to both teams in a neutral location and another copy at the witness stand. (Teams may only use personal copies of their cases (paper format only – no tablets, i-pads, etc.) at their counsel tables.) Only attorneys may use notes – not witnesses.
15. 4.20 Procedure for Introduction of Exhibits: All teams will need to practice the procedure of admitting exhibits individually into evidence as they will NOT automatically be deemed admitted. Also, NC teams are used to showing the opposing counsel a copy of the exhibit before approaching the witnesses. If attorneys have appropriately identified which exhibit they would like to approach the witness with, showing opposing counsel the exhibit is no longer required.
16. 4.23 Recess: The Battle of the Carolinas competition will have a five minute recess prior to closing arguments.
17. Rule 4.24 Closing Arguments: The attorney that delivers the opening statement or closing argument that is subject of the objection, may NOT deliver a rebuttal. In addition, the Plaintiff/Prosecution attorney may ask only before, during, or immediately after their closing argument to reserve any remaining time to be used as a rebuttal. No person may do both the opening statement and the closing argument.
18. Rule 4.26, Visitor Conduct: Teams will be limited to 24 visitor badges for the competition. Should a team exceed their 16 members, the remaining members will wear badges from the allotted 24 visitor badges. (Teacher and attorney coaches were badges that do not take away from the team badges or the visitor badges.) Please be aware of this limitation when planning for visitors to travel for the team as space is very limited in the courtrooms. Standing/sitting in the aisles is not permitted, nor standing around the edges of the courtroom as both violate fire code.
19. Rule 4.28, Most Effective Nominations Made by Teams: After each round is completed, each team will have up to one minute to nominate a most effective witness and a most effective attorney from the opposing team. After the nominations have been made, each team will announce and immediately award the most effective

recipients in that round prior to leaving the courtroom. The most effective awards determined by the students do not replace the most effective awards that the scoring judges determine and announce at the conclusion of the competition.

20. Critique/Feedback: Presiding judges will not be providing critique/feedback after each round.
21. Rule 5.3 Scoresheets/Ballots: There is a score for overall team performance that takes into account the following: civility/incivility, abuse/excessive objections, scripting, delay tactics, usage of exhibits, thematic presentation, and legal arguments woven into the entire presentation. NC teams should definitely take a look at the updated and expanded scoring matrix and the list of scoring penalties.
22. Rule 5.6, Powermatching: To better understand how powermatching will be taking place at the Battle of the Carolinas, please review this rule.
23. Rule 5.7, Selection of Sides for Championship Round: If the top two teams have competed in a previous round together, they automatically flip sides for the championship round. If the two teams have not met in a prior round, a designated team will be determined and a coin toss will determine if the designated team will be Prosecution/Plaintiff or Defense. (The exact rule will be read prior to the coin toss.)
24. Rule 5.8, Effect of Bye / Default: We do not plan on having an odd number of teams at the competition. Should this occur, please be familiar with this rule. The important thing to remember here is that if a team draws a bye round, both sides of the team are guaranteed to perform.
25. Rules 6.1 – 6.4 Penalties: Post Trial Disputes / Other Penalties / Effect on Violation of Score: NC teams are not familiar with post trial disputes. Please review this rule to understand the process.
26. Modified Rules of Evidence: All teams should be familiar with the Modified Rules of Evidence.
27. Forms and Supporting Information: All teams should be familiar with the forms necessary for the competition.

DIFFERENCES FOR SOUTH CAROLINA TEAMS PARTICIPATING IN THE BATTLE OF THE CAROLINAS

It is suggested that all the teams read the rules for the Battle of the Carolinas. While the rules may seem familiar, rules from both states were combined. Most notable differences are outlined below, but there could be small minor things overlooked.

1. Rule 3.3 The Bailiff: The bailiff now has a separate rule.
2. Rule 4.12, Trial Communication: Student attorneys are permitted to ask the presiding judge for permission to inquire from the timekeeper as to how much time is remaining.
3. Rule 4.14, Electronics: Cell Phones, Video Cameras, and Cameras: A team has the option to refuse participation in videotaping and photography in the courtroom. (Especially if a team is missing one or more talent release forms.)
4. Rule 4.16, Standing During Trial: The Battle of the Carolinas is making a special exception regarding the rule of standing during a trial as each co-host state has a different rule regarding standing in a trial. North Carolina teams are familiar with standing only during opening statements, raising and responding to objections, and during closing arguments, while South Carolina teams are familiar with standing during the opening statements, during direct and cross examinations, raising and responding to objections, and giving the closing arguments. Both procedures are accepted for the Battle of the Carolinas competition and no team shall be penalized for following their state's customary practices regarding this procedure.
5. Rule 4.17, Objections to Opening Statement or Closing Argument: The attorney that delivers the opening statement or closing argument that is subject of the objection may NOT deliver a rebuttal.
6. Rule 4.22 Redirect / Recross: Each team is allowed one re-direct and one re-cross examination per witnesses. These are NOT opportunities to bring up new issues and are limited to addressing and clarifying prior testimony given during direct and cross examinations. Cross examining attorneys cannot interrupt/cut off the witness if they are answering the questions asked with a reasonable explanation that goes beyond the simple yes or no that the questioning attorney is trying to illicit.
7. Rule 4.24 Closing Arguments: The attorney that delivers the opening statement or closing argument that is subject of the objection may NOT deliver a rebuttal. In addition, the Plaintiff/Prosecution attorney may ask only before, during, or immediately after their closing argument to reserve any remaining time to be used as a rebuttal. No person may do both the opening statement and the closing argument.
8. Rule 4.26, Visitor Conduct: Teams will be limited to 24 visitor badges for the competition. Should a team exceed their 16 members; the remaining members will wear badges from the allotted 24 visitor badges. (Teacher and attorney coaches were badges that do not take away from the team badges or the visitor badges.) Please be aware of this limitation when planning for visitors to travel for the team as space is

very limited in the courtrooms. Standing/sitting in the aisles is not permitted, nor standing around the edges of the courtroom as both violate fire code.

9. Rule 5.3 Scoresheets/Ballots: There is a score for overall team performance that takes into account the following: civility/incivility, abuse/excessive objections, scripting, delay tactics, usage of exhibits, thematic presentation, and legal arguments woven into the entire presentation.
10. Rule 5.6, Powermatching: To better understand how powermatching will be taking place at the Battle of the Carolinas, please review this rule.
11. Rule 5.8, Effect of Bye / Default: We do not plan on having an odd number of teams at the competition. Should this occur, please be familiar with this rule. The important thing to remember here is that if a team draws a bye round, both sides of the team are guaranteed to perform.
12. Modified Rules of Evidence: All teams should be familiar with the Modified Rules of Evidence.
13. Forms and Supporting Information: All teams should be familiar with the forms necessary for the competition.

RULES OF THE COMPETITION

NOTICE: All rules apply to both states.

SECTION I: ADMINISTRATION

1.1 Rules

All trials will be governed by the Rules of the Mock Trial Competition and the Rules of Evidence (Mock Trial Version). Students are not required to know the rule numbers that apply to each rule, but should be able to find the rule(s) in the materials.

Interpretations of these rules are within the discretion of the Co-Hosts, whose decisions are final. Co-Hosts are defined as the State Mock Trial Coordinators for South Carolina and North Carolina in addition to their respective LRE Committees.

1.2 Code of Conduct

The Rules of the Competition, as well as proper rules of courthouse and courtroom conduct and security, must be followed. The Co-Hosts have discretion to discipline, (up to and including disqualification, immediate eviction from the competition, and/or forfeiture of fees and awards (if applicable)) for any misconduct occurring while a team is present for a Mock Trial competition; obvious rule violations; or, inappropriate conduct that affects the procedure of a trial or that hurts the reputation or integrity of any team, school, participant, court officer, judge, or the Mock Trial program.

Everyone entering the courthouse will be required to enter through a metal detector. Please avoid bringing any items restricted by the facility, including knives, concealed weapons, cell phones with camera features, or any items that will slow the entry process.

Visitors are welcome to attend the tournaments, but are not allowed to move around in the courtroom during a trial or participate in the trial in any way, including asking about time, raising disputes or arguing on behalf of the student(s). All guests in the gallery shall remain seated during the trial. If it is necessary to enter or exit the courtroom during trial, a visitor should do so during a transition, such as in between witnesses or after any argument.

Please respect arrival times, breaks and lunch times by never being late. A team arriving more than 30 minutes late is subject to disqualification.

All team members, teacher coaches, and attorney coaches are required to sign the Code of Ethical Conduct form agreement and submit it to the host state prior to participating in the regional competitions.

It is strongly encouraged that cell phones are not brought to the courthouse and/or the place of the Mock Trial competition. Some courthouses prohibit the entrance of cell phones and they will be confiscated by security personnel. Lead teacher coaches are asked to have their cell phones on vibrate in order to be reached by the Co-Hosts. If any cell phones are on any person, they are to be turned off while in the courtroom to avoid any distractions during the duration of the tournament.

Rule violations made by a visitor can subject the team to penalties in accordance with Rule 5.4 (Completion of Scoresheets) and Rule 6.3 (Effect of Violation on Score).

