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**2024 - 25**

**Mock Trial**

**Middle and High School**

**Competition Handbook**

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**A PROJECT OF THE  
SOUTH CAROLINA BAR  
LAW RELATED EDUCATION COMMITTEE  
AND THE LRE MOCK TRIAL SUBCOMMITTEE**

**2024-25 SC BAR PRESIDENT**

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Mock Trial is made possible with the support of the  
[South Carolina Bar Foundation's IOLTA grant](#) and the [South Carolina Bar](#).

## INTRODUCTION TO THE MOCK TRIAL COMPETITION

The Mock Trial program is sponsored by the South Carolina Bar Law Related Education (LRE) Division. South Carolina public schools, private schools, and homeschooled students throughout the state are invited to participate in this competitive program in one of two categories; middle school or high school. Each participating school enters a team ideally composed of 16 or more students (and a minimum of six students) and requires a teacher coach sponsor. The SC Bar LRE Division assists in locating attorney coaches to help teams prepare for the competition and provides the team with the Case Materials, the Competition Handbook, and other competition materials on the LRE website at [www.scbar.org/lre](http://www.scbar.org/lre).

The Mock Trial competitions are divided into regional competitions with a culminating state competition at both the middle and high school levels. A total of twelve teams advance from the regional competitions to participate in their respective state competitions using the same case. A middle school state competition takes place if 20 or more teams participate in the regional competitions. For high school, the state champion represents South Carolina in the National High School Mock Trial competition using a new national case and rules.

Teams are officially assigned to a region after the drop date assigned for each level. Once a team is assigned to a region, the team cannot switch regions without approval of the State Mock Trial Coordinator. *(Regions are subject to be split based on courthouse capacity.)*

### GOALS

The goals of this program are first and foremost to educate South Carolina students about the basis of our American judicial system and the mechanics of litigation. The program also serves to build bridges of cooperation, respect, and support between the community and the legal profession. Through participation in the Mock Trial program, students increase important skills such as listening, speaking, writing, reading, and analyzing. All participants are encouraged to keep in mind that the goal of the Mock Trial program is not to win for the sake of winning, but to learn and understand the meaning of good citizenship in a democratic republic, through participation in our system of law and justice. All who participate in the Mock Trial program are winners in this sense.

### Students

Your participation in Mock Trial will allow you to experience what it is like to prepare for and present a case before a presiding judge and scoring judges. By working with your team and coaches in a safe and fun learning environment provided by your school, you will learn to evaluate information and to respond quickly. As you prepare, you will sharpen public speaking and presentation skills. The greatest benefit is the opportunity to learn how the legal system works. By studying and understanding courtroom procedure, you should become more comfortable with federal and state laws as part of the legal system. Your interaction with some of South Carolina's finest attorneys and judges in a professional setting will give you a glimpse of the different interpretations of trial procedure and the different litigation styles of individual members in the legal arena.

### Teacher Coaches, Attorney Coaches, and/or Judges

We strongly encourage you to focus on the goal of student participation rather than placing an emphasis on winning while preparing for the competition. Your contribution of time and talent make

many experiential educational opportunities available annually to South Carolina students. Your participation is a key element to the success of this program. You can be proud of the impact you will make on the lives of these students. All coaches, teachers and attorneys, should obtain and follow the school’s policy on adult/children interaction. An attorney is a volunteer for the school and not the SC Bar.

**CASE RELEASE INFORMATION**

The case is available on the Internet in the LRE section of the South Carolina Bar’s Web site, located at [www.scbars.org/lre](http://www.scbars.org/lre) and by clicking on either the Middle or High School Mock section. The new case materials will be released Aug. 15, 2024, no later than 5 p.m.

**DISCUSSION FORUM**

The Mock Trial Discussion Forum is a place to post questions concerning the content of the Case Materials, the Competition Rules, and the competition. The Discussion Forum is located on the LRE website. [Click Here for Discussion Forum](#)

The link above opens a registration/login page for the Discussion Forum. It can take up to 48 hours to gain access to the Discussion Forum once registered. The Discussion Forum should be checked often for postings. Responses posted to the questions could change the Case Materials, and/or competition specifics that apply on competition day. The Discussion Forum closes 10 business days prior to a competition.

