

# RULES OF COMPETITION

## ADMINISTRATION

### 1.1 Rules

All trials will be governed by the Rules of the State Middle School 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.

Questions or interpretations of these rules are within the discretion of the SC Bar, LRE Division, whose decision is final.

### 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 SC Bar possesses discretion to discipline, up to and including disqualification, for any misconduct, obvious rule violations or inappropriate conduct which affects the procedure of a trial or which hurts the reputation or integrity of any team, school, participant, court officer, judge or the mock trial program.

- A. 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.
- B. Please respect the arrival times, breaks and lunch times by never being late. Lateness for any reason is subject to penalty.
- C. If cell phones are on any person, they are to be turned off while in the courtrooms to avoid any distractions during the duration of the mock trial competition.

### 1.3 Team Codes/Identity

The identities of the students on the teams, 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. Also, the teams should only identify themselves by their assigned team codes for the competitions.

### 1.4 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 the SC Bar, LRE Division as soon as it is reasonably practical. If the SC Bar, or its designee(s), in its sole discretion, agrees that an emergency exists, the SC Bar, or its designee(s), shall declare an emergency and will decide whether the

team will forfeit or may direct the team to take appropriate measures to continue any trial round with less than six members. A penalty may be assessed.

A forfeiting team during the competition will receive a loss and points equal to the lowest scoring team for 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.

## **THE PROBLEM**

### **2.1 The Problem**

The 2007 problem is a fictitious fact pattern adapted from Oklahoma. This fictitious fact pattern takes place in Sandhill, South Carolina to add some authenticity to the case materials. The problem may contain any or all of the following: statements of fact, indictment, stipulations, witness statements /affidavits, jury charges, exhibits, etc. Stipulations (stated facts of the case) may not be disputed at trial. Witness statements may not be altered.

The 2007 problem consists of three witnesses for the plaintiff and three witnesses for the defendant. All six witnesses must be called.

### **2.2 Witness Bound by Statements**

Each witness is bound by the facts contained in his/her own witness statement (affidavit), the agreed to facts of the case (stipulations) and any exhibits.

Fair assumptions (extrapolations) may be allowed, provided the assumptions are reasonable based on the witness' statement. If, in direct examination, any attorney asks a question that calls for information not clearly stated in the witness' statement, the question is subject to objection under Rule 2.3, Creation of Material Facts.

A witness is not bound by facts contained in statements of other witnesses.

### **2.3 Creation of Material Fact**

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 may be made. Any student may portray the role of any witness of either gender.

### **2.5 Voir Dire**

Voir dire of expert witnesses by opposing counsel is not allowed. (Voir dire means to challenge the qualifications of an expert witness by addressing

questions to the witness. Opposing counsel is allowed to object to admission of a witness as an expert.)

## **TEAMS**

### **3.1 Team Eligibility**

Teams competing in State Middle School Mock Trial must be comprised of students who participated on the team at the district level. All students on a mock trial team must be enrolled at the same middle school. The state coordinator may designate an alternate team to advance to the state competition should one of the district championship teams be unable to participate.

Students who comprise a team must be from the same school. Schools may enter a maximum of one team in the competition. **At no time may any team for any reason substitute any other person for official team members. The “Team Roster” becomes official at the time of on-site registration.**

Home schooled students may compete in the Middle School Mock Trial Competitions in the district in which they reside. The school must submit a letter of eligibility for the home schooled student before he/she can be placed on the roster. Home school teams may also compete, provided all students on the roster would be assigned to the same school district and are not enrolled in a public or private school.

According to the SC Code of Laws, SECTION 59-1-150, "Middle school" means any public school which contains grades no lower than the fifth and no higher than the eighth..."