1.3 Emergencies

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

In the event of an emergency that would cause a team to be unable to continue a trial or to participate with less than six members, the team must notify both Co-Host states as soon as it is reasonably practical. If the Co-Host, in their sole discretion, agree that an emergency exists, the Co-Hosts, or its designee(s), shall declare an emergency and will decide whether the team will forfeit or may direct that the team take appropriate measures to continue any trial round with less than six members. A penalty may be assessed by the Co-Hosts, or its designees.

A forfeiting team will receive a loss and points totaling the average number of the ballots and points received by the losing teams in that round. The non-forfeiting team will receive a win and an average number of ballots and points received by the winning teams in that round. The SC Bar will make the final determination regarding emergency, forfeiture, reduction of points, or advancement.

In the event of inclement weather, contact the designated contact person for that competition.

1.4 Team Codes / Identity

The students' schools, to the extent possible, are to be kept confidential from the scoring judges. To ensure this, there shall be no school names, logos, or colors on any items brought into the courtroom. Teams should only identify themselves by their assigned team codes for the competition.

1.5 Entry into Competition Venues

Competition team members, coaches, and judging panel volunteers should have first priority through the security check points. All visitors should stay to the rear of the security lines and allow competition participants through first.

1.6 Media Coverage

Media coverage will be allowed. Media or other representatives may use various media to document the Mock Trial rounds as approved by the Co-Hosts and hosting facility. Approved media will wear identification badges. See the [*talent release form*](#) for additional information.

SECTION II: THE PROBLEM (*aka "The Mock Trial Case"*)

2.1 The Problem (*aka "The Mock Trial Case"*)

The case is a fictitious fact pattern. The case may contain any or all of the following: statement of facts, indictment pleadings, stipulations, witness statements /affidavits, jury charges and exhibits. Stipulations (stated facts of the case) may not be disputed at trial. Witness statements may not be altered.

Teams may refer only to the case materials provided by the Co-Hosts in the official case materials. Teams may not cite or refer to any cases, statutes, or other legal authority not included in the Mock Trial case materials.

The case consists of three witnesses for the Prosecution/Plaintiff and three witnesses for the Defense. All witnesses must be called. There is no discretion as to the selection of the witnesses. The witnesses may be called in any order. On the day of the competition, teams will declare the order they are calling their witnesses on their Team Roster Form and the Practice Scoresheet. Teams shall complete the Practice Scoresheets prior to the start of each round.

2.2 Witnesses

All witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any student may portray the role of any witness of either gender. All witnesses must be called. The witnesses may be called in any order. Teams that do not call all of their witnesses will automatically forfeit. Each witness must be cross-examined by the opposing side. Witnesses may not be recalled.

Cross examining attorneys cannot interrupt/cut off the witness if they are answering the questions asked with a reasonable explanation that goes beyond the simple yes or no that the questioning attorney is trying to illicit.

Each witness is bound by the facts contained in his/her witness statement/affidavit, the agreed to facts of the case (stipulations) and any exhibits. A witness is not bound by facts contained in other witness statements.

Fair assumptions may be allowed, provided the assumptions are reasonably based on the witness statement. If, in direct examination, an attorney asks a question that calls for information not clearly stated in the witness statement, the question is subject to objection for the creation of material fact.

During the trial, **witnesses may NOT use notes** or read from any documents unless questioned or cross examined about a witness statement or an exhibit.

2.3 Creation of Material Fact

Teams may not present testimony or evidence that constitutes a creation of material fact. For the purposes of this rule, a "material fact" is a fact that cannot be reasonably inferred from the case materials and that would provide one side a significant legal advantage.

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 affidavit and may not materially affect the witness' testimony or any substantive issue of the case. An answer that is inconsistent with the statement and that materially affects the witness' testimony or a substantive issue in the case is a material fact that violates this rule, even if the testimony was offered innocently, accidentally, and in good faith.

A team, who in good faith, believes that its opponent has created a material fact may make such an objection to the presiding judge. The team making the objection *must* support it by explaining in detail (1) how the fact gives the opponent a significant legal advantage; and (2) why it cannot be regarded as a fair inference from the case materials.

The team resisting the objection must be prepared to explain either (1) that the fact does not offer them a significant legal advantage; or (2) that the fact can be fairly inferred from the case materials.

After hearing from both sides, the presiding judge shall immediately rule in open court on the “creation of material fact” objection. If the presiding judge sustains the objection, the scoring judges individually must assess against the team presenting the fact, not the individual witness offering the fact, a penalty of at least one point, but no more than seven points. If the presiding judge overrules the objection, s/he must immediately declare whether or not, in his/her judgment, the objection was made in good faith. If the presiding judge determines that the objection was not made in good faith, the scoring judges individually must assess against the team making the objection, not the individual lawyer making the objection, a penalty of at least one point and no more than seven points. When imposing a penalty under this rule, scoring judges may wish to consider whether the material fact was offered accidentally or unintentionally—a circumstance that may warrant a lower penalty.

Objections based on this rule must be made immediately following the introduction of the challenged testimony or other evidence. No objections based on this rule will be entertained during the dispute resolution phase at the end of the trial under Rule 6.1 (Penalties: Post Trial Dispute).

Remember: The 1-7 point penalty for creation of a material fact is to be assessed as a **team penalty** in the penalty box at the bottom of the scoresheet—not as an **individual** penalty against the testifying witness or his/her lawyer. Individual scores should **not** be adjusted to account for the creation of a material fact; the only penalty is a team penalty.

Note:

The presiding judge will be completing a NEW Penalty Form: Creation of Material Fact Objections as a record of this objection. Once the presiding judge has started to complete this form, neither team should continue argument on the objection until the form is completed.

Official Comment:

The best way for a team to expose and attack its opponent’s creation of material fact is through impeachment and closing arguments, in the ordinary course of the trial. A team that deals with creation of material facts in this fashion will generally be considered by the scoring judges to be more sophisticated, accomplished, and experienced than a team that simply objects to “creation of material facts” without trying to first impeach. Nevertheless, to ensure the integrity of the Mock Trial competition and to provide a remedy for situations in which created material facts cannot easily be challenged through impeachment or closing argument, a special Mock Trial objection – “creation of material facts” – has been established.

For the purpose of this rule, a “material fact” is a fact that gives one side in the case a significant legal advantage. For example, in the trial of a person for underage drinking, the fact that the Defendant is 30 years old is material, because it automatically establishes the Defendant’s innocence. That the Defendant is 30 would usually be immaterial in a case for breach of contract. In a murder trial, the fact that the Defendant had taken out a large insurance policy on the life of the victim prior to the murder is material, because it

suggests a motive for the crime. The fact that the Defendant graduated from UNC – Chapel Hill would usually be immaterial. But if the murder occurred in the parking lot of Williams-Brice Stadium after Carolina beat UNC – Chapel Hill 45-0, the fact suggests motive and would be material.

When determining whether a fact is “material” or not under this rule, teams should use common sense. Ask whether the creation of the fact significantly helps either side’s case or if it is a fact that you would want to include in a closing argument. If the answer is “yes,” the fact is material.

Teams may not use the physical characteristics of a student playing a role in the case (such as gender, race, height, etc.) as part of the evidence in the case. To do so constitutes the creation of a material fact and is a violation of these rules.

Example: “I saw a short female and this witness is a tall male.”

2.4 Gender of Witnesses

All witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters should be made by the teams during the round.

2.5 Voir Dire

Voir Dire examination of an expert witness is not permitted.

Official Comment:

Voir Dire means to challenge the qualifications of an expert witness by addressing questions to the witness.

2.6 Opening Statements

The presiding judge will call the case, introduce the teams, review the rules, and swear in the witnesses, then will recognize the Prosecution/Plaintiff and the defense attorneys for opening statements.

Opening statements must be given by both sides at the beginning of the trial with Prosecution/Plaintiff presenting their opening statement first. If the Prosecution/Plaintiff does not use all of his/her time in the opening statement, it is lost time.

No objections may be raised during or following opening statements. Opening statements are not evidence. If a team believes that opposing counsel raises an improper issue during the opening statement, it should be addressed during the presentation of the evidence or within the closing argument.

SECTION III: TEAMS

3.1 Team Eligibility

Students who comprise a team must be from the same school. Middle school students may perform only in the Middle School Mock Trial competition.

Schools eligible to compete in the Mock Trial competition include traditional schools (public, private and charter), career schools, magnet schools, alternative schools, home schools (within the same school district or association), and virtual schools. Eligibility and criteria for home schooled students is established by each state's competition rules.

Teams competing in the Battle of the Carolinas competition must be comprised of students who participated on the team at the state level. The state coordinator may designate an alternate team to advance to the Battle of the Carolinas competition should a team from a particular state be unable to participate with the approval of both Co-Hosts.

3.2 Team Composition and Allocation of Duties

Teams must have a minimum of six members and a maximum of 16 members. A maximum of 16 students will wear team badges. Remaining students associated with the team will be required to wear visitor badges and sit with the visitors.

Team members are responsible for the following duties during the competition. Duties designated by "A" are to be handled by an attorney; duties designated by "W" are to be handled by a witness.