**HAVE MOCK TRIAL QUESTIONS?**

Attorney Coach Needed.....	<a href="#">Donald N. Lanier</a>
Case .....	<a href="#">Ask on Forum Discussion</a>
Competition .....	<a href="#">Ask on Forum Discussion</a> or Contact <a href="#">Donald N. Lanier</a>
Concerns .....	<a href="#">Donald N. Lanier</a>
Credit Card Payment Portal .....	<a href="#">Online Here</a>
Downloading Materials.....	<a href="#">Donald N. Lanier</a>
Forms.....	<a href="#">Marian Kirk</a>
Forum Registration .....	<a href="#">Donald N. Lanier</a>
General Questions .....	<a href="#">Donald N. Lanier</a>
Purchase Orders.....	<a href="#">Marian Kirk</a>
Registration.....	<a href="#">Marian Kirk</a>
Training sign up .....	<a href="#">Marian Kirk</a>
Webinar Registration .....	<a href="#">Donald N. Lanier</a>

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# 2024/25 MIDDLE AND HIGH SCHOOL MOCK TRIAL COMPETITION HANDBOOK

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## Overview of New Rules and Modifications for 2024-25 Mock Trial

For the 2024-25 competition season, the Competition Rules were modified, clarified and/or condensed. An overview of the changes are noted below as information only. The ENTIRE rule can be found in the Rules section.

Rule #	Rule Name / Process	Action Taken
1.7	Participation in all rounds assigned	Language simplified.
2.1	The Case	Language simplified.
3.1	Team Eligibility	Removed language requiring all students to be seen by the lead teacher before on-site registration occurs.
3.2	Team Composition	If a team does not have enough members for a separate timekeeper, a witness may be designated as timekeeper.
3.2	Team Composition	Official Comment removed.
3.2 C	National Team Composition	Language referencing National Competition Intent Form removed.
3.2	Bailiff	Language simplified.
3.4	Attorney Duties	Rule changed to follow National Mock Trial Rules, reflecting that each attorney must conduct 1 direct and 1 cross examination.
3.6	Talent Release	Participation in Mock Trial is consent for photos/video to be taken. The Talent Release has been replaced with an opt out at their school.
3.7	Disability Accommodations	Language simplified.
3.2 B	Attorney Roles	Official Comment removed to reflect new rule.
4.4 D	Beginning of Trial	Duplicate language removed.
4.4 I	Recesses	The teacher or attorney coach is now required to stand in the doorway to the courtroom to monitor hallways during the recess to prevent communication.
4.5 A	Timekeeper	If a team only has six members, a witness may be used for double duty as a timekeeper (aligns to national rules).
4.12	Electronics	Cell phones and laptops should not be used in the gallery as they are a distraction to others.
4.13	Exhibits	Rule changed to reflect National Mock Trial Rules. Attorneys must show opposing counsel the exhibit prior to introducing to witness.

Rule #	Rule Name / Process	Action Taken
4.14	Technology	Language simplified.
4.15 A	Conduct	Team members no longer individually sign Code of Conduct, participation is considered consent to comply.
4.15 B	Visitors	Official comment removed.
4.16	Professionalism award	Language simplified.
5.3	Scoresheets/Ballots	Language simplified.
5.4	Reserved	Prior rule removed for duplication, reserved for future use.
5.6	Team Advancement	Language simplified.
5.9	Bye Round	Language simplified and updated.
7.1 – 7.8	Artist (HS ONLY)	Language simplified and updated.
8.1 – 8.7	Journalist (HS ONLY)	Language simplified and updated.

**2024 - 25**  
**MOCK TRIAL COMPETITION RULES**

**SECTION I: ADMINISTRATION**

**1.1 Rules**

All trials are governed by the Rules of the Mock Trial Competition and the Mock Trial Rules of Evidence. Interpretations of these rules are within the discretion of the SC Bar as provided for in these rules and are final.

**1.2 Code of Conduct**

The Rules of the Competition and the rules of courthouse, courtroom conduct, and security must be explained to all who will attend the competition and followed. The SC Bar has discretion to discipline on rule violations or inappropriate conduct affecting the procedure of a trial, or hurting the reputation or integrity of any team, school, participant, court officer, judge, or the Mock Trial program. Discipline may include disqualification, immediate eviction from the competition, and/or forfeiture of fees and awards for any misconduct occurring during the Mock Trial competition.

A. Arrival Times:

Teams are to respect the arrival times, breaks, and lunch times by never being late. Being late without good cause is subject to penalty at the discretion of the Regional and/or State Mock Trial Coordinator.