### **3.2 Team Composition**

A team will ideally be composed of 16 members which must be divided as follows: 3 plaintiff/prosecution witnesses, 3 defense witnesses, 4 plaintiff/prosecution attorneys, 4 defense attorneys, a bailiff and a required timekeeper. For teams that do not have 16 members, witnesses and attorneys may play both plaintiff/prosecution and defense roles, subject to Rule 3.4. Each team will be required to present both a plaintiff/prosecution case and a defense case. Each plaintiff/prosecution and defense panel will have three witnesses and must call all three witnesses. Teams may not use more than four attorneys per side.

### **3.3 Team Presentation**

Teams must present both the Prosecution/Plaintiff and Defense/Defendant sides of the case. For each trial round, teams will use a minimum of two and a maximum of four students as attorneys, and three students as witnesses. A timekeeper and a bailiff must be provided by each team, and one student may play both of those roles. Teams must use a minimum of six students (2 attorneys, 3 witnesses, 1 bailiff/timekeeper,) and a maximum of nine (4 attorneys, 3 witnesses, 1 bailiff, and 1 timekeeper) team members in a given trial round.

***No team will be required to perform a Prosecution/Plaintiff and a Defense/Defendant side at the same time.***

When a team presents its Prosecution/Plaintiff side of the case, their Bailiff will call the court to order and swear in witnesses, unless otherwise directed by the judge. When opening court, the bailiff should announce the name of the case and the name of the presiding judge as soon as the “jury” is seated.

The bailiff will say, “**All rise. The Court of General Sessions Eighth Judicial Circuit is now in session. The Honorable \_\_\_\_\_ is presiding.**”

Each team must call all of its assigned witnesses. Witnesses may not be recalled.

Teams that do not call all of their witnesses will automatically forfeit. (Refer to rule 1.3 for scoring procedures.)

### 3.4 Team Duties

Team members are to evenly divide their duties. Three scenarios are presented to assist in equal division of attorney duties. Note that the opening and closing statements should not be done by the same attorney.

- A. Using Four Attorneys: two attorneys will conduct one direct and one cross-examination, one attorney will do opening and a cross or a direct and the remaining attorney will do the closing and one cross or direct.
- B. Using Three Attorneys: one attorney will conduct the opening statement and then a cross and a direct on the second or third witness, one attorney will conduct the direct and cross on the second or third witness, and the remaining attorney will conduct the direct and cross on the first witness and present the closing argument.
- C. Using Two Attorneys: the opening attorney will present the opening statement, perform cross on the second witness, and the direct and cross on the third witness. The closing attorney will perform the direct and cross on the first witness, the direct on the second witness and then present the closing argument.

The attorney duties divided include:

- 1. Opening Statement
  - 2. Direct Examination of Witness #1
  - 3. Direct Examination of Witness #2
  - 4. Direct Examination of Witness #3
  - 5. Cross Examination of Witness #1
  - 6. Cross Examination of Witness #2
  - 7. Cross Examination of Witness #3
  - 8. Closing Argument (including Rebuttal) (See Rule 4.5:A)
- A. Opening statements must be given by both sides at the beginning of the trial.
  - B. The attorney who conducts the direct examination of a witness is the only person who may object to the opposing attorney’s questions during that witness’s cross-examination. The attorney who conducts the cross-examination of a witness is the only one permitted to object during the direct examination of that witness.

- C. Each team must call their three designated witnesses. Witnesses must be called only by their team during their direct examinations and examined by both sides. Neither side may recall a witness.
- D. 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.) **No person can do both the opening and closing statements.**

### **3.5 Team Roster Form Description**

Copies of the Team Roster Form must be completed and duplicated by each team prior to arrival at the courtroom for each round of competition. Teams must be identified by the code assigned seven (7) business days prior to the competition. No information identifying team origin should appear on the form. Before beginning a trial, the teams must exchange copies of the Team Roster Form. The Form should identify the gender of each witness so that references to such parties will be made in the proper gender. Copies of the Team Roster Form will be turned into the mock trial coordinator on the day of the competition and distributed to the scoring judges and presiding judge before each round. If a school fields two (2) teams, no one person can be listed on two rosters. The roster is not official until it is submitted on the day of the competition. Students can drop from regional competitions to the state competition, but new students cannot be added.

