



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 2012/13 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.
- **TIME EXTENSIONS** may be granted up to 30 seconds. There is no penalty unless this extension is exceeded.
- **DISTRIBUTION OF ATTORNEY ROLES** – HS ONLY – require three attorneys on each side.
- **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. **You will need to note this on a dispute form to have this penalty tracked and signed off on by all the judges.**

Important Notes for New and Experienced Scoring Judges:

- To ensure independent and impartial scoring, do not talk to your fellow scoring judges about your scoring decisions, either during a round or between rounds.
- 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.)
- Students and 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. If the Presiding Judge determines that a team has created a material fact, that team **must** be penalized by the scoring judges by assessing the team that created the fact a penalty of 3 to 7 points, which is reflected in that attorney’s score. If the Presiding Judge determines that a material fact was not created and the team making the material fact objection was *not* acting in good faith, the scoring judges individually must assess against the team that made the unfounded objection a penalty of 3 to 7 points.

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. 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 you recognize a school or student and think you
 - may have a conflict; you should ask the presiding judge 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:

- The coordinator announces scoring teams and room assignments.
- Scoring teams meet 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 will also have a courtroom artist and sitting off to the side or in front of the scoring judges.)

Practice Scoresheet / Official Scoresheet:

- Scoring judges are provided a clipboard and pen. The scoring matrix is affixed to the front of the clipboard.
- Teams will provide each scoring team member a practice scoresheet prior to the trial starting. (A sample practice scoresheet is at the end of this document.) The practice scoresheets will have room to write brief notes on each student’s performance to aid in the scoring process. (The back of scoresheet can also be used for personal notes.)
- Scores are not totaled until the presiding judge returns to report any penalties to be assessed.
- Scores are transferred from the practice scoresheet to the official scoresheets back in the scoring room. The practice scoresheet is turned in along with your official scoresheet. The practice scoresheet is for staff only and does not go to schools. Scores are not totaled until the presiding judge reports any penalties to be assessed.
- The official scoresheet asks for the scoring judges’ information at the top of the sheet, which is for staff use only. Personal information at the top is not copied to the teams to ensure anonymity.

Starting the Trial:

Introductions:

- Scoring judges will introduce themselves without indicating 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 are 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 doesn't 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)
- **There can be no ties on the official scoresheet.** 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.
- **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.

What 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;
- 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;
- 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:

- In the scoring room, complete the scores and tally totals with the use of calculators.
- 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 top portion of the confidential section.
- Scores are not shared with fellow scoring judges unless it is to confirm scores are within the same range and not for purposes of agreeing or matching one another.
- Delay totaling the scores until the presiding judge returns to the scoring room with disputes.
- Disputes or no disputes, all scoring judges sign off on the dispute form acknowledging awareness of the process and accounting for any penalties on the scoresheet.
- Deduct penalties, if any, in the penalty box, which are placed in the penalty box for time violations, creation of material facts rulings and rule violations as determined by the presiding judge.
- **Don't forget! Creation of material facts are penalized and NOT rewarded for creativity.**
- The two teams cannot have a tied score. If tied, adjust one of the scores.
- 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 the high scores ensuring the best students are awarded this honor. (It is important to confirm students' names and roles on the practice scoresheet when awarding these awards to ensure the correct students are honored.)
- Scores and scoring room discussions are not discussed 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 may also be mailed in after the competition. All pro bono paperwork is due no later than December 15th for any pro bono hours performed in that calendar year.

Rule 6.3 Effect of Violation on Score

Scoring judges shall impose a penalty within the indicated ranges for the following infractions if a presiding judge rules on a violation:

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

2011 MIDDLE SCHOOL MOCK TRIAL

Prosecution Witnesses
 Bailey Brown.....Assistant Coach
 Avery Abbott.....Parent
 Chandler Covington..... Medical Expert

Defense Witnesses
 Drew DeLaney Coach / Defendant
 Frankie Fulton Track Teammate
 Emery Erickson..... Medical Expert

P D
 CH v. MG

| OPENING STATEMENTS | | GENDER | P | D | JUDGES' NOTES |
|-----------------------------|-----------------------------|--------|---|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (P) Name of Attorney: | Ryan Brown | m | | | |
| (D) Name of Attorney: | Trevor Burris | m | | | |
| PROSECUTION'S CASE IN CHIEF | | | P | D | |
| (P) 1st Witness | (P) Witness - Student Name: | | | | <div style="border: 2px solid black; background-color: yellow; padding: 10px; text-align: center;"> <p>SAMPLE</p> <p>This is a completed version using the team rosters from CH and MG.</p> </div> |
| Bailey Brown | meredith williams | F | | | |
| | (P) Direct Attorney: | | | | |
| Avery Abbott | TamiKa Jacobson | F | | | |
| | (D) Cross Attorney: | | | | |
| Chandler Covington | Beth Florez | F | | | |
| (P) 2nd Witness | (P) Witness - Student Name: | | | | |
| Bailey Brown | Coleman Wellman | m | | | |
| | (P) Direct Attorney: | | | | |
| Avery Abbott | Samantha Davis | F | | | |
| | (D) Cross Attorney: | | | | |
| Chandler Covington | Dylan Knight | m | | | |
| (P) 3rd Witness | (P) Witness - Student Name: | | | | |
| Bailey Brown | Logan Valentine | F | | | |
| | (P) Direct Attorney: | | | | |
| Avery Abbott | Ryan Brown | m | | | |
| | (D) Cross Attorney: | | | | |
| Chandler Covington | Trevor Burris | m | | | |
| DEFENSE CASE IN CHIEF | | | P | D | |
| (D) 1st Witness | (D) Witness - Student Name: | | | | <div style="border: 2px solid black; background-color: yellow; padding: 10px; text-align: center;"> <p>NOTICE</p> <p>It is very important to pay attention to the order of the witnesses being called by each side. Notice team MG is calling Frankie Fulton first, which changes the order of how team CH would list their crossing attorneys.</p> </div> |
| Drew DeLaney | Brandon Stewart | m | | | |
| | (D) Direct Attorney: | | | | |
| Frankie Fulton | Dylan Knight | m | | | |
| | (P) Cross Attorney: | | | | |
| Emery Erickson | Samantha Davis | F | | | |
| (D) 2nd Witness | (D) Witness - Student Name: | | | | |
| Drew DeLaney | David Landers | F | | | |
| | (D) Direct Attorney: | | | | |
| Frankie Fulton | Beth Florez | F | | | |
| | (P) Cross Attorney: | | | | |
| Emery Erickson | TamiKa Jacobson | F | | | |
| (D) 3rd Witness | (D) Witness - Student Name: | | | | |
| Drew DeLaney | Maddison Pearson | F | | | |
| | (D) Direct Attorney: | | | | |
| Frankie Fulton | Trevor Burris | m | | | |
| | (P) Cross Attorney: | | | | |
| Emery Erickson | Ryan Brown | m | | | |
| CLOSING ARGUMENT | | | P | D | |
| (P) Name of Attorney: | TamiKa Jacobson | F | | | |
| (D) Name of Attorney: | Beth Florez | F | | | |
| OVERALL TEAM PERFORMANCE | | | | | |
| TOTAL | | | | | |