B. Remaining in Courtroom: All competing team members in front of the bar are to remain in front of the bar during the competition round (excluding the first recess) unless an emergency is noted.  
[See Rule 1.3 Emergencies.](#)

C. Teacher Coach Requirement: The registering teacher coach, assistant teacher coach and/or pre-approved school sponsor must always accompany and chaperone the team before, during, and after the competition, in addition to physically sitting with the team in the courtrooms during the rounds. Teacher coaches must remain at the courthouse supervising their students at the end of the competition until all students are picked up. Failure to do so will be reported to the school principal.

D. Violations by Visitors: Rule violations made by visitors can subject their team to be disciplined under this rule and or penalties in accordance with [Rule 6.1 Dispute Process – Post-Trial](#) and [Rule 6.4 Discipline for Non-Trial Rules Violations](#).

F. Use of Logos: No team may reproduce or manipulate the SC Bar logo or Mock Trial logo.

**1.3 Emergencies**

Emergencies are handled in two of the following ways for competition:

A. During a Trial

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

In the event of an emergency causing a team to be unable to continue a trial or to participate with less than six members for middle school or high school, the team must notify the Regional and/or State Mock Trial Coordinator as soon as it is reasonably practical. If the SC Bar, or its designee(s), in its sole discretion, agrees an emergency exists, the SC Bar, or its designee(s), shall declare an emergency and may direct the team to take appropriate measures to continue any trial round with less than the minimum. The team continues with a reduced team composition. If the team is required to continue the round, a penalty shall be assessed in accordance with [Rule 3.2 Team Composition and Allocation of Duties](#) and [Rule 6.3 Scoring Penalties](#), specifically unequal distribution of tasks among team members.

If the team with the emergency cannot continue, the team forfeits. The forfeiting team may leave or observe the remaining rounds, space permitting. The remaining team is treated as a bye round team. [See Rule 5.9 Bye Round.](#)

**B. Prior to Arrival**

A team unable to attend due to inclement weather or another emergency must contact the designated Regional and/or State Mock Trial Coordinator.

**1.4 Team Codes / Identity**

Each team is assigned a team code. Teams only identify themselves by their assigned team code for the competition. The identities of schools competing in a round are kept confidential from the judges. There shall be no school names, logos, or colors on any items brought into the competition venue.

**1.5 Entry into Competition Venues**

All visitors stay to the rear of the security line and allow coaches, judges, and students through the security check points first.

Everyone entering the competition venue is required to enter through a metal detector. Any items restricted by the venue, including knives, concealed weapons, e-cigarettes, lighters, or any items that slow down the entry process are prohibited.

**1.6 Use of Competition Venues**

Teams shall not use competition venues the day prior to a competition. Teams shall not reserve extra meeting space, conference rooms, side rooms, and/or courtrooms on the day of competition. Teams and their visitors may not move furniture or bring food and beverages into the courtroom and in some cases, the courthouse entirely. Any courthouse used for purposes of scrimmaging or practicing should be used with the same standard of care and appreciation expected on the day of competition.

**1.7 Participation in All Rounds Assigned**

Teams are required to participate in all competing and bye rounds assigned. Other than in a case of an emergency pursuant to Rule 1.3 Emergencies, a team that forfeits a round is automatically disqualified and ineligible to compete the following school year.

## 1.8 Forms of Team Participation

Teams participate in the regional competition in a competitive format, which includes competing in all rounds assigned. Teams do not perform both sides of the case at the same time, but by the end of the competition – have performed both sides of the case. All teams are eligible to advance to the state competition, but only the top 12 highest scoring teams advance and compete in the state competition. For high school, the state champion represents South Carolina in the National High School Mock Trial Championship competition using a new national case and rules.

## SECTION II: THE CASE

### 2.1 The Case

The Mock Trial Case is a fictitious fact pattern. The Mock Trial Case materials may contain any of the following: statement of facts, indictment pleadings, stipulations, witness affidavits, jury charges, orders/rulings, and exhibits. Stipulations shall not be disputed at trial. Case materials shall not be altered.

There are two types of cases – civil and criminal. A civil case has a plaintiff and a defense side. A criminal case has a prosecution and a defense side.

Teams shall refer only to the Mock Trial Case provided by the SC Bar. Teams shall not cite or refer to any cases, statutes, resources, or other legal authority not included in the Mock Trial Case Materials or Competition Handbook.