### **3.6 Accommodations for Students with Disabilities**

If special accommodations are needed for a student with a disability, the teacher coach must address the issue with the state mock trial coordinator when registering for the competition or as soon as possible thereafter. The state mock trial coordinator will work with the teacher coach, the student, and the regional mock trial coordinator to make reasonable accommodations for the student to the extent fairness to all participants, time constraints, and facilities allow.

Documentation regarding a specific disability is 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 accommodation.

## **THE TRIAL**

### **4.1 Courtroom Setting**

The Plaintiff/Prosecution team shall be seated closest to the jury box. No team shall rearrange the courtroom without prior permission from the presiding judge.

### **4.2 Agreed to Facts (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 Complaint, the Answer, the Indictment, and the Charge to the Jury will not be read into the record.

### 4.4 Swearing of Witnesses

The judge will ask the plaintiff/prosecution's bailiff to swear in all witnesses provided by the team, all at one time. The bailiff can say, "**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?**"

*Witnesses may stand or sit during the oath.*

### 4.5 Trial Sequence and Time Limits

#### No pre-trial matters

These time limits should be used by all teams in preparing their cases for trial. Judges will be notified of these limits and may use their discretion as to the enforcement of the limits.

The trial sequence and time limits are as follows:

<b>Opening Statements</b>	5 minutes per side
<b>Direct Examinations (re-directs are optional)</b>	15 minutes total per side
<b>Cross Examinations (re-crosses are optional)</b>	9 minutes total per side
<b>Closing Arguments</b>	5 minutes per side

**\*\*\* See Timesheet on Page 42\*\*\***

- A. The court will call the case, introduce the teams, review the rules, and swear in the witnesses and then will recognize the Plaintiff and Defense attorneys for opening statements.
- B. Prosecution/Plaintiff delivers the opening argument first. If prosecution/plaintiff does not use all of his/her time in the closing argument, he/she 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 the time following the closing statement was made. *The rebuttal is limited to what was discussed in the Defense's closing argument.*
- C. The time for direct and cross examinations may be divided among the witnesses as each team sees fit.
- D. Attorneys may ask the presiding judge permission to ask the timekeeper how much time is remaining.

- E. **A timekeeper must be provided by each team.** During the competition, each team's timekeeper will keep time for both sides and timesheets will be compared by scoring judges. **The prosecution's timesheet will be the official time sheet in the event of a dispute.**
- F. The Prosecution/Plaintiff gives the opening statement first. The Prosecution / Plaintiff gives the closing argument first.
- G. Attorneys are not required to use the entire time allotted to each part of the trial. However, time remaining in one part of the trial may not be transferred to another part of the trial.
- H. 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

Time limits are mandatory and will be enforced. Each team will have a timekeeper and timekeeping aids. **The SC Bar will provide time cards, clip boards, timesheets and stop watches on competition day.** The stop watch will stop for objections, extensive questioning from the judge, or administering the oath. This time will not be counted as part of the allotted time during examination of witnesses and opening and closing statements.

Attorneys are permitted to ask the judge for permission to inquire as to how much time is remaining.

Time does not stop for introduction of exhibits.

The timekeeper will also be asked to assist the presiding judge in timing the following: (see timesheet on page 42)

- Recess – 5 minutes,
- Consultation with team for rules violation(s) – 3 minutes,
- Spokesperson preparation time – 3 minutes,
- Spokesperson Argument – 3 minutes each, and
- Presiding Judge Critique – 5 minutes total

Timekeepers will silently indicate time ending by showing cards and not verbalizing.