1. Opening Statement (A)
2. Direct Examination of Witness No. 1 (A)
3. Direct Examination of Witness No. 2 (A)
4. Direct Examination of Witness No. 3 (A)
5. Witness Performance No. 1 (W)
6. Witness Performance No. 2 (W)
7. Witness Performance No. 3 (W)
5. Cross-Examination of Witness No. 1 (A)
6. Cross-Examination of Witness No. 2 (A)
7. Cross-Examination of Witness No. 3 (A)
8. Closing Argument (A)
9. Timekeeper *
10. Bailiff *

** If needed, the timekeeper and the bailiff can be the same student.*

Middle school teams may have 2 to 4 attorneys per side. Attorneys must divide their duties between or among themselves as evenly as possible. The opening statement and closing argument must be delivered by different attorneys.

No team member may play the part of more than one witness on the same side.

Teams must also designate a team member to handle the duties of bailiff and timekeeper. These duties may be handled by the same team member. Teams are encouraged to have an alternate for each position.

If a student witness is not present in the courtroom at the time the presiding judge is announced by the bailiff and enters the courtroom, that witness will receive zero points for his/her witness performance. The witness may still be called to the stand if s/he arrives late, however, so that the performances of the two lawyers conducting the direct and cross examinations of that witness may be assessed and scored by the scoring judges. If the witness does not appear at all and is not available to be called to the stand during the round, the lawyers who would have conducted the direct examination and cross examination of that witness will receive the average score of the other direct examinations and cross examinations, respectively, conducted by their own team of student lawyers.

If a student lawyer is not present in the courtroom at the time the presiding judge is announced by the bailiff and enters the courtroom, that lawyer's team may attempt to reallocate the responsibilities of that missing team member among other lawyers on the team. The team will be subject to penalties for misallocation of duties, however, pursuant to this Rule, Rule 5.4 (Completion of Scoresheets), and Rule 6.3 (Effect of Violation on Score).

Official Comment:

This rule requires that the eight attorney duties be divided between or among attorneys as evenly as possible.

For a team with two attorneys, one attorney would deliver the opening statement; the other would deliver the closing argument; and both attorneys would evenly divide the examinations of the three witnesses.

For a team with three attorneys, one attorney would deliver the opening statement; another would deliver the closing argument; and each attorney would handle a direct and a cross examination each since there are three witnesses.

For a team with four attorneys, one attorney would deliver the opening statement and handle one examination; another attorney would deliver the closing argument and handle one examination; and the remaining two attorneys would each handle two witness examinations.

Please note that a team member can perform duties on both the Plaintiff/Prosecution and Defendant/Defense side of a case, since both sides of the team do not perform at the same time. For example, a team member could play the role of a witness on the Plaintiff side and an attorney on the Defense side.

Alternates are listed on the Team Roster Form (approved at morning registration) and can substitute for missing, late, and/or sick students prior to completing the practice scoresheet at the beginning of each round.

3.3 The Bailiff

When a team presents its Plaintiff/Prosecution side of the case, their bailiff will call the court to order and swear in all witnesses from both sides of the case at once, unless otherwise directed by the presiding judge. The bailiff is responsible for asking for and stating the name of the presiding judge prior to the start of trial.

When opening court, the bailiff should announce the name of the case and name of the presiding judge as soon as the jury is seated. The bailiff will say: *“All rise. The Court of Common Pleas (for a civil case) or General Sessions (for a criminal case) is now in session. The Honorable _____ is presiding.”*

The presiding judge will then ask the bailiff to swear in all witnesses from both sides of the case, all at one time. The following oath may be used before questioning begins:

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

3.4 Scrimmages are Permissible

Teams are permitted to scrimmage with other teams at any time.

Official Comment:

The Mock Trial Forum is a great place to promote interest in hosting or participating in a scrimmage.

3.5 [Team Roster Form](#) Description

Two copies of the [Team Roster Form](#) must be completed by each team prior to arrival at the competition. One copy of the Team Roster Form (Prosecution/Plaintiff and Defense) will be turned into the Host Mock Trial coordinator. The remaining copy will be retained by the team to aid in the completion of the Practice Scoresheet, which is completed by each team prior to the start of each round.

Teams are identified by the team code. No information identifying team origin should appear on the form. Teams shall not knowingly disclose their place of origin to any judge.

The Team Roster Form becomes official when it is submitted at registration on the day of the competition. Students can drop from regional competitions to the state competition, but new students may not be added for the state competition.

3.6 School Information Sheet and Code of Ethical Conduct Agreement

The lead teacher coach must submit a [School Information Sheet \(Word version\)](#) or [School Information Sheet \(PDF version\)](#) with team specific information prior to the competition. This form does not require roles assigned to students, just team participants. The deadline for this submission is provided by the Host state. The School Information Sheet allows for a current listing of the team members, teachers, and attorney coaches so that the host state can prepare for the competition to include certificates for each participant, the correct number of team badges for each team, and press releases for each team. The School Information Sheet will be completed in Microsoft Word and submitted electronically.

The School Information Sheet is combined with the Code of Ethical Conduct Agreement Form for ease of completing two forms at once. Once the School Information Sheet is submitted electronically, it will be printed off. Each person (attorney coaches, teacher

coaches, and students) listed on the School Information Sheet is required to read the Code of Ethical Conduct Agreement, confirm spelling of their name, and sign that she or he will abide by the Agreement. The signed form can be either faxed or scanned and emailed to a designee. (See samples in the Forms and Supporting Information Section.)

The School Information Sheet should be updated with new and/or deleted students up to the day of the competition. The School Information Sheet does not serve as the official Team Roster Form. (See the Team Roster Form in the Forms and Supporting Information Section.) As soon as teachers know about changes on their team (teachers, attorney coaches, and/or students), teachers should e-mail the designee with the additions or deletions. If someone is added to the team, teachers will also need to add those individuals to the signed Code of Ethical Agreement portion of the form and re-fax or re-scan the document and submit it to the designee. (Note that changes made after internal deadlines may not be reflected in press releases and/or certificates.)

3.7 Accommodations for Students with Disabilities

If special accommodations are needed for a student with a disability, the lead teacher coach must address the issue with the host state when registering for the competition or as soon as possible thereafter. The host coordinator will work with the teacher coach and the student to make reasonable accommodations for the student to the extent fairness to all participants, time constraints, and facilities allow. Documentation regarding a specific disability may be required in order for special arrangements to be made. Confidentiality of information received will be maintained, except to the extent disclosure is necessary to make the appropriate accommodation.

3.8 Withdrawing from the Competition

Teams are notified in the Mock Trial competition registration paperwork provided by each co-host state. At this point in the competition, once confirmation is made to participate in the Battle of the Carolinas competition, no teams may drop from the competition. Any team that does drop from the Battle of the Carolinas competition is subject to any withdrawal penalties established by that state.

3.9 Communication with Co-Hosts

Any concerns, issues, or feedback discussed with the Co-Hosts are to be made solely by the lead teacher coach and/or the lead attorney coach. Any communication not from the lead teacher coach or attorney coach is considered to be in non-compliance and is subject to Rule 6.4 (Reporting of Rules Violation / Outside of the Bar). This rule is in place before, during, and after a competition.

SECTION IV: THE TRIAL

4.1 Courtroom Setting

The Prosecution/Plaintiff team shall be seated closest to the jury box. No team shall rearrange the courtroom furniture.

Each trial will be presided over by a presiding judge, who will either be an actual judge or a member in good standing of the North Carolina Bar Association (NCBA) and/or South Carolina Bar.

Each round will be scored by a three member “jury” panel serving as the scoring judges that may consist of attorneys, law students, or experienced High School Mock Trial teachers. Teams may address the scoring judges as members of the jury.

Presiding and scoring judges will be provided with copies of the Mock Trial competition handbook and case materials prior to the tournament.

4.2 Stipulations

Agreed - upon facts (stipulations) of the case shall be considered part of the record and already admitted into evidence.

4.3 Reading into the Record Not Permitted

The stipulations, the complaint, the answer, the indictment, and-the charge to the jury will not be read into the record.

4.4 [Reserved]

4.5 Trial Sequence

At each competition, teams will present both the Prosecution/Plaintiff and Defense sides of the case. **No team will be required to perform both sides of the case at the same time.**

The bailiff for the Prosecution/Plaintiff team is responsible for opening court and swearing in all witnesses.

After the presiding judge has asked the teams to introduce themselves and delivered some brief housekeeping announcements, s/he will direct the teams to deliver their opening statements and begin the trial. **No pre-trial arguments or motions will be entertained by the presiding judge.**

The Prosecution/Plaintiff will deliver its opening statement first, followed by the Defense. The Prosecution/Plaintiff will then present its three witnesses, each of whom will first be examined directly by a Prosecution/Plaintiff attorney and then cross-examined by a Defense attorney. The Defense will then present its three witnesses for examination.

Each team must call all three of its assigned witnesses. Witnesses may not be recalled by either side. Teams may not call the opposing team’s witnesses. Teams must call their third witness even if the team runs out of time. In that event, the team will be allotted a maximum of three minutes for direct examination of its third witness and the team will receive a time penalty of ten points in the penalty box.

The attorney who conducts the direct examination of a witness is the only person who may make objections to the opposing attorney’s questions of that witness. Likewise, the attorney who conducts cross-examination of a witness is the only person who may object during the direct examination of that witness.