The SC Bar provides one bound notebook of the competition handbook, the case materials, one set of enlarged exhibits (11 x 17 inches) placed in a neutral location accessible to both teams. The presiding judge has a copy of the case materials and competition rules. The scoring judges and witness stand have access to another set of exhibits.

Printed resources in the courtroom provided by the SC Bar may not be highlighted, written on, or flagged. Teams may use personal copies of the competition materials at their counsel tables only. Personal trial notebooks, exhibits, prepared timelines, or other documents prepared by teams are not to be shown to the presiding judge, the scoring judges, witnesses, or the opposing team.

### 2.2 Witnesses Bound by Statements

Each witness is bound by the facts contained in the witness's affidavit, the stipulations, and/or any exhibits referenced in that witness's affidavit. A witness is not bound by facts contained in other affidavits.

#### **Official Comments:**

**Comment #1:** *A witness may refer to facts in other affidavits/exhibits in the Mock Trial case materials, but is not required to agree with them. The witness is also not required to know what information is in other materials.*

**Comment #2:** *If an attorney asks multiple cross-examination questions about information that is not actually contained in the witness's affidavit (nor reasonably inferable from the case materials) and appears to be doing so for the purpose of limiting the witness's ability to perform in that role, the attorney presenting*



*the witness should consider an objection under Rule 611 (a)(3) (“harassing the witness”) or Rule 402 (calls for irrelevant information). Scoring judges decrease scores if they believe a team is engaging in “gamesmanship” by taking advantage of the artificial nature of Mock Trial.*

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

Teams shall not offer, through testimony or other evidence, a material fact that is not contained in the Mock Trial Case affidavits or exhibits. A “material fact” is a fact that cannot be reasonably inferred from the affidavits and exhibits in the Case Materials and that would provide one side a significant legal advantage.

If a witness is asked, either during direct or cross-examination, for information that is not contained in the witness’s affidavit, the witness may answer the question, but only if the answer is consistent with the affidavit and the answer does not materially change the witness’s testimony or any substantive issue in the case. An answer inconsistent with the witness’s affidavit that materially changes the witness’s testimony or a substantive issue in the case is a Creation of a Material Fact that violates this rule, even if the testimony was offered innocently, accidentally, or in good faith.

Objections may only be made at the time the evidence is offered and will not be entertained after the witness has been excused from the stand. [See Rule 6.2\(B\) – Violations: During Trial – Creation of Material Fact Violations](#). The creation of material fact objection is not raised in the dispute process.

#### **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 is generally considered by the scoring judges to be more sophisticated, accomplished, and experienced than a team that simply objects to “Creation of Material Fact” 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 Objection – was established.*

#### **Example:**

*Assume a defendant is asked the defendant’s age, but the age of the witness is not contained in the affidavit. In a case for breach of contract, the fact that the defendant is 30 would usually be immaterial. This witness could testify to being 30 years old without violating the Creation of Material Fact Rule. In the trial of a person for underage drinking; however, the defendant’s age is material. The witness could not testify being 30 years old and not under 21, because it automatically established the defendant’s innocence – a significant legal advantage.*

*When considering whether a fact is “material” or not under this rule, ask yourself whether the creation of the fact significantly helps the other side’s case or it is a fact that your opponent would want to include in a closing argument. If the answer is “yes,” the fact is material and you should attempt to impeach the witness with the witness’ very own affidavit. If you are not able to do that because of time constraints, a Creation of Material Fact Objection is appropriate.*

**Comment #2:** “Calls for facts not in the witness’s affidavit” or “Calls for creation of a material fact” (or anything similar) are **not** proper objections. If a witness is asked a question, but the answer is not contained in that witness’s affidavit (or reasonably inferable from it), the witness may but is not required to answer based on other evidence in the case or can simply respond “I do not know” or “I do not know, that information is not in my affidavit.”

## **2.4 Gender of Witnesses**

All witnesses are gender neutral. Any student may portray the role of any witness. Personal pronoun changes in witness statements indicating the preferred gender of the characters shall be made by the teams before each round. Gender options are: F, M, or X.

### **Official Comment:**

*If pronoun usage is difficult to change from round to round, consider referencing the witness by name only.*

## **2.5 Voir Dire**

Voir Dire examination of an expert witness is not permitted.