*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.*

#### 4.7 Time Extensions and Scoring

The timekeeper will display time cards (*not* voice "STOP") to notify speakers and the presiding judge as time elapses. If a speaker runs out of time, the speaker may request the presiding judge's permission to conclude his/her presentation, with the understanding that the scoring judges may penalize for

using excessive time. If time has expired and an attorney continues without permission from the Court, the scoring judges may determine individually whether to assess a penalty because of overruns in time.

The timekeeper must report any time violations to the presiding judge at the conclusion of the trial.

#### **4.8 Motions (Requests of the Court)**

No motions may be made except in the event of an extreme emergency, i.e. health emergency or threat of danger, in which case a motion for a recess may be made. To the greatest extent possible, team members are to remain in place. Should a recess be called, teams are not to communicate with any parents/visitors, coaches, or instructors regarding the trial.

If any substitutions must be made, a pre-trial motion must be presented. The ONLY exception to this rule is if a participating team member becomes medically unable to proceed with the trial.

Teams may not make pretrial motions except as outlined above. It is improper to make requests of the court 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 rearrange the courtroom, 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 judge on how to conduct the trial or control the courtroom. Teams should not address the court unless recognized by the judge.

Motions for the case to be dismissed will not be permitted.

#### **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 Supplemental Material / Costuming**

Teams may refer only to materials included in the trial packet. No illustrative aids of any kind may be used, unless provided in the case materials. No alteration to the exhibits is permitted including, but not limited to, highlighting, enlargements or lamination. Absolutely no props are permitted unless authorized specifically in the case materials.

The only documents that the teams may present to the presiding judge or the panel of scoring judges are the exhibits as they are introduced into evidence,

and the team roster forms. Exhibit notebooks are not to be provided to the presiding judge or panel of scoring judges.

The SC Bar will provide two color copies of each exhibit: one (1) large (11x17) and one (1) small (8½x11) to be used during the trial for each courtroom. The bailiff will be the custodian of the exhibits and will be responsible for verifying that all of these exhibits are accounted for prior to the trial as well as collecting them at the end of the trial and returning the exhibits to the presiding judge. Only the exhibits provided by the SC Bar can be published to the jury.

The use of blackboards, flip charts, books, physical items, etc. is **NOT** permitted.

Costuming is allowed only to the extent that it portrays the gender of the witness. Attorneys should dress professionally as if they were appearing in court. Costuming is not allowed, *e.g. police uniforms, wigs, hats, canes, etc.*

The costuming rule prohibits the use of make-up, prosthetics, or other effects to create scars for the Plaintiff. However, the student playing the Plaintiff is allowed to act as though s/he is afflicted with the deformities and disabilities described in the affidavits. Under no circumstances will the defense be permitted to question the existence of the scars based on the fact that the student playing the Plaintiff does not actually have scars. While the defense may cross-examine the Plaintiff on the extent of the disability based on information provided in the affidavits, the defense may not challenge the Plaintiff to prove the existence of the scars by asking him/her to show them to the jury.

#### **4.12 Trial Communication**

All non-team members and non-participating team members must sit away from the team during the competition and may not speak with, signal, pass notes to, or otherwise communicate with anyone in the audience, including but not limited to attorneys, teacher coaches, parents/visitors, alternates and all team members not participating in the round of the competition. Signaling of time with the time card by the team's timekeepers shall not be considered a violation of this rule. Attorneys are permitted to ask the judge for permission to inquire as to how much time is remaining.

Only team members participating in a given round may sit in front of the bar and communicate with each other. The team members participating in a given round may 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. Bailiffs and timekeepers are not to communicate with the participating team members during the trial except for inquires of time remaining as indicated in the rules.

*If any substitutions must be made, a pre-trial motion must be made. The ONLY exception to this rule is if a participating team member becomes medically unable to proceed with the trial.*

#### **4.13 Viewing a Trial**

Team members, alternates, attorney coaches, teachers/sponsors, parents/visitors, and any other persons directly associated with a specific mock trial team, except for those authorized by the SC Bar, LRE Division, are not allowed to view other teams in competition, so long as their team remains in the competition.

