



Scoring JUDGE TIP SHEET

The success of the Mock Trial program depends heavily on informed and accurate scoring. The Law-Related Education Committee offers this tip sheet as a guide, but it is no substitute for reading the case, the competition rules, the modified rules of evidence, and the bench brief.

Your responsibility as a scoring judge is to evaluate the performance of the teams in the rounds that you observe. Each of the three scoring judges in each round will award students points based on their individual performances, and will also provide a score for overall team performance. Scoring judges also recognize the most effective witness and attorney from each round.

NEW for 2013/14 Competition Year:

- **JUDGES' BENCH BRIEF** – Please do not discuss contents of bench brief to teams before, during, or after competition. The document is for judges only.
- **CREATION OF MATERIAL FACT OBJECTIONS PENALTY FORM** – This is a new form that presiding judges will complete each time there is a creation of material fact objection. Teams will need to be instructed to quit deliberations and timekeepers not to keep time while the form is being completed. Please read the directions on the new form prior to presiding over the first round. The presiding judge will announce all rulings on such objections at the time the objection is made according to Rule 6.2. Disputes may not be raised regarding COMF violations or rulings at the end of the round.
- **CREATION OF MATERIAL FACT OBJECTION (Rule 2.3)** – Scoring judges may wish to consider whether the material fact was offered intentionally or accidentally - a circumstance that may warrant a lower penalty.
- **CREATION OF MATERIAL FACT OBJECTION PENALTY (Rule 2.3)** – Remember the 1-7 point penalty is to be assessed as a team penalty in the penalty box at the bottom of the scoresheet and not as an individual penalty against the testifying witness or his/her lawyer. Individual scores should NOT be adjusted to account for a COMF; the only penalty is a team penalty. (Unintentional: 1–2 pts., Intentional: 3–7 pts.)
- **PENALTY FORM – RULES VIOLATIONS** replaces the traditional dispute form.
- **TEAM COMPOSITION (Rule 3.3 High School)** – High school teams have gone back to a minimum of two attorney students and a maximum of three attorney students. (*Middle school is still 3 – 4 attorney students.*)
- **OBJECTIONS TO OPENING STATEMENT AND CLOSING ARGUMENT (Rule 4.17)** – The objection may be made immediately following the opening or closing and may not be raised as a dispute after the round.
- **SCORESHEET** – The practice and official scoresheets now include additional places for time penalties, COMF violations, and rules violations penalties. Scoresheets should not be totaled until the scoring judges meet with the presiding judge to review any penalties.

Important Notes for New and Experienced Scoring Judges:

- **TIME EXTENSIONS** may be granted up to 30 seconds. There is no penalty unless extension is exceeded.
- **PROPS OR DEMONSTRATIVE OBJECTS** may only be used if those items are officially provided by the SC Bar as part of the case materials. Teams may not bring to court any other items to use as props for demonstrative devices. Nor may teams use loose items that they may find in the courtroom (e.g., pens, water bottles, flip charts, etc.) for props, exhibits for demonstrative purposes.
- **TEAMS MUST CALL ALL WITNESSES** including 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 will receive a time penalty of ten points in the penalty box as a rules violation penalty. **You will need to note this on a dispute form to have this penalty tracked and signed off on by all the judges.**
- To ensure independent and impartial scoring, do not talk to fellow scoring judges about your scores.
- Do **NOT** discuss scoring issues with students, coaches and/or spectators during or after the competition.
- Attendance at the judges' orientation on the day of competition is mandatory, even for experienced judges. Any last minute issues, case corrections, and judging conflicts will be discussed at the orientation.

Preparation for the Trial Prior to Competition Day:

- **Review:** Tip Sheet, Scoring Matrix, Bench Brief, Case, Competition Rules and Rules of Evidence
- Arrive at the scheduled time. If lost or delayed, please contact regional coordinator with number provided.
- Move to the front of courthouse entrance lines. (Teams know judges have priority.)
- Judges are asked to dress as if presenting in court.