## **SECTION III: TEAMS**

### **3.1 Team Eligibility**

Schools are limited to registering one Mock Trial team.

Schools must have a teacher coach/sponsor approved by the principal to lead the team and to accompany the team at competitions. The principal must be noted on the team’s registration and authorization form as the responsible party. In the event the lead teacher coach is unable to attend the competitions, a new authorization form must be completed with the replacing person’s contact information.

Students who comprise a team must be enrolled at the same school. Middle school students shall compete only in the Middle School Mock Trial competition. High school students shall compete only in the High 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, and virtual schools in the state of South Carolina. District-wide programs are not considered as schools.

If a school district reassigns students that have previously participated on a school’s Mock Trial team to a school that does not have a Mock Trial team, those students are eligible to audition and compete at their original school. If the new school starts Mock Trial, the student(s) would only be eligible at the new school. (Note: The lead teacher coach is responsible for notifying the State Mock Trial Coordinator of any students assigned to a new school, but still competing at the original school.

Following the definitions prescribed by the South Carolina Code of Laws, the South Carolina Bar Law Related-Education Division considers students in grades five through eight to be “middle school students” and students in grades nine through 12 to be “high school students;” provided, however, that seventh and eighth grade students from a school with no grades lower than the seventh grade are

considered “Junior High School” students and shall compete only in the Middle School Mock Trial Competition.

Home-schooled students and charter school students may compete on the Mock Trial team of a public school within whose attendance boundaries the student resides, and at the grade level corresponding to the student’s grade level. The school registered to compete in Mock Trial must submit a letter of eligibility for each home-schooled student before the student can be placed on the school’s team roster. Home-school groups and home-school co-ops may also compete as stand-alone teams separate from a public or private school, provided that all students on the roster are not enrolled in a public or private school.

### **3.2 Team Composition and Allocation of Duties**

Performing roles are as attorneys and witnesses. In addition, teams must designate student team members to handle the duties of bailiff and timekeeper, which may be handled by the same team member.

No additional students may be added to the Team Roster Form (provided digitally to each team prior to the competition) once the Team Roster is submitted 10 days prior to regional competition unless LRE staff is contacted via email. Only students listed on the Team Roster Form may compete at the regional or advancing competitions. [See Rule 3.5 Team Roster Form](#). Changes may only be made in case of emergency.

Team alternates can substitute for missing, late, and/or sick students prior to the beginning of each round. The Team Roster Form can have student team members move positions or deleted from positions from the regional competition to the state competition, but new student team members may not be added.

If a team is missing a competing student, the team may substitute with another student listed on the Team Roster Form. The roster for the round should reflect any changes made.

If reallocating any student lawyer responsibilities breaks the balance of attorney role distribution, the team is subject to penalties for misallocation of duties pursuant to rules: Rule 5.4 Completion of Scoresheets and Rule 6.3 Scoring Penalties. Should there not be enough students to fill in for the missing competing student(s), the Regional and/or State Coordinator should be alerted prior to the start of the round that the team is forfeiting.

All witnesses listed in the case materials must be called. Witnesses undergo direct and cross-examination. Failure to call all witnesses results in the team automatically forfeiting. The remaining team is treated as a bye round team. [See Rule 5.9 Bye Round](#). Witnesses undergo direct and cross-examinations. Failure to do so results in team forfeiture. The non-forfeiting team is treated like a bye round team.

If a team has only six members, a witness may be designated as the timekeeper to avoid penalty. If a team does not provide a timekeeper, the team is subject to penalties for misallocation of duties pursuant

to Rule 4.5-A Timekeeping and Rule 6.3 Scoring Penalties, with a mandatory eight point penalty per scoring judge.

Each team must present the side of the case assigned in each round. Because of three rounds, a team will perform one side of the case twice, which is undetermined until competition day.

If needed, the timekeeper and the bailiff can be the same student. The timekeeper and/or bailiff may also be another team member not performing as a student attorney or witness role during that round. If the team does not provide a bailiff due to a limited number of students, the bailiff from the opposing team may be asked to perform bailiff responsibilities.

### Team Composition

Teams are comprised of six to 16 students. Teams are encouraged to have more than the minimum number of students as the team dynamics can change from the time of building a team and competing. Having more team members than the minimum helps prevent a team from withdrawing due to falling below the minimum requirement.