Once examination of all six witnesses has concluded, the court will then allow a five-minute recess to allow each side to prepare its closing argument. The Prosecution/Plaintiff will deliver its closing argument first, followed by the Defense. If evidence contained in the affidavits was not actually presented during the trial, it cannot be used in the closing arguments.

If Prosecution/Plaintiff does not use all of its time in the closing argument, the closing attorney may request the remainder of the time to be used for a rebuttal provided it is requested prior to the start or end of its closing. However, closing attorneys will not be allowed to rebut unless the request to reserve remaining time from the closing argument was made. *The rebuttal is limited to what was discussed in the Defense's closing argument.*

The presiding judge will oversee the mode and order of the examination of the witnesses and the presentation of evidence. The oversight of all proceedings ensures that there are good presentations that bring out the essential facts of the problem, do not consume too much time, and protect witnesses from harassment or unnecessary embarrassment.

4.6 Timekeeping and Time Limits

Time limits are mandatory and will be enforced. Time limits should be used by all teams in preparing the cases for trial. Each team is required to provide a student who will serve as the official timekeeper for that team and will use timekeeping aids. The name of the timekeeper shall be noted on the Team Roster Form. A different timekeeper may be used for each round. An attorney or witness may also serve as timekeeper as long as they are not serving in another capacity during that particular round. Bailiffs may also serve as a timekeeper.

The host state will provide time cards, [timesheets](#), scratch paper, pencils, and clipboards on competition day. Teams are responsible for bringing two stopwatches: one to track time for the Prosecution/Plaintiff side and one to track time for the Defense side. Cell phones are not to be used as stopwatches. The Prosecution/Plaintiff timekeeper will be the official timekeeper of the two timekeepers provided between the two teams. Timekeepers are responsible for fairly and accurately keeping and reporting the time during the trial.

The time limits for the phases of the trial are:

Opening Statements	5 minutes per side
Direct Examinations (re-directs are optional)	25 minutes total per side
Cross Examinations (re-crosses are optional)	20 minutes total per side
Closing Arguments	5 minutes per side

***** See *timesheet in the Forms and Supporting Information Section.* *****

Timekeeping begins when the first word during that segment is spoken by the attorney. Time runs from the beginning of the opening statement, witness examination, or closing arguments until its conclusion. Time stops only for objections, questioning from the presiding judge, or administering the oath. Time does not stop for the introduction of exhibits or for attorneys to confer with co-counsel.

Attorneys are permitted to ask the presiding judge how much time is remaining. If a speaker runs out of time, s/he may request the presiding judge's permission to conclude his/her presentation. The presiding judge has sole discretion to grant a time extension up to 30 seconds. The extension may only be requested at the conclusion of their time. If

such an extension is granted, no penalty shall be assessed unless the extension is exceeded. If time has expired and an attorney continues without permission from the presiding judge, the scoring judges shall impose a penalty in accordance with these rules. (See Rule 5.4: Completion of Scoresheets and Rule 6.3: Effect of Violation on Score.)

The presiding judge has the discretion to stop the clock for any reason.

Signed timesheets are turned in at the end of each round to the presiding judge. Timekeepers may use only the official time cards provided by the SC Bar and no others. The timecards are provided in the following increments: 20:00, 15:00, 10:00, 5:00, 4:00, 3:00, 2:00, 1:00, :40, :20, STOP. Modification of intervals is not permitted.

Both timekeepers shall begin showing the timecards with the highest amount of time allotted for that phase of the trial (e.g., opening statements, direct examinations, cross examinations, or closing arguments) and continue to decrease the timecard intervals simultaneously as time is depleted. Timekeepers are not to start with a smaller timecard for each individual witness' direct or cross examination.

Example: When cross-examination begins, both timekeepers should start with the "20:00" time card. If the first cross-examining attorney uses 5 minutes (leaving 15 minutes remaining), both timekeepers should begin the cross-examination of the second witness by showing the "15:00" time card.

Timekeepers must be seated together. Timekeepers can request to be seated in a location where they can be viewed by the attorneys, but they must be seated with a sufficient distance from the scoring judges (either in front of the scoring judges or off to the side of the scoring judges). Timekeepers are to remain seated during the trial.

Timekeepers cannot verbalize, wave the time cards, use hand gestures, or use any other means to get an attorney's attention other than raising the provided timecards quietly.

At the end of each phase of the trial (e.g., after both opening statements, at the end of Plaintiff/Prosecution's case in chief, at the end of the Defense's case in chief, and at the end of the closing arguments), timekeepers will record and confer with one another on the total amount of time used by both sides. If there is more than a 15 second time discrepancy between the teams' timekeepers, the timekeepers must notify the presiding judge of the discrepancy at that moment. The presiding judge will rule on the discrepancy immediately. After a time discrepancy ruling, the timekeepers will synchronize their stopwatches accordingly and the trial will continue.

Any discrepancies between timekeepers less than 15 seconds will not be considered. No time disputes will be entertained after the trial concludes. The decisions of the presiding judge regarding the resolution of time discrepancies are final.

Timekeepers may not communicate with any team members, coaches, or visitors during the recess.

4.7 [Reserved]

4.8 Motions

Teams may not make pre-trial motions except to request substitution of a team member with an alternate listed on the team roster.

The only motion permitted during the course of the trial are:

- 1) To strike testimony following a successful objection to its admission; and
- 2) To substitute an alternate listed on the team roster for a team member who becomes medically unable to continue participating in the trial.

Official Comment:

It is improper to make requests to the presiding judge regarding swearing of witnesses, use of cell phones, and other housekeeping matters already provided for in the rules. Teams may request that they be allowed to place timekeepers where they can be seen, or for permission to move freely about the courtroom during the trial (although such a request is not required in order to do so). However, these requests may only be made if and when the presiding judge recognizes the team and opens the floor to such requests (such as, "Is there anything further before we begin?"). Teams shall not interrupt the presiding judge or otherwise attempt to instruct the presiding judge on how to conduct the trial or control the courtroom. Teams should not address the court unless recognized by the presiding judge.

4.9 Sequestration

Teams may not mention the rule of sequestration – having the jury hidden from the public.

4.10 Bench Conferences

Teams will **not** be permitted to request bench conferences during a trial. However, if a presiding judge requests a bench conference, the teams should respect the judge's instructions.

4.11 Costuming and Props

Witnesses and lawyers should dress professionally, as if they were appearing in an actual courtroom. No costumes (e.g. police uniforms, badges, wigs, hats, canes, etc.) are allowed. Teams may not wear lapel pins or other insignia earned at other Mock Trial competitions.

Teams may not use as props or demonstrative objects other than items that are officially provided by the Co-Hosts as part of the case materials. Teams may not bring to court any other items to use as props or demonstrative devices. Teams may not use loose items that they may find in the courtroom (e.g., pens, water bottles, flip charts, etc.) for props, exhibits or demonstrative purposes.

Official Comment:

This rule prohibits the use of make-up, prosthetics, or other effects to create scars or other physical conditions for a witness. However, the student playing the witness is allowed to act as though s/he is afflicted with any condition, deformity, or disability described in the affidavits. Under no circumstances will the opposing team be permitted to question the existence of such conditions based on the fact that the student playing the witness does not actually have them. While the opposing team may cross-examine

the witness on the extent of the condition based on information provided in the affidavits, the opposing team may not challenge the witness to prove the existence of the condition by asking him/her to show it to the jury.

Use of accents is not considered costuming.

4.12 Trial Communication

Coaches, teachers, alternates, and visitors shall not talk to, signal, communicate with, or coach their teams during trial. This rule remains in force during any emergency recess that may occur. Team members in front of the bar may, among themselves, communicate during the trial; however, no disruptive communication is allowed. Signaling of time by the teams' timekeepers shall not be considered a violation of this rule. Student attorneys are permitted to ask the presiding judge for permission to inquire from the timekeepers as to how much time is remaining.

Coaches, teachers, alternates, and visitors must remain outside the bar in the spectator section of the courtroom after the trial has begun. Only team members participating in a given round may sit inside the bar and communicate with one another. The team members participating in a given round may only communicate with the bailiff, timekeeper, and teacher/attorney coaches during the time period immediately following the trial process to determine if there are any disputes to be raised as directed by the presiding judge. Bailiffs and timekeepers are not to communicate with the participating team members during the trial except for inquiries of time remaining as indicated in the rules.

Attorney and teacher coaches are discouraged from having contact with scoring and presiding judges on the day of the competition to prevent the appearance of impropriety.

4.13 Viewing a Trial

Team members, alternates, attorney coaches, teacher coaches, visitors, and any other persons directly associated with a specific Mock Trial team, except for those authorized by the Co-Hosts, are not allowed to view other teams' performances so long as their team remains in the competition.

Each team may watch its own team, e.g., Prosecution/Plaintiff may watch Defense. All official team members, sponsors, attorney coaches, teachers, and visitors will be required to wear matching lettered nametags provided at the on-site registration to ensure that this rule is followed. Matching labeled name tags are required for visitors who want to watch their team.

Any team who violates this rule will be eliminated from the competition. All such decisions will be within the discretion of the Co-Hosts.