Differences Between Mock Trial and Real Trial:

- a) **REAL TRIAL LAWYER STANDARDS NOT THE SAME:** Judges should not impose the standards of real trial lawyers on the students who are competing in Mock Trial. Please consult the Mock Trial *Modified* Rules of Evidence, which differ from “real” evidence rules in at least the following ways:
- Exceptions to hearsay and other evidence rules are limited.
 - Not all objections are available to Mock Trial teams.
- b) **WITNESS AFFIDAVITS:** Witnesses are limited to what is in their affidavits. There are two ways for an attorney to deal with a witness who testifies outside of his/her affidavit:
- Impeach the witness with the affidavit, or
 - Assert a “Creation of material facts” objection (aka unfair extrapolation).

A “creation of material facts” or “unfair extrapolation” objection is not an evidentiary objection, but an allegation that the lawyer/witness on the other side has violated the rules by making up facts favorable to his/her side. The Presiding Judge will rule on whether a material fact has been created and document the COMF objection for any penalties to be assessed on the scoresheet at the conclusion of the trial.

Making up material facts is cheating. The team doing so must be penalized and not rewarded for creativity. All judges must be familiar with the affidavits in order to identify the created facts.

At the Competition, Before the Trial Starts:

Scoring Judge Conflicts:

- The Mock Trial Regional Coordinator announces the teams competing prior to the competition in information provided to judges on competition specifics. If you have a conflict (relative on the team, you know the attorney coach, etc.), please let the coordinator know prior to judges’ assignments.
- Upon entering the courtroom, if a presiding or scoring judge recognizes a school or student and thinks they
 - may have a conflict; they should alert the presiding judging to recess and then speak with the Regional Coordinator. Do not make an announcement of this conflict, simply leave the courtroom.
 - can judge fairly without bias, the trial can proceed.

Courtroom Assignments for Scoring Teams:

- Scoring teams meet up with their presiding judge and stay together as a group once assigned. Do not go individually to the assigned courtroom, as looking for a missing scoring judge can delay the start time.
- Scoring teams sit in the jury box behind or off to the side of the timekeepers, who will most likely be in the jury box. (For High School Mock Trial, the jury box may also have a courtroom artist(s) and sitting off to the side or in front of the scoring judges.)

Practice Scoresheet / Official Scoresheet:

- Scoring judges are provided a clipboard (with scoring matrix) and a pen.
- Teams will provide each scoring team member a practice scoresheet prior to the trial starting. (See *sample*.) This document has room for brief notes. The back of scoresheet can also be used for personal notes. **Practice scoresheets are turned in at the end of the trial, but are not shared with teams.**
- Scores are transferred from the practice scoresheet to the official scoresheets in the scoring room.
- The official scoresheet asks for the scoring judges’ information at the bottom of the sheet, which is for staff use only. Personal information is not copied to the teams to ensure anonymity.

Starting the Trial:

Introductions:

- Scoring judges will introduce themselves without indicating if you are a new judge, do not do trial work, just passed the Bar exam, or did not read the case materials.
- Team members introduce themselves with their name and role without identifying the school they represent. Introductions should be in the order listed on the practice scoresheet.

Scoring Tips:

- Scores are based on performance, not the legal merits of the case.
- Assign a score for each performing student on each aspect of the trial.
- Each team's performance is scored using a 10-point scale on a series of performance categories. Scores are awarded in whole numbers – not halves (9 ½), decimals (9.5), a range (8 -9) or zero.
- The scoring matrix is attached to your scoring clipboard to assist in awarding scores. (See *sample*.)
- Scoring should be consistent throughout the competition to ensure the best teams advance.
- The score given is not a verdict deciding who really wins the case, but is instead based on performance.
- A weak team should **NOT** receive artificially high scores. Scores impact placement throughout the competition. If both teams are weak, then both should receive low scores and no sympathy points.
- The trial does not stop for judges to complete/tally scores. Time is provided in the scoring room.
- Rulings of the presiding judge should not necessarily impact scores, as rulings are sometimes made to test the resilience and competence of a team.
- Scoresheets allow for individual performances and overall team performance. The overall team performance (10 pts.) considers civility / incivility, abuse / excessive objections, scripting, delay tactics (see *examples below*), usage of exhibits, thematic presentation, and legal arguments woven in the entire presentation. (Rule 5.3)
- The Overall Team Performance score box is meant to identify the students as a team and identify their strengths as a team. **Please take this scoring box seriously when determining for this score.** Keep in mind that if you are giving individual scores of 7s, 8s, 9s, and 10s, you should not be giving overall team performance scores of 1s, 2s, etc.
- **Total scores cannot be tied on the official scoresheet.** (You may need to adjust a score to break a tie.) The team with the highest points wins on the official scoresheet and receives a winning "ballot." The winning ballot is designated by circling the "P" for Plaintiff/Prosecution and "D" for Defense on the bottom of the scoresheet with the highest score.
- **Delay Tactics to Abuse Time:**
 - Attorneys – Every member of counsel looking at evidence prior to approving;
 - Witnesses – Speaking slowly to the point of annoying;
 - Witnesses – Refusing to answer questions until the question is repeated one or more times; and
 - Witnesses – Answering a yes/no question with lengthy narrative.