A maximum of 16 students wear team badges. Remaining students associated with the team are required to wear visitor badges and sit with the visitors. All coaches have separate badges from the allocated badges for students.

#### A. Middle School Team Attorneys

For each trial round, middle school teams may have a minimum of two and a maximum of four students performing as attorneys, three students performing as witnesses, a timekeeper, and a bailiff (or one student performing the role of timekeeper and bailiff simultaneously). Student attorneys must divide the eight attorney roles among themselves as evenly as possible. The opening statement and closing argument must be delivered by different student attorneys. Student attorneys always have more than one role. When the number of attorneys performing on a team less or greater than the number allowed, the team is penalized 10 points by each scoring judge.

#### Middle School Teams with 2- 4 Student Attorneys:

- Student Attorneys: Dividing the eight attorney roles, one student attorney delivers the opening statement; the other student attorney delivers the closing argument; and both student attorneys evenly divide the direct and cross-examinations.
- 3 Student Attorneys: Dividing the eight attorney roles, one student attorney delivers the opening statement and another student delivers the closing argument. There are six remaining roles (three directs and three crosses). Each of the three students handle a direct and a cross examination.
- 4 Student Attorneys: Dividing the eight attorney roles, one student attorney delivers the opening statement and handles one witness examination; another student attorney delivers the closing argument and handles one witness examination; and the remaining two student attorneys each a direct and a cross examination.

NOTE: For middle school teams, it is okay for the Prosecution/Plaintiff side of your team to have a different number of attorneys than your Defense side of your team. The key is to have the attorney roles balanced on each side.

If your team has the minimum number of students, prepare for witnesses to have double roles to perform both sides of the case, and student attorneys will have four roles each on both sides of the case.

**B. High School Team Attorneys**

For each trial round, high school teams have **three** students required to perform as attorneys, three students required to perform as witnesses, a required timekeeper, and a bailiff for when the team performs as Prosecution/Plaintiff (or one student performing the role of timekeeper and bailiff simultaneously). Each student attorney must conduct one direct and one cross examination. The opening statement and closing argument must be delivered by different student attorneys. When the number of attorneys performing on a team is more or less than three attorneys, the team is penalized 10 points by each scoring judge.

High school teams may also have up to two courtroom sketch artists and courtroom journalists, which may not double as bailiffs, timekeepers, or any other team role. Courtroom sketch artists and journalists compete solely on their own efforts. See Section VII: Courtroom Sketch Artist Competition and Section VIII: Courtroom Journalist Competition for more details. Students participating in the Sketch Artist or Journalist Competition may do both if they choose.

**C. National High School Mock Trial Team Composition**

When a high school team advances from the State High School Mock Trial Competition to the National High School Mock Trial Championship, competing students consist of the winning state team members. Per the SC Bar Law Related Education Division, the state team may only substitute two alternate students listed on the state team roster. Six of the nine advancing students must have performed at state as an attorney or a witness.

Should the state team need to substitute more than two performing students with alternate students listed on the state team roster, the SC Bar reserves the right to remove the state team at any point prior to the national competition. *At no time may the team substitute other persons for official team members outside of the state winning team.*

Teams competing in the national competition consist of seven to nine official student members assigned to attorney, witness, and timekeeper roles representing the Prosecution/Plaintiff and Defense sides. The state team must have seven members minimum. Only seven of the nine official members participate in any given round with three attorneys, three witnesses, and a timekeeper.

The role of the timekeeper may alternate among different team members. The National Team Roster becomes official at the close of on-site registration at the national competition.

The state champion is required to confirm with SC Bar their intent to compete at the National High School Mock Trial competition no later than noon the Friday following the state competition

to allow proper notification to the state runner-up team should the state champion not be able to compete in the national competition.

### **3.3 Bailiff**

A student performing the bailiff role serves as a court attendant. Each team is required to have a bailiff when performing the Prosecution/Plaintiff side of the case. If limited on the number of students, the bailiff may also perform the role as a timekeeper – but no other roles in a single round.

There are several Bailiff roles. The Prosecution/Plaintiff bailiff is the official bailiff of the round.

#### **A. Opening of the Court:**

The Prosecution/Plaintiff's bailiff announces the opening of the court to include the name of the case and the name of the presiding judge. Prior to the round starting, the bailiff should be alert for the arrival of the presiding judge and scoring judges. The presiding judge provides the bailiff with a card containing the script to be said, along with the presiding judge's name. There is a different script used for this announcement depending on if the case is civil or criminal.