4.14 Electronics: Cell Phones, Video Cameras, and Cameras

It is strongly encouraged that cell phones are not brought to the courthouse and/or place of the Mock Trial competition. Some courthouses prohibit cell phones, and they may be confiscated by security personnel. Lead teacher coaches are asked to have their cell phones on vibrate in order to be reached by the Co-Hosts in the event of an emergency. All others including attorney coaches and visitors who bring their cell phones must turn them off.

Any team has the option to refuse participation in videotaping, tape recording, and still photography by opposing teams **without explanation**. Video cameras may be used during the competition only with the consent of the presiding judge **AND** with the consent of the opposing team. Flash pictures may **NOT** be taken during the competition at any time.

**** If for any reason a team is unable to get all of their talent release forms signed, a team representative in front of the bar must address the presiding judge when asked if both teams consent to photography and video by stating that their team is not able to permit photography or video at this time. No explanation is required.**

4.15 Jury Trial

The case will be tried to a jury. Arguments are to be made to the presiding judge and jury. Teams may address the scoring judges as the jury.

4.16 Standing During Trial

The Battle of the Carolinas is making a special exception regarding the rule of standing during a trial as each co-host state has a different rule regarding standing in a trial. North Carolina teams are familiar with standing only during opening statements, raising and responding to objections, and during closing arguments, while South Carolina teams are familiar with standing during the opening statements, during direct and cross examinations, raising and responding to objections, and giving the closing arguments. Both procedures are accepted for the Battle of the Carolinas competition and no team shall be penalized for following their state's customary practices regarding this procedure.

4.17 Objections to Opening Statement and Closing Argument

No objections may be raised during opening statements or closing arguments. If a team believes an objection would have been proper during the opposing team's opening statement or closing argument, one of its attorneys may, following the opening statement or closing argument, stand to be recognized by the presiding judge and may say, "If I had been permitted to object during opening/closing arguments, I would have objected to the opposing team's statement that _____." The objection may only be made immediately following the opening statement or closing argument and may not be raised as a dispute after the round. The attorney who delivered the opening statement or closing argument that is the subject of the "objection" may **NOT** deliver a rebuttal. The presiding judge will not rule on this objection. Scoring judges will weigh the objection individually. Absolutely **no rebuttal** by the opposing team will be heard.

Official Comment:

The "objection" permitted by this rule should generally be used only to challenge a closing argument (or portion thereof) that is not based on evidence properly admitted at trial. An attorney making such an "objection" should be prepared to describe the specific evidence (or inference therefrom) on which the challenged argument is based. Teams should not use this rule merely to challenge the strength or logical force of their opponent's arguments. Scoring judges should consider such use of this rule improper, and they may, in their sole discretion, adjust their scores accordingly.

Example No. 1: *Plaintiff's counsel in a medical malpractice trial argues in the closing argument that the Plaintiff should prevail because the opinion of Plaintiff's expert, Dr. Reed, conclusively showed that the doctor who had operated on Plaintiff was negligent. At the conclusion of counsel's closing*

argument, Defense counsel invokes this rule and objects to the portion of Plaintiff's closing argument that referred to Dr. Reed's expert opinion. Defense counsel observes that, since Dr. Reed was never admitted as an expert by the Court, Plaintiff's counsel's discussion of the doctor's "expert opinion" is based on facts not in evidence. This argument is appropriate under this rule.

Example No. 2: Assume that, in the same trial, the presiding judge admitted Dr. Reed as an expert. At the close of Plaintiff's closing argument, Defense counsel invokes this rule and objects again. This time, Defense counsel argues that Plaintiff's discussion of Dr. Reed's expert opinion should be stricken because the doctor is a quack who always testifies for Plaintiffs. This argument is inappropriate under the rule. Rather than challenge an argument based on facts not in evidence, it simply takes issue with the inferences to be drawn from properly admitted evidence. That sort of challenge should be made in the closing argument itself, not in a post-argument objection.

4.18 Objections

Except during the opening statement or closing argument as described above, an attorney may object any time the opposing attorney has violated the rules of evidence. The objecting attorney should stand up at the time of the violation, e.g. "Objection. The testimony/counsel is..." When an objection is made, the presiding judge will ask the reason for the objection. Then the presiding judge will turn to the attorney who asked the question(s) and that attorney will usually have a chance to explain why the objection should not be accepted ("sustained") by the presiding judge. After the opposing counsel has responded, there shall be no more argument on that objection unless requested by the presiding judge. The presiding judge will then decide whether the objection is "Sustained" (i.e., that the evidence is a violation of the rules of evidence) or whether the objection is "Overruled" (i.e. that the evidence is proper). If an objection is sustained, there is no need to "Move to Strike" the evidence from the record.

Students are NOT scored based on the rulings of the presiding judge, but rather on how they regroup based on the presiding judge's ruling.

Reasons for Objections:

- A. **Argumentative Questions**.....Evidence Rule 902
An attorney shall not ask argumentative questions.
- B. **Lack of Proper Foundation**..... Evidence Rule 904
Attorneys shall lay a proper foundation prior to moving the admission of evidence. After the exhibit has been offered into evidence, the exhibit may still be objected to on other grounds.
- C. **Assuming Facts Not in Evidence**Evidence Rule 901
Attorneys may not ask a question that assumes unproved facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by evidence (sometimes called a "hypothetical question").
- D. **Questions Calling for Narrative or General Answer**Evidence Rule 611
Questions must be stated so as to call for a specific answer. (Example of improper question: "Tell us what you know about this case.")

- E. **Non-Responsive Answer**
A witness' answer is objectionable if it fails to respond to the question asked.
Or, if answer runs merely for the purpose of expanding time.
- F. **Repetition**
Questions designed to elicit the same testimony or evidence previously presented in its entirety are improper if merely offered as a repetition of the same testimony or evidence from the same or similar source.
- G. **Irrelevant Evidence**Evidence Rule 402
- H. **Leading** Evidence Rule 611
- I. **Improper Character Testimony** Evidence Rule 404-405
- J. **Hearsay** Evidence Rule 801-802
- K. **Opinion**Evidence Rule 701
- L. **Lack of Personal Knowledge**Evidence Rule 602
- M. **Creation of Material Facts** Competition Rule 2.3

The attorney who conducts the direct examination of a witness is the only person who may make objections to the opposing attorney's questions during that witness' cross-examination. The attorney who cross-examines a witness is the only one permitted to object during the direct examination of that witness.

Official Comment #1:

Teams are not precluded from raising additional objections that are available under the Mock Trial Rules of Evidence.

Official Comment #2:

An objection that a witness is being "non-responsive" is frequently made during cross-examination, when the cross-examiner has asked a "yes" or "no" question and the witness has said more than "yes" or "no" in response. Though the practices of presiding judges differ on this point, most judges will allow a witness, in response to a "yes" or "no" question from a cross-examiner, to give a brief, one-sentence explanation of the answer after saying "yes" or "no." Most judges will go on to cut the witness off after a sentence or so of explanation (if requested to do so by the cross-examining lawyer), on the grounds that any further explanation is better left to re-direct examination. Teams should be prepared to adjust their objections on this point to the preferred style of the presiding judge.

4.19 Exhibits

The host state will provide for each courtroom one large (11x17) color set of the exhibits and a witness notebook that will contain the affidavits and the exhibits located at the witness stand to be used during the trial. The bailiffs will be responsible for verifying that all of the large exhibits are accounted for prior to the trial in the correct order as well as collecting them at the end of the trial and returning the exhibits to the original starting location. Only the exhibits provided by the host state can be published to the jury. Teams may only use the provided case materials in each courtroom when showing the presiding judge, jury, opposing counsel and/or witnesses the competition rules, rules of evidence, pleadings, statutes, and affidavits. Teams may use personal copies of any portion of the case materials at their tables only.

No alteration to the exhibits is permitted including, but not limited to, highlighting, enlargements, or lamination. All evidence will be pre-marked as exhibits.

Other than the Practice Scoresheets, the only documents that the teams may present to the presiding judge or to the scoring judges are the exhibits provided by the host state as they are introduced into evidence. Exhibit notebooks prepared by teams are not to be provided to the presiding judge or panel of scoring judges. No exhibits or materials outside of those provided may be used during the Mock Trial competition including teams creating timelines of events.

The exhibits will be located in each courtroom at a neutral location accessible to both teams. Exhibits will not be controlled by any one person or team.

4.20 Procedure for Introduction of Exhibits

Case materials include a predetermined number of proposed exhibits and **either team can use any of the exhibits**. Each side will be scored on its attempt to introduce evidence and the other side based on its objections. The teams must determine which witnesses (either on the team's own direct examination or during cross examination of the other team's witnesses) are the best and/or proper witnesses to introduce the exhibits.

Official Comment:

As an example, the following steps effectively introduce evidence:

- A. Ask for permission to approach the witness. "Your Honor, may I approach the witness with what has been marked for identification purposes as Exhibit _____?"
- B. Ask the witness to identify the exhibit. "I now hand you what has been marked for identification as Exhibit _____. Would you identify this document please?" The witness should answer to identify only.
- C. Ask the witness a series of questions that are offered for proof of the admissibility of the exhibit. Such questions lay the foundation for admissibility, including questions of relevance and materiality of the exhibit.
- D. Offer the exhibit into evidence. "Your Honor, we offer Exhibit _____ into evidence."
- E. Presiding Judge: "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
- F. Opposing Counsel: "No, Your Honor" or "Yes, Your Honor". If the response is "yes", the objection will be stated for the record.
- G. Presiding Judge: "Is there any response to the objection?"
- H. Presiding Judge: "Exhibit _____(is/is not) admitted." If admitted, questions on content may be asked.