Each team may watch its own team, e.g., prosecution/plaintiff may watch defense. **ANY TEAM WHO VIOLATES THIS RULE WILL BE ELIMINATED FROM THE COMPETITION.** All such decisions will be within the discretion of the competition coordinator. **All official team members, sponsors, attorney coaches, teachers, and guests will be required to wear lettered nametags provided at on-site registration to ensure that this rule is followed. Matching labeled name tags are required for visitors who want to watch their respective teams only.**

#### **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 the entrance of cell phones and they will be confiscated by security personnel. Teacher sponsors are asked to have their cell phones on vibrate in order to be reached by the competition coordinator. All others including attorney coaches, parents and visitors who bring their cell phones are asked to have them turned off.

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.

Media coverage will be allowed. Media or other representatives may use various media to document the mock trial rounds, as approved by the SC Bar, LRE Division Staff. Media or other representatives authorized by the SC Bar, LRE Division will wear identification badges. (See the talent release form for additional information on page 30.)

#### **4.15 Jury Trial**

Each trial round will be presided over by a judge, who will either be an actual judge or a member in good standing of the South Carolina Bar.

Teams may address the scoring judges as the jury. Each round will be scored by a three-member "jury" panel to serve as the "scoring judges," which may consist of attorneys, law students, or teachers with previous mock trial experience.

Presiding and scoring judges will be provided with copies of the mock trial manual prior to the competition.

#### **4.16 Standing during Trial**

Unless excused by the judge, attorneys should stand during all presentations and when spoken to by the presiding judge.

## 4.17 Objections to Opening and Closing Statements

### A. Objections to Opening Statement

No objections may be raised during or following opening statements. Teams may not make objections to opening statements.

### B. Objections to Closing Argument

No objections may be raised during closing argument.

If a team believes an objection would have been proper during the opposing team's closing argument, one of its attorneys may, following the closing argument, stand to be recognized by the judge and may say, "If I had been permitted to object during closing arguments, I would have objected to the opposing team's statement that \_\_\_\_\_."

The attorney who delivered the closing argument that is the subject of such "objection" may then stand, after being recognized by the judge, and deliver a brief rebuttal limited solely to the scope of the "objection." The presiding judge will not rule on this exchange.

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 attempting to rebut such an "objection" should be prepared to describe the specific evidence (or inference there from) 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 at closing that Plaintiff should prevail because the opinion of Plaintiff's expert, Dr. Feelgood, conclusively showed that the doctor who had operated on Plaintiff was negligent. At the conclusion of counsel's closing, defense counsel invokes this rule and objects to the portion of Plaintiff's closing that referred to Dr. Feelgood's expert opinion. Defense counsel observes that, since Dr. Feelgood 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 judge had admitted Dr. Feelgood as an expert. At the close of Plaintiff's closing, defense counsel invokes this rule and objects again. This time, defense counsel argues that Plaintiff's discussion of Dr. Feelgood'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 can object any time the opposing attorney has violated the rules of evidence. The attorney who wants to object should stand up and do so at the time of the violation, e.g. "Objection. The testimony/counsel is...." When an objection is made, the judge will ask the reason for the objection. Then the 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 judge. The judge will then decide whether a question or answer must be discarded because it has violated a rule of evidence ("Objection Sustained") or whether to allow the question or answer to remain on the trial record ("Objection Overruled").

Students are not scored based on the rulings of the presiding judge. Students are scored on how they regroup based on the presiding judge's ruling.