#### **Civil Case Opening Script:**

*"All Rise!! The Court of Common Pleas Seventeenth Judicial Circuit is now in session. Honorable \_\_\_\_\_ presiding."*

#### **Criminal Case Opening Script:**

*"All Rise!! The Court of General Sessions Seventeenth Judicial Circuit is now in session. The Honorable \_\_\_\_\_ presiding."*

#### **B. Swearing in Witnesses:**

The Prosecution/Plaintiff's bailiff swears in all witnesses at once when directed by the presiding judge after the opening statements. On the same card the presiding judge provides the bailiff with contains the following script:

*"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?"*

#### **C. Monitoring Courtroom for Communication:**

The bailiff is responsible for monitoring to see if any communication takes place over the bar. There is no communication over the bar during the entire trial and no communication with the competing team members during the recess, which includes no communication with the timekeepers, bailiffs, artists (HS), or journalists (HS). If any communication is noted, there is an opportunity for the bailiff to disclose this information to the team and coaches during the two-minute dispute process with coaches when the trial is over. The bailiff has no communication with the team during the round or recess.

#### **D. Verifying Exhibits**

Bailiff is responsible for verifying all the large exhibits provided by the SC Bar are in numerical order and are in a neutral location for both teams. The exhibits should be checked before the

round starts, during the recess between the case in chief, during the recess in preparation for the closing arguments, and again at the end of the trial to reset the courtroom for the next round. Additional things the bailiff should look for when examining the exhibits is to make sure they are not highlighted or flagged.

E. Collecting Badges at End of Competition

The bailiff is to assist the teacher coach in collecting all badges worn by coaches, students, and visitors after the last round in the competition day and turn into the presiding judge before leaving. At the state competition, badges are collected at the end of both competition days. Friday, badges are retained by the lead teacher for Saturday distribution. Following the third round at state, the badges are turned in with the red teacher bag.

F. Seating Placement

The bailiff may sit with the timekeepers on the first row of the jury box. If no space is available, the bailiff should sit with the team.

G. Other Duties as Assigned

The bailiff shall perform any other duties as assigned by the presiding judge.

### **3.4 Scrimmages are Permissible**

Teams are permitted and encouraged to scrimmage either in-person and/or virtually with other teams at any time. It is a violation of this rule for teams to seek information about opposing teams in rounds from individuals who observed such scrimmages, including members of the team competing in that scrimmage. (Check out the scrimmage board to arrange scrimmages with other teams. [Click Here](#))

### **3.5 Team Roster Form**

The Team Roster form requires every team member to be assigned a role – attorney, witness, alternates, bailiff, timekeeper, artist (HS only), or journalist (HS only), teachers, and attorney coaches. Once the Regional Rosters are completed, and prior to the established deadline, this constitutes the official team. Changes can be made prior to Regionals in emergency situations only and sent to [mkirk@scbar.org](mailto:mkirk@scbar.org). **The names listed on the Regional Roster form are the only members who may compete in the Regionals or advance to the State competition, if applicable.** All witnesses are listed in order of performance and gender preference to include: F, M, or X.

### **3.6 Code of Ethical Conduct, Talent Release and School Information Sheet**

A. Code of Ethical Conduct – Signature no longer required from participants.

The lead teacher coach is responsible for sharing the Code of Ethical Conduct with all team members as a condition of registering a team. All team members and their guests are accountable for their conduct.

B. Talent Release – Signature form no longer required from participants.

1. Mock Trial participants consent to video recording, audio recording, and electronic media posting (including video meeting, social media, or other platforms) by their participation in the SC Bar-sponsored event.
2. Courthouses are public buildings. No one should have expectations of privacy inside or outside the courtroom.

3. Teachers and other participating school personnel are responsible for compliance with pertinent school district rules and policies regarding opting out of being recorded and/or photographed in school activities. The teacher will need to verify with parents/guardians or with district personnel to determine if a student has opted out of being recorded and/or photographed. The SC Bar will be diligent in cooperation with school districts and staff, for responsible personnel to comply with individual opt-out requests. However, the SC Bar is not responsible for monitoring or compliance related to which students appear in photographs, video, audio recordings or electronic postings.
4. Teams may request to be excluded from videotaping to protect team strategy or the identity of participating students. Each team will have the option to be excluded prior to the round when asked by the presiding judge.