4.21 Use of Notes / Technology

During the trial, witnesses may NOT use notes or read from any documents unless questioned or cross-examined about that witness' affidavit or an exhibit. If providing a witness statement to a witness for purposes of questioning or cross-examination, the statements must come directly from the case materials provided. Teams may use their personal notes and binders at the counsel tables; however, teams may show to a

presiding judge, a witness, or jury only the case materials provided. Attorneys may use notes in their presentations. (See the scoring matrix in Rule 5.4 (Completion of Scoresheets) and on the scoresheet found in Forms and Supporting Information Section.)

Attorneys may quietly consult with each other at the counsel table orally or through the use of notes. **The use of laptops or other electronic devices is prohibited at the competitions.**

Official Comment:

Whether a student is note-dependent is a subjective standard. However, some examples of how scoring judges may view the usage of notes include:

- *Attorneys who read directly from notes during opening statements or closing arguments will likely be considered “note dependent” and receive a low score.*
- *Attorneys who use notes merely as a guide are not likely to be considered “note dependent.”*

Remember, scoring judges are judging the overall performance of the students and not just note usage.

4.22 Redirect / Recross

Witness examination will consist of direct and cross examinations of each witness. Each team is allowed one re-direct and one re-cross examination per witness. These are not opportunities to bring up new issues and are limited to addressing and clarifying prior testimony given during direct and cross examinations. Cross examining attorneys cannot interrupt/cut off the witness if they are answering the questions asked with a reasonable explanation that goes beyond the simple yes or no that the questioning attorney is trying to illicit.

4.23 Recess

Teams will be granted a five minute recess prior to presenting their closing arguments. During the recess, team members in front of the bar will not be permitted to leave the courtroom or have any communication with anyone behind the bar, the timekeeper, or the bailiff.

Only the audience may leave the courtroom during the five minute recess. Any communication that takes place over the bar subjects the offending team to a penalty in accordance with Rule 4.12 (Trial Communication). Everyone who chooses to remain in the courtroom must stay seated quietly to allow the students in front of the bar to prepare their closing arguments.

4.24 Closing Arguments

Closing arguments must be based on the actual evidence and testimony presented during the trial. If evidence was not presented during the trial, it cannot be used in the closing arguments. Attorneys delivering the closing arguments should take notes during trial to ensure that everything they say in their closing arguments was in fact entered into evidence.

No objections may be raised during opening statements or closing arguments. If a team believes an objection would have been proper during the opposing team’s opening statement or closing argument, one of its attorneys may, following the opening statement

or closing argument, stand to be recognized by the presiding judge and may say, "If I had been permitted to object during opening/closing arguments, I would have objected to the opposing team's statement that _____." The objection may only be made immediately following the opening statement or closing argument and may not be raised as a dispute after the round. The attorney who delivered the opening statement or closing argument that is the subject of the "objection" may NOT deliver a rebuttal. The presiding judge will not rule on this objection. Scoring judges will weigh the objection individually. Absolutely no rebuttal by the opposing team will be heard.

***** The Plaintiff/Prosecution attorney may ask only before, during or immediately after closing argument to reserve any remaining time to be used as a rebuttal.**

No person may do both the opening statement and closing argument.

4.25 [Reserved]

4.26 Visitor Conduct

A limited number of visitors are welcome to attend the competitions. They will be provided visitor badges (coded visitor name tags) to watch their respective teams. Visitors are not allowed to move around in the courtroom during a trial or participate in the trial in any way, including asking about time, raising disputes, or arguing a violation on behalf of the student(s).

(Keep in mind that each team is provided a maximum of 24 visitor badges. Up to 16 team members for middle school will wear coded team badges. Remaining students on the team will be required to wear visitor badges and sit with the visitors. Should a team exceed the maximum number of team members, the number of actual visitors permitted in the courtroom is reduced by that number.)

All visitors in the gallery shall remain seated during the trial and may not sit in the aisles. If it is necessary to enter or exit the courtroom during the trial, that person should do so during a transition, such as in between witnesses or after an argument. (It is highly suggested that someone from each team (i.e. a spectator or student not watching a specific round) stand outside the courtroom entrance to help ensure visitors only enter or exit during transitions to reduce noise and movement distractions for competing teams.)

All invited visitors should be briefed by the team's sponsoring teacher on the rules that apply to visitors during the competition prior to competition day. The Co-Hosts reserves the right to remove anyone that violates rules stated by the Courthouse and the overall competition rules.

4.27 [Reserved]

4.28 Most Effective Nominations Made by Teams

After each round is completed, each team will have up to one minute to [nominate a most effective witness](#) and a most effective attorney from the opposing team. After the nominations have been made, each team will announce and immediately award the most effective recipients in that round prior to leaving the courtroom. The most effective awards determined by the students do not replace the most effective awards that the scoring judges determine and announce at the conclusion of the competition.

SECTION V: JUDGING AND TEAM ADVANCEMENT

5.1 Finality of Decisions

All decisions of the judging panel are FINAL.

5.2 Composition of Judging Panels

Teams may address the scoring judges as members of the jury. Each round will be scored by a "jury" panel to serve as the "scoring judges," which may consist of judges, attorneys, law students, or experienced Mock Trial teachers. Each scoring panel shall include at least one attorney. The presiding judge shall be an attorney or a judge.

All presiding and scoring judges receive the Mock Trial manual, a memorandum outlining the case, and orientation materials prior to the competition.

The judging panel will consist of at least three individuals. The composition of the judging panel and the selection of presiding judges will be at the discretion of the Co-Hosts with the format as follows:

- A. One presiding judge and two scoring judges (all three of whom complete scoresheets); or
- B. One presiding judge and three scoring judges (scoring judges only complete scoresheets)

The championship round will have a larger judging panel at the discretion of the Co-Hosts.

In the event of an emergency (i.e. sudden illness, etc.) when a judging panel member must leave the courtroom, the presiding judge will call for a brief recess, assess whether the judging panel member will be able to return in a reasonably short period of time, and then resume the proceedings upon the panel member's return to the courtroom. If the panel member is unable to return to the courtroom, the Mock Trial coordinator must be informed. Once the panel composition is adjusted by the Co-Hosts to best match the rule requirements, the round continues. During any recess under this rule, the teams, whenever possible, should remain seated in their appropriate positions within the courtroom until the round resumes.

5.3 Scoresheets / Ballots

The term "ballot" will refer to the decision made by a scoring judge as to which team made the best presentation in a given round. The term "scoresheet" is used in reference to the form on which points are recorded.

Scoresheets allow for individual performances as well as an overall team performance. The overall team performance is worth up to ten points and takes into account civility/incivility, abuse/excessive objections, scripting, delay tactics, usage of exhibits, thematic presentation, and legal arguments woven into the entire presentation.

Scoresheets are completed individually by the scoring judges. Scoring judges do not necessarily reflect the rulings of the presiding judge during trial on their scores for individuals. Scores will **NOT** be announced at the end of each round. However, tabulated scoresheets will be mailed to the lead teacher coach the following week **only** after scores have been verified and rankings confirmed. Scoresheets are **NOT** faxed, scanned, e-mailed, or picked up in person.

The team that earns the highest points on an individual judge's scoresheet is the winner of that ballot. The team that receives the majority of the three ballots wins the round. The ballot votes determine the win/loss record of the team for power matching and ranking purposes.

5.4 Completion of Scoresheets

Each scoring judge records a number of points (1-10) for each presentation of the trial. A scoring matrix to assist in scoring is found on each scoresheet provided to the scoring judges. At the end of the trial, each scoring judge totals the sum of each team's individual points, assess an overall team performance score, places the sum in the Column Totals Box, and circles the team ("P" for Prosecution/Plaintiff or "D" for Defense) indicating his/her overall vote for the best team of the round. This vote should coincide with the team that scored the highest number of points. **NO TIE IS ALLOWED IN THE COLUMN TOTAL BOXES.**

The scoring judges circle the letter "P" or "D" in case of a mathematical error. This also serves as a tiebreaker. In the event of mathematical error in tabulating the scores that, when corrected, results in a tie, the circled letter shall determine award of the ballot.