##### Reasons for Objections:

1. Argumentative Questions..... Evidence Rule 902
2. Lack of Proper Foundation..... Evidence Rule 904
3. Assuming Facts Not in Evidence ..... Evidence Rule 901
4. *Questions Calling for Narrative or General Answer*
5. *Non-Responsive Answer*
6. *Repetition*
7. Irrelevant Evidence ..... Evidence Rule 401
8. Leading ..... Evidence Rule 611
9. Improper Character Testimony ..... Evidence Rule 404-405
10. Hearsay..... Evidence Rule 801-802
11. Opinion..... Evidence Rule 701
12. Lack of Personal Knowledge ..... Evidence Rule 602
13. Creation of Material Facts

Only the attorney "responsible" for the particular witness may object. For instance, the attorney who directly examines a witness objects when that witness is being crossed, and the attorney who crosses a witness objects when that witness is being directly examined.

#### 4.19 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. It is up to the teams to 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 initiate the exhibits.

Exhibits may not be duplicated, enlarged or otherwise altered. ***The SC Bar will provide each courtroom a set of exhibits to be used.***

Exhibits may be handed to the jury after they are admitted into evidence only with the permission of the presiding judge.

**As an example, the following steps effectively introduce evidence:**

- A. All evidence will be pre-marked as exhibits.
- B. Ask for permission to approach the witness. “Your Honor, may I approach the witness with what has been marked as Exhibit No. \_\_\_\_\_?”
- C. Before approaching the witness, show the exhibit to the opposing counsel.
- D. Ask the witness to identify the exhibit. “Would you identify it please?” Witness should answer to identify only.
- E. Ask the witness a series of questions that are offered for proof of the admissibility of the exhibit. These questions lay the foundation or predicate for admissibility, including questions of the relevance and materiality of the exhibit.
- F. Offer the exhibit into evidence. “Your Honor, we offer Exhibit No. \_\_\_\_\_ into evidence.”
- G. Court: “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.)
- H. Opposing Counsel: “No, your Honor, or “Yes, your Honor.” If the response is “yes” the objection will be stated on the record. Court: “Is there any response to the objection?”
- I. Court: “Exhibit No. \_\_\_\_\_ is/is not admitted.” If admitted, questions on content may be asked.

**4.20 Usage of Notes**

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. **Attorneys may use notes** in their presentations, although attorneys are encouraged to rely as little as possible on notes. (See scoring matrix on page 47.)

Attorneys may consult with each other at counsel table orally or through the use of notes.

**4.21 Redirect / Recross**

Witness examination will consist of direct and cross. Re-directs and re-crosses are optional.

Note, however, that these are not opportunities to bring up new issues. Re-directs and re-crosses are to address and clarify prior testimony during direct and cross examination.

**4.22 Scope of Closing Arguments**

Closing arguments must be based on the actual evidence and testimony presented during the trial.

**4.23 The Critique / Feedback**

The presiding judge is allowed five minutes (at the most) for debriefing. The timekeeper will monitor the critique following the trial. Scoring judges will provide written comments that will be gathered collectively and shared with all teams after the competitions and mailed with the scoresheets.

Judges will not decide guilt or innocence. Judges may not inform the students of scoresheet results.

#### **4.24 Scope of Parents / Visitors**

Parents and visitors are welcome to attend the competitions. They will be provided visitor badges to watch their respective teams. Parents and visitors are not allowed to move around in the courtroom during a trial or participate in the trial in any way to include asking about time, raising disputes, or arguing a dispute on behalf of the student(s).

### **JUDGING AND TEAM ADVANCEMENT**

#### **5.1 Finality of Decisions**

There will be no appeal beyond the presiding and scoring judges' decisions no matter the basis of the complaint. Their decisions are **FINAL**.

#### **5.2. Composition of Judging Panels**

The judging panel will consist of at least three individuals. The composition of the judging panel and the role of the presiding judge will be at the discretion of the state coordinator, with the same format used throughout the competition, as follows:

1. One presiding judge and two scoring judges (all three of whom complete scoresheets); or
2. One presiding judge and three scoring judges (scoring judges only complete scoresheets)

The scoring judges may be persons with substantial mock trial coaching or scoring experience or attorneys. Each scoring panel shall include at least one attorney. The presiding judge shall be an attorney or a judge.