Additional Things to Look for When Scoring the Performance of:

Attorneys

- Efficient use of time;
- Effective use of exhibits;
- Ability to bring out the most important facts on direct and cross;
- Properly phrased questions and appropriate questions;
- Appropriate objections and responses to objections;
- Ability to recover when evidence is excluded;
- Limited dependence on notes or no use of notes; and
- Confidence, composure, professionalism.

Witnesses

- Preparation and knowledge of affidavits and facts;
- Credible portrayal of the character;
- Ability to stay in character;
- Poised and observed appropriate courtroom decorum;
- Sounded spontaneous, not memorized;
- Ability to hold up on cross;
- Avoided unnecessarily long and/or non-responsive answers on cross examination.

Note Usage

Attorneys

- Attorneys **can** use notes.
- When scoring attorneys, whether a student is note dependent is subjective. However, some examples of how scoring judges may view the usage of notes include:
 1. Attorneys who read directly and repeatedly from notes during statements or examinations will likely be "note dependent" and receive a low score.
 2. Attorneys who consult notes only occasionally as a guide will likely not be "note dependent."

Witnesses

- Witnesses **cannot** use notes.
- Witnesses are permitted, when asked by an attorney and approved by the presiding judge, to read a specific portion of their affidavit, i.e. an attorney may be trying to impeach the witness showing that they created a material fact.

Scoring Room / Scoring Deliberation Process:

- Complete the scoresheets independently and tally the scoresheets using the calculators provided.
- Transfer scores from the practice scoresheet to the official scoresheet. (There should be no blanks.)
- Be mindful of the limited time between rounds.
- Complete the bottom portion of the confidential section with name and cell phone number.
- Scores are not shared with fellow scoring judges unless it is to confirm scores are within the same range.
- Delay totaling the scores until the presiding judge returns to the scoring room with disputes and penalties.
- Disputes or no disputes, all scoring judges sign off on the Penalty Form (Rules Violations) (*formerly dispute form*), Penalty Form for Time Violations, and the Creation of Material Fact Penalty Form acknowledging awareness of the process and accounting for any penalties on the scoresheet.
- Deduct penalties, if any, in the team penalty box, which are placed in the penalty box for time penalties, creation of material facts rulings, and rule penalties as determined by the presiding judge.
- **Don't forget! Creation of material facts are penalized as a team penalty. Teams are NOT rewarded for creativity. Individual students are NOT penalized.**
- Circle P or D for the team that has the highest points.
- The presiding judge and scoring judges decide together the most effective attorney/witness. Upon consensus, complete a Most Effective Form. Everyone's scores for the two students should have high scores ensuring the best students are awarded this honor. (It is important to confirm students' names and roles on the practice scoresheet to ensure the correct students are honored.)
- Scores and scoring room discussions are not shared with the teams viewed, other scoring judges or anyone else at the competition to include coaches, observers and students.
- Scoring judges are asked to wait for all scores to be verified prior to leaving for the day.
- Judges are welcome to submit their pro bono paperwork noting their preparation hours and on-site hours. The pro bono paperwork (due no later than Dec. 15th) may also be mailed in after the competition. If LRE does not receive a pro bono form, LRE will submit one for you based on the competition hours.