Mock Trial Scoring Matrix

Scoring Guide: Do not award fractional points or a range.		
1-2	Not Effective	Unsure of self, illogical, uninformed, not prepared, speaks incoherently, definitely ineffective in communication. Reads directly from notes. Uses objections improperly.
3-4	Fair	Minimally informed and prepared. Performance is passable, but lacks depth in terms of knowledge of task and materials. Communication lacks clarity and conviction. Depends on notes. Uses objections poorly.
5-6	Good	Good, solid, but less than spectacular performance. Can perform outside the script but with less confidence than when using script. Logic and organization are adequate, but not outstanding. Grasps major aspects of case, but does not convey mastery of it. Communications are clear and understandable, but could be stronger in fluency and persuasiveness. Occasionally uses notes. Understands and uses correct objections.
7-8	Excellent	Fluent, persuasive, clear, and understandable. Organizes materials and thoughts well and exhibits mastery of the case and materials. Is not note-dependent. Uses appropriate and timely objections as well as well thought out response to objections and offers proper support.
9-10	Outstanding	Superior qualities listed for 7-8 points performance. Additionally, thinks well on feet, is logical, and keeps poised under duress. Can sort essential from nonessential and use time effectively to accomplish major objectives. Demonstrates the unique ability to utilize all resources in order to emphasize vital points of trial. Is not note-dependent. Exhibits mastery of objections and appropriate responses and support

Scoring Penalties

Scoring judges **shall** impose a team penalty within the indicated ranges for the following violations in the penalty box at the end of the scoresheet:

- Costuming and Props (see Rule 4.11) 2 – 10 points
- Failure to Call all Witnesses (see Rule 4.5) Team Forfeits
- Improper Communication (see Rules 4.6 and 4.12) 2 – 10 points
- Unequal Distribution of Tasks
Among the Team (see Rules 3.2 and 3.3) 2 – 8 points
- Time Runs Out and Forced to Call
Remaining Witness (see Rule 4.5) 10 points
- Bad Faith “Creation of Material Fact” Objection (see Rule 2.3) 1 – 7 points
- Any Other Rule Not Stated Above is Subject to Penalty 1 – 10 points
- **Creation of Material Fact (see Rule 2.3)**
 - Unintentional 1 - 2 points
 - Intentional 3 - 7 points
- **Time Violations (see Rule 4.6)**
 - 1 to 14 seconds 0 points
 - 15 to 30 seconds (*without extension from presiding judge*) 1 – 2 points
 - 31 to 60 seconds 3 – 4 points
 - Over 60 seconds 5 – 10 points

5.5 [Reserved]

5.6 Power Matching

Teams will be notified prior to arriving at the competition of their team identity code and the order of sides performed for the first round, which will be seeded based on performance at individual state competitions.

Round Format for Battle of the Carolinas Competition:

Friday: Round 1: Seeded and Power Matched Round
(Based on seeding – see “C” below)

The lead teacher coaches will be notified on their cell phone that Friday night of the competition no later than 10 p.m. with the pairings and the side their team will perform in the second round on Saturday morning.

Saturday: Round 2: Power Matched Round (based on Round 1 Results)

Round 3: Power Matched Round (based on Round 2 Results)

Round 4 / Championship Round: Paired (based on Round 3 Results)

The two teams with the highest number of total wins, total ballots, and total scores after the third round will compete in the championship round. The champion will be determined by ballots from the championship round only.

Power matching will provide that:

- A. All teams are guaranteed to present each side of the case at least once;
- B. Brackets will be determined by win/loss record. Sorting within brackets will be determined in the following order: (1) win/loss record; (2) total ballots; (3) total points; and (4) point spread.
- C. Teams will carry their final ranking earned at their respective state competitions to the Battle of the Carolinas competition to be seeded for the first round.
- D. If there are an odd number of teams in the top bracket, a team from the second bracket will be brought up to the first bracket. This will ensure that there is always a minimum of four teams in the top bracket and that at all times the top bracket consists of an even

number of teams to perform powermatching. Should this present an odd number of teams in a subsequent bracket, the same rule shall apply.

- E. The team at the top of a bracket will be matched with the bottom team of that same bracket; the second ranked team will be matched with the second to last team within that same bracket, etc.
- F. Normally, a team will not meet the same opponent twice.
- G. Teams will perform each side at least once.
- H. Bracket integrity in power matching will supersede sub-rules F and G.

See examples on the next three pages on how ranking from highest to lowest after the first round is performed and how power matching is performed after the first and second round.

Example of Ranking After First Round Results
(Highest to Lowest)

Ranking	Team Code	Opponent	Total Wins	Total Ballots	Total Points
1	AB (Plaintiff)	EF (Defense)	1 Win	3	287
2	GH (Defense)	CD (Plaintiff)	1 Win	3	259
3	HI (Defense)	JK (Plaintiff)	1 Win	2	284
4	LM (Plaintiff)	NO (Defense)	1 Win	2	275
5	JK (Plaintiff)	HI (Defense)	0 Wins	1	280
6	NO (Defense)	LM (Plaintiff)	0 Wins	1	273
7	CD (Plaintiff)	GH (Defense)	0 Wins	0	250
8	EF (Defense)	AB (Plaintiff)	0 Wins	0	228

- When looking at the chart above, keep in mind that teams are placed in order of total wins, total ballots, and then total points.
- AB is first because it won the round; it has the highest number of possible ballots from the first round, and the highest number of total points.
- GH is second highest because while it has the same number of wins and ballots as AB, it has fewer points than AB.
- HI is third because while it has the same number of wins as AB and GH, GH has one less ballot. Notice HI has higher points than the second place team (GH), but this does not matter because GH has one more ballot than HI.
- LM is fourth because the only difference between HI and LM is that HI has more points.
- JK is fifth because it has no wins and all teams with no wins come after all the teams that win their round. Notice that while JK lost the round it still took one of the three possible ballots; which is better than losing without any ballots. Taking that one ballot is what allows JK to be ranked higher than the teams that won no ballots. Also notice because JK and NO have one ballot, that a team's total points is what determines who is ranked higher than the other.
- NO is sixth because it has fewer points than JK.
- CD is seventh because it did not win, did not receive any ballots, and had more points than EF's.
- EF is last because it did not win, did not receive any ballots, and had the lowest total points out of all eight teams.

An explanation of how to power match from this round is on the next page.

Example of Power Matching for the Second Round

Ranking	Team Code	Opponent	Total Wins	Total Ballots	Total Points
1	AB (Plaintiff)	EF (Defense)	1 Win	3	287
2	GH (Defense)	CD (Plaintiff)	1 Win	3	259
3	HI (Defense)	JK (Plaintiff)	1 Win	2	284
4	LM (Plaintiff)	NO (Defense)	1 Win	2	275
5	JK (Plaintiff)	HI (Defense)	0 Wins	1	280
6	NO (Defense)	LM (Plaintiff)	0 Wins	1	273
7	CD (Plaintiff)	GH (Defense)	0 Wins	0	250
8	EF (Defense)	AB (Plaintiff)	0 Wins	0	228

- By the directions, all the teams that win their round are in one bracket and all those that did not win are in another bracket. *(Results above are from the first round.)*
- Notice the dark line that separates the two groups with a win and without a win.
- Pairings are listed as follows: Prosecution/Plaintiff v. Defense
- The first step is to pair AB with LM because the highest is to be paired with the lowest within the same bracket. Notice that in the first round AB played the role of Plaintiff and LM also played the role of Plaintiff. Because AB is the highest of the two and both teams played the same role, AB has to switch roles and play the side of Defense in the second round and LM will play a second round as Plaintiff.
 - Result: LM v. AB **(LM is Plaintiff and AB is Defense.)**
- The next step is to pair GH with HI. They both played the same role as defense in their first round. Because GH is the higher of the two teams, GH will switch roles and play the role of Plaintiff in the second round and HI will play another round as Defense.
 - Result: GH v. HI **(GH is Plaintiff and HI is Defense.)**
- The third step is to pair JK with EF because the highest is to be paired with the lowest within the same bracket. Notice that in this pairing, JK is paired with EF. JK and EF played opposite roles in their first round, so for the second round they will just switch sides and JK will play Defense and EF will play Plaintiff.
 - Result: EF v. JK **(EF is Plaintiff and JK is Defense.)**
- The fourth step is to pair NO with CD. NO and CD played opposite roles in their first round, so for the second round they will switch sides and NO will play Plaintiff and CD will play Defense.
 - Result: NO v. CD **(NO is Plaintiff and CD is Defense.)**

Example of Power Matching for the Third Round

Ranking	Team Code	Prev. Sides	TOTAL			ROUND ONE RESULTS					ROUND TWO RESULTS			
			Wins	Ballots	Points	Opponent/ Side	Win	Ballots	Points	Opponent/ Side	Win	Ballots	Points	
1	GH	D, P	2	5	543	CD (p)	1	3	259	HI (d)	1	2	284	
2	LM	P, P	2	5	539	NO (d)	1	2	275	AB (d)	1	3	264	
3	NO	D, P	1	4	541	LM (p)	0	1	273	CD (d)	1	3	268	
4	JK	P, D	1	3	571	HI (d)	0	1	280	EF (p)	1	2	291	
5	HI	D, D	1	3	563	JK (p)	1	2	284	GH (p)	0	1	279	
6	AB	P, D	1	3	545	EF (d)	1	3	287	LM (p)	0	0	258	
7	EF	D, P	0	1	491	AB (p)	0	0	228	JK (d)	0	1	263	
8	CD	P, D	0	0	493	GH (d)	0	0	250	NO (p)	0	0	243	