The Championship round may have a larger judging panel at the discretion of the state coordinator.

All presiding and scoring judges receive the mock trial manual, a memorandum outlining the case and orientation materials. A training session for presiding and scoring judges is offered prior to the competition.

#### **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 the round. The term "scoresheet" is used in reference to the form on which speaker and team points are recorded. Scoresheets are to be completed individually by the scoring judges. Scoring judges should not necessarily reflect the rulings of the presiding judge during trial on their score assignments, as sometimes rulings are made just to test the resilience or competence of a team. 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. While the judging panel may deliberate on any special awards (i.e., Most Effective Attorney/Witness) the judging panel should not deliberate on individual scores, beyond what is necessary to ensure that judges' scores are in similar ranges.

***Students are not scored based on the rulings of the presiding judge. Students are scored on how they regroup based on the presiding judge's ruling.***

Scores will **NOT** be announced at the end of each round. However, tabulated scoresheets will be mailed to the teacher sponsors the next business day.

#### **5.4 Completion of Scoresheets**

Each scoring judge shall record 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 judges. At the end of the trial, each scoring judge shall total the sum of each team's individual points, place this sum in the column totals box, and circle the team ("P" for prosecution/plaintiff or "D" for defense/defendant) indicating their 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 will circle the letter "P" or "D" indicating if the winner should be prosecution/plaintiff or defense in case of a mathematical error and also serve as a tie breaker. In the event of a mathematical error in tabulation by the scoring judges which, when corrected, results in a tie in the Column Total Boxes, the circled letter shall determine award of the ballot.

A penalty box is used at the discretion of the scoring judges for any issues that the presiding judge has pointed out during the trial procedure. **A PENALTY DEDUCTION** should be used to deduct points from a team's score if any member(s) of a team fails to adhere to appropriate courtroom decorum (i.e. abuse of procedural rules, inappropriate use of objections, improper participation by coach or gallery, creation of material facts, deliberate failure to respond to legitimate questions, time violations, or other rules infractions as observed or reported and verified). Each scoring judge determines individually the weight of the penalty and indicates the penalty in the designated penalty box.

#### **5.5 Team Advancement**

Teams will be ranked based on the following criteria in the order listed:

1. Win/Loss record based on the number of rounds won or lost by a team;
2. Total number of ballots based on the number of scoring judges' votes a team earned in preceding rounds; and
3. Total number of points accumulated in each round.

#### **5.6 Random Pairing and Power Matching**

Regional Competitions: Teams will be notified seven (7) business days prior to arriving to the competition their team identity code and the order of sides performed. Teams will be randomly paired for the two rounds performed. The two teams with the highest number of wins, ballots and scores will advance to the state competition.

State Competition: Teams will be notified seven (7) business days prior to arriving to the competition their team identity code and the order of sides performed for the first two rounds. Teams will be randomly paired in the first two rounds. All scores from the first two rounds will be power matched to determine pairings for the third round. The two teams with the highest number of wins, ballots and scores will compete in the championship round.

**Power matching will provide that:**

1. Pairings for the first two rounds will be at random;
2. All teams are guaranteed to present each side of the case at least once;
3. 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; then (4) point spread. The team with the highest number of ballots in the bracket will be matched with the team with the lowest number of ballots in the bracket; the next highest with the next lowest, and so on until all teams are paired;
4. If there are an odd number of teams in a bracket, the team at the bottom of that bracket will be matched with the top team from the next lower bracket;
5. Ideally, teams will not meet the same opponent twice; and
6. To the greatest extent possible, teams will alternate side presentation in subsequent rounds. Bracket integrity in power matching will supersede alternate side presentation.