Rule 6.3 Effect of Violation on Score

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:

Creation of Material Fact Objection Penalties (see Rule 2.3)	<ul style="list-style-type: none"> • Unintentional 1 – 2 points • Intentional 3 – 7 points
Rules Violation Penalties	<ul style="list-style-type: none"> • 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
Time Penalties (see Rule 4.6)	<ul style="list-style-type: none"> • 1 to 14 seconds 0 points • 15 to 30 seconds (<i>without extension from presiding judge</i>) 1 – 2 points • 31 to 60 seconds 3 – 4 points • Over 60 seconds 5 – 10 points

Scoresheet Guidelines / Scoring Matrix

(This is provided on clipboard found in courtroom.)

Opening Statement: Presents general outline of the party's case without being argumentative.

Direct Examination: Attorney uses properly phrased questions; uses proper courtroom procedure; demonstrates understanding of crucial facts, issues, and law.

Cross Examination: Attorney is effective on cross; properly impeached witness, if appropriate; asks appropriate questions.

Witness Performance: Witness is credible, demonstrates understanding of facts, sounds spontaneous, not memorized; poised and follows courtroom decorum.

Closing Argument: Convincingly addresses important issues that are relevant to the facts in the case that were brought out during the trial.

Overall Performance: Takes into account the following parameters: Civility / incivility, abuse / excessive objections, scripting, delay tactics, usage of exhibits, thematic presentation, and legal arguments woven in the entire presentation.

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

PRACTICE SCORESHEET

2013 MIDDLE SCHOOL MOCK TRIAL

Plaintiff Witnesses	
Sidney Curie.....	Plaintiff / Dog Owner
Jamie Newton.....	Pres. / CEO of Dog Show
Alex Darwin, D.V.M.....	Veterinarian

Defense Witnesses	
Pat Kepler.....	Pres./CEO of Petzicon
Sam Tesla.....	Chemical Engineer
Terry Goodall.....	Accountant

P	v.	D

OPENING STATEMENTS		GENDER	P	D	JUDGES' NOTES
(P) Name of Attorney:					
(D) Name of Attorney:					
PLAINTIFF'S CASE IN CHIEF			P	D	
(P) 1st Witness Sidney Curie Jamie Newton Alex Darwin	(P) Witness - Student Name:				
	(P) Direct Attorney:				
	(D) Cross Attorney:				
(P) 2nd Witness Sidney Currie Jamie Newton Alex Darwin	(P) Witness - Student Name:				
	(P) Direct Attorney:				
	(D) Cross Attorney:				
(P) 3rd Witness Sidney Currie Jamie Newton Alex Darwin	(P) Witness - Student Name:				
	(P) Direct Attorney:				
	(D) Cross Attorney:				
DEFENSE CASE IN CHIEF			P	D	
(D) 1st Witness Pat Kepler Sam Tesla Terry Goodall	(D) Witness - Student Name:				
	(D) Direct Attorney:				
	(P) Cross Attorney:				
(D) 2nd Witness Pat Kepler Sam Tesla Terry Goodall	(D) Witness - Student Name:				
	(D) Direct Attorney:				
	(P) Cross Attorney:				
(D) 3rd Witness Pat Kepler Sam Tesla Terry Goodall	(D) Witness - Student Name:				
	(D) Direct Attorney:				
	(P) Cross Attorney:				
CLOSING ARGUMENT			P	D	
(P) Name of Attorney:					
(D) Name of Attorney:					
OVERALL TEAM PERFORMANCE					
Total Penalties		-	-		Total penalties from penalty tracking section below.
Grand Total					

PENALTY TRACKING SECTION		P	D	(The penalty tracking section is completed in the scoring room.)
Creation of Material Fact Objection #1				Penalties from the <u>Rules Violations Penalty Form</u> and <u>Creation of Material Fact Objection Penalty Form</u> are assessed here. The total penalties for each side are transferred to the penalty boxes above.
Creation of Material Fact Objection #2				
Creation of Material Fact Objection #3				
Creation of Material Fact Objection #4				
Creation of Material Fact Objection #5				
Rules Violation Penalty				This practice scoresheet is submitted to LRE and is not shared with teams. Teams receive the official scoresheet.
Time Penalty				
Total Penalties		-	-	