- By the directions, all the teams are ranked in order of **total** number of wins, ballots, points and then point spread. *(Point spread is used when points are tied.)*
- Notice the green dotted line between the second and third teams and again between the sixth and seventh teams. These lines separate the teams into three brackets. The first bracket has the teams that won both of their rounds. The second bracket has the teams that won one round. The last bracket has the teams that did not win either of their two rounds. The first four teams are shaded because the rules require there to be a minimum of four teams in the top bracket to powermatch. This rule moves the third and fourth place teams up to the top bracket for powermatching.
- Pairings are listed as follows: Prosecution/Plaintiff v. Defense
- The first step is to pair the top team in the top gray bracket [GH] with the bottom team in that same bracket [JK]. GH would be made Defense and JK would be made Plaintiff because they can automatically flip sides based on their previous round performance with the result of **JK vs. GH**. They can play one another since they did not play one another in a previous round. Stop there. Notice the second team [LM] would be paired with the third team [NO], since they are the two remaining teams in the gray bracket? But, do you also see that LM went up against NO in their first round creating a conflict if paired a second time? Since the four teams must play within their bracket, the first pairing of JK v. GH becomes null and void. In starting over in this bracket, the top team [GH] must now be paired with the second from the bottom team [NO] in the same gray bracket. GH and NO have not played one another and both teams played Plaintiff in their previous round. Since GH is the strongest/highest of the two teams, GH flips sides and will perform Defense in their third round. **Result: NO v. GH (NO is Plaintiff and GH is defense.)**
- The second step is to pair the remaining two teams in the gray bracket [LM and JK]. Both teams performed opposite sides in their previous round, so they naturally flip side performance in their third round. Plus, LM performed as the Plaintiff in both of their two previous rounds, which guarantees LM is to perform Defense in their third round. **Result: JK v. LM (JK is Plaintiff and LM is Defense.)**
- The third step is to pair the top team in the bottom yellow bracket [HI] with the bottom team in that same bracket [CD]. Like in the first proposed pairing, HI would naturally pair with CD because the top team is paired with the bottom team in the same bracket. However, since the remaining two teams [AB and EF] played one another in their first round, HI and CD cannot be paired with one another and the pairing becomes null and void ensuring AB and EF can be paired with another team in the same bracket. In starting over in this bracket, the top team [HI] must now be paired with the second team from the bottom [EF] in the same yellow bracket. HI and EF have not played one another and can do natural flips in side presentation for their third round. Plus, HI performed Defense in both of their two previous rounds, which guarantees HI is to perform Plaintiff in their third round. **Result: HI v. EF (HI is Plaintiff and EF is Defense.)**
- The fourth step is to pair the remaining two teams in the yellow bracket [AB and CD]. Both teams performed Defense in their previous round. Since AB is the strongest/highest of the two teams, AB flips sides and will perform Plaintiff in their third round. **Result: AB vs. CD (AB is Plaintiff and CD is Defense.)**

5.7 Selection of Sides for Championship Round

In determining which team will represent which side in the Championship Round, the following procedure shall be used:

- A. If the two teams in the championship round have already met in a prior round, their prior designations as Prosecution/Plaintiff and Defense will automatically be reversed.
- B. If the two teams have not met in a prior round, the team with the letter code that comes first alphabetically will be considered the "Designated Team."
- C. The coin will be tossed by a designee of the SC Bar.
- D. If the coin comes up heads, the Designated Team shall represent the Prosecution/Plaintiff in the state championship round. If the coin comes up tails, the Designated Team shall represent the Defense/Defendant in the championship round.

5.8 Effect of Bye / Default

A "bye" becomes necessary when an odd number of teams are present at any competition. It is the intent of the Mock Trial program to avoid byes where possible. In the event of a circumstance resulting in an odd number of competing teams, the following procedure will apply:

- A. A team receiving a bye in round one will be awarded a ½ win, 1.5 ballots and the average number of points for all round one winners. The wins, ballots and points will be replaced in second and third rounds to reflect actual earnings by that team.
- B. The team drawing the "bye" (no opponent for a single trial round) in round two, will receive a duplication of their round one performance. Following the teams the third round, results from round one and three will be averaged to replace round two results.
- C. The team drawing the "bye" (no opponent for a single trial round) in round three, will receive an average of their round one and round two results.

The important thing to remember here is that if a team draws a bye round, both sides of the team are guaranteed to perform.

SECTION VI: DISPUTE RESOLUTION

6.1 Penalties: Post Trial Disputes

The "bar" in a courtroom is traditionally a railing or low wall that separates the visitors from the presiding judge, jury, attorneys, parties, and testifying witnesses. For Mock Trial purposes, a violation "inside the bar" means a rule violation that is committed by a team or team member during the competition round.

Violations which occur within the bar must be filed immediately with the presiding judge following the conclusion of that trial round. Violations are not handled after the competition round has been adjourned by the presiding judge or the next business day.

After the trial has ended and the scoring judges have been excused, all members of the team (including those who did not compete in that particular round, the bailiff and

timekeeper) will be permitted to consult with their attorney and teacher coaches for a maximum of two minutes. If a team believes that its opponent has committed a violation of the rules, one of the team's student attorneys shall present the team's position to the presiding judge by completing a [Penalty Form: Rules Violation](#) provided by the presiding judge. The [Penalty Form: Rules Violation](#) may be completed only by a student spokesperson competing in that round. The presiding judge will review the completed form and determine whether the violation raised should be heard or denied. The presiding judge may declare a brief recess and retire from the courtroom to deliberate.

- A. If the presiding judge decides that the violation raised does not merit a hearing, the presiding judge will inform the teams of that decision and adjourn the round. In that event, the team that is the subject of the violation raised may not respond.
- B. If the presiding judge decides that the violation raised merits a hearing, the [Penalty Form: Rules Violation](#) completed by the objecting team will be shown to the opposing team to provide a written response. The opposing team may confer with their coaches for up to two minutes prior to responding. The objecting party may not confer further with their coaches during this period.
- C. The teams will be given two minutes to prepare their arguments and designate one student spokesperson from each team to address the court for up to two minutes. The presiding judge may question the spokespersons and anyone else in the courtroom. At no time during the hearing, may coaches or visitors communicate/consult with the students.
- D. After the hearing, the presiding judge may declare a brief recess and retire from the courtroom to deliberate on his/her ruling. The presiding judge will announce his/her decision in open court. The presiding judge shall adjourn the court, retire to complete a scoresheet (if applicable), and turn the signed [Penalty Form: Rules Violation](#) in with the scoresheets.

Attorney coaches, teacher coaches, and visitors are not allowed to address the court regarding a violation complaint. Only student attorneys may invoke this procedure.

6.2 Other Penalties

- A. **Time Violations:** At the end of the competition round, the presiding judge will collect the timesheets. The presiding judge will report any time violations to the scoring judges, who shall assess penalties as set forth in Rule 6.3. Disputes may not be raised regarding time violations.
- B. **Creation of Material Fact Violations:** Creation of material fact may only be raised as an evidentiary objection during the round at the time the alleged violation occurred. The presiding judge will announce all rulings on such objections at the time the objection is made and will complete a Creation of Material Fact Penalty Form for each objection. If the presiding judge finds a creation of material fact violation, the scoring judges shall assess a penalty as set forth in Rule 6.3. Disputes may not be raised regarding creation of material fact violations or rulings at the end of the round.

6.3 Effect of Violation on Score

If the presiding judge determines that a rules violation, time violation, or creation of material fact violation has occurred, he or she will inform the scoring judges. The scoring judges will consider the violation(s) raised before assessing penalty points at the bottom of the scoresheet.

Scoring Penalties

Scoring judges **shall** impose a team penalty within the indicated ranges for the following violations in the penalty box at the end of the scoresheet:

- Costuming and Props (see Rule 4.11) 2 – 10 points
- Failure to Call all Witnesses (see Rule 4.5) Team Forfeits
- Improper Communication (see Rules 4.6 and 4.12) 2 – 10 points
- Unequal Distribution of Tasks
Among the Team (see Rules 3.2 and 3.3) 2 – 8 points
- Time Runs Out and Forced to Call
Remaining Witness (see Rule 4.5) 10 points
- Bad Faith “Creation of Material Fact” Objection (see Rule 2.3) 1 – 7 points
- Any Other Rule Not Stated Above is Subject to Penalty 1 – 10 points
- **Creation of Material Fact (see Rule 2.3)**
 - Unintentional 1 - 2 points
 - Intentional..... 3 - 7 points
- **Time Violations (see Rule 4.6)**
 - 1 to 14 seconds..... 0 points
 - 15 to 30 seconds (*without extension from presiding judge*) 1 – 2 points
 - 31 to 60 seconds..... 3 – 4 points
 - Over 60 seconds 5 – 10 points

6.4 Reporting of Rules Violation / Outside of the Bar

A violation “outside the bar” means a rule violation that is committed by a team, team member, teacher, coach, or visitor attending the competition that is not in the presentation and conduct of the trial itself.

Violations that occur outside the bar may be brought by attorney or teacher coaches exclusively. Such violations must be made promptly to the regional or state Mock Trial coordinator, a sub-committee chair or his/her designee, who will ask the complaining party to complete a [Penalty Form: Rules Violation](#). The [Penalty Form: Rules Violation](#) will be taken to a violation resolution panel that will (a) notify all necessary parties; (b) allow time for a written response, if appropriate; (c) conduct a hearing; and (d) rule on the charge. Penalties are in the discretion of the violation resolution panel and may range from a scoring adjustment to disqualification from the competition.

The violation resolution panel will be composed of the LRE Director, a LRE staff person, and the Mock Trial regional coordinator.