**5.7 Selection of Sides for State Championship Round**

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

1. The team with the letter code that comes first alphabetically will be considered the "Designated Team."
2. A designee of the SC Bar will toss the coin.
3. If the coin comes up heads, the Designated Team shall represent the Plaintiff/Prosecution in the State Championship Round. If the coin comes up tails, the Designated Team shall represent the Defendant.
4. If by chance, the final two competing teams competed against one another in any of the prior rounds at the state competition, the coin toss is null and void and the two teams will present the opposite side of the case that they presented in their previous meeting.

**5.8 Effect of Bye / Default**

A "bye" becomes necessary when an odd number of teams are present for the tournament. The state coordinator may arrange for a "bye round" to allow

teams drawing a bye to compete against one another in order to earn a true score.

## **DISPUTE RESOLUTION**

### **6.1 Reporting a Rules Violation/Inside the Bar**

If any team has substantial reason to believe that a significant violation of mock trial rules has occurred that (a) involved students competing in the competition and (b) occurred within the courtroom, a dispute must be filed with the presiding judge immediately following the conclusion of that trial round.

After the trial has ended and the scoring panel has been excused, the students will be permitted to consult with their teacher/attorney coaches and teammates (including the bailiff and timekeeper) for a maximum of three minutes. If any team believes that a substantial rules violation has occurred, one of its student attorneys will then present its position by completing a dispute form and submitting it to the presiding judge. A student attorney from the opposing side will have an opportunity to respond. The presiding judge may question the spokesperson. At no point after the initial consultation may team sponsors or coaches communicate or consult with the students. All of this takes place prior to the official scoring of the round.

Attorney coaches, teacher coaches and parents/visitors are not allowed to address the court regarding a dispute settlement.

A dispute on a rules violation has to be done immediately after each individual trial. Disputes are not handled after the competition or the next business day.

The “bar” in a courtroom is traditionally a railing or low wall that separates the observers from the 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 in the presentation and conduct of the trial during the competition round.

Disputes which occur within the bar must be filed immediately following the conclusion of that trial round. Disputes must be brought to the attention of the presiding judge at the conclusion of the trial.

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

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

## **6.2 Dispute Resolution Procedure / Inside the Bar**

The presiding judge will review the written dispute and determine whether the dispute should be heard or denied.

- A. If the dispute is denied, the judge will record the reasons for this, announce his/her decision to the Court, and turn the dispute form in with the scoresheets.
- B. If the judge feels the grounds for the dispute deserve a hearing, the dispute form will be shown to opposing counsel for their written response. After the team has written its response and given to the judge, the judge will ask each team to choose a spokesperson from their team. After the spokespersons have had time (not to exceed three minutes) to prepare their arguments, the judge will conduct a hearing on the dispute, providing each team's spokesperson three minutes for a presentation. The judge may question the spokespersons. At no time in this process may team sponsors, coaches or parents/visitors communicate or consult with the student attorneys. After the hearing, the presiding judge will adjourn the court and retire to consider his/her ruling on the dispute. That decision will be recorded in writing on the dispute form, with no further announcement.

## **6.3 Effect of Violation on Score**

If the presiding judge determines that a substantial rules violation has occurred, the judge will inform the scoring judges of the dispute and provide a summary of each team's argument. The scoring judges will consider the dispute before reaching their final decisions. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring judges and indicated in the penalty box on the scoresheets.

## **6.4 Reporting of Rules Violation/Outside the Bar**

Disputes that occur outside the bar only during a trial round may be brought by teacher or attorney-coaches exclusively. Such disputes must be made promptly to a trial coordinator or a member of the LRE Staff, who will ask the complaining party to complete a dispute form. The form will be taken to a dispute resolution panel that will (a) notify all necessary parties; (b) allow time for a response, if appropriate; (c) conduct a hearing; and (d) rule on the charge. The dispute resolution panel may notify the scoring judges in the courtroom involved regarding the ruling made on the charge, so that the scoring judges may assess an appropriate penalty, if necessary.

The dispute resolution panel will be composed of LRE Staff and other competition officials.

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