**B. School Information Sheet**

The School Information Sheet is completed electronically by the lead teacher coach. This form is used for certificates and press releases, so please be certain names are spelled correctly, and student name preference is considered (Ex: William v. Billy).

**3.7 Disability Accommodations**

If special accommodations are needed for participants with a disability, the lead teacher coach must address the issue with the State Mock Trial Coordinator when registering for the competition as soon as possible but no later than 10 business days prior to a competition date. The State Mock Trial Coordinator works with the lead teacher coach and the Regional Mock Trial Coordinator to make reasonable accommodations for the individual.

**3.8 Withdrawing from the Competition**

Teams are notified in the Mock Trial competition registration form of the date a team can withdraw without penalty. All registration fees are non-refundable for any reason.

Should a team need to withdraw after the drop deadline date provided, the lead teacher coach and the principal must sign and submit the completed form to the State Mock Trial Coordinator immediately upon withdrawing the team. Withdrawal after the deadline can result in extreme hardship in coordinating the competition. A team withdrawing after the drop deadline is suspended from the competition for one year. The team's lead teacher coach and/or principal may petition the Mock Trial Sub-Committee to waive the suspension. Teams advancing to the state competition are notified by the SC Bar of state withdrawal deadlines.

**3.9 Communication with Mock Trial Coordinators**

Any concerns, issues, or feedback discussed with the State and/or Regional Mock Trial Coordinator are to be made solely by the lead teacher coach and/or the attorney coach. Any communication not from the lead teacher coach or attorney coach is in violation and subject to Rule 6.4 Discipline for Non-Trial Rules Violations. This rule is in place before, during, and after the competition.

No competition-related communication from the teams to the judges or regional coordinators post-competition is allowed. Any post-competition communication not directed to the State Coordinator subjects the team to penalties up to disqualification the following school year.



## 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 or add chairs to the assigned room. If space permits, the Defendant may sit at the counsel table.

### 4.2 Stipulations

The stipulations shall be considered part of the record and are already admitted into evidence.

### 4.3 Reading into the Record Not Permitted

The Stipulations, the Complaint, the Answer, the Indictment, and the Jury Instructions are not read into the record during the trial.

### 4.4 Trial Sequence

At each competition, teams present both the Prosecution/Plaintiff (P) and Defense (D) sides of the case. Teams do not perform both sides of the case at the same time.

Team pairings are listed P v. D. An example with the team codes listed would be AB v. CH. Team Code (AB) represents the Prosecution/Plaintiff and team code (CH) represents the Defense.

The presiding judge oversees pre-trial matters, the trial process, and post-trial process. The presiding judge also makes rulings that are final, monitors the time, and protects witnesses from harassment or unnecessary embarrassment.

#### A. Standing During Trial

Students who are able shall stand while delivering opening statements, conducting direct and cross-examinations, raising and responding to objections, and otherwise addressing the presiding judge. Witnesses who are able shall also stand during the oath.

#### B. Bench Conferences

Teams are not permitted to request bench conferences during a trial. However, if a presiding judge requests a bench conference, the teams shall follow the presiding judge's instructions.

#### C. Beginning / Ending of Trial

The competition round officially begins when the presiding judge asks if both teams are ready to proceed. The competition round officially ends after the dispute process has concluded and the peer nominations made.

#### D. Opening Court

The bailiff for the Prosecution/Plaintiff team is responsible for opening court after the scoring judges enter the room and are seated. The bailiff announces the name of the presiding judge. The presiding judge delivers some brief housekeeping announcements and instructs the teams to introduce themselves.

#### E. Presentation of the Case

The case is tried by a jury. Arguments are made to the presiding judge and scoring judges. Teams may address the scoring judges as “members of the jury.”

**Presentation Order:**

- Opening statement delivered by the Prosecution/Plaintiff opening attorney.
- Opening statement delivered by the Defense opening attorney.
- Swearing in of all witnesses at once.
- Prosecution/Plaintiff then presents its Case-in-Chief with all three witnesses.
  - Witness #1
    - The directing attorney calls the first Prosecution/Plaintiff witness to the stand.
    - The directing attorney asks Witness #1 questions.
    - The opposing team’s crossing attorney asks Witness #1 questions.
    - The directing attorney can redirect.
    - If there is a redirect, then crossing attorney can re-cross.
  - Witness #2
    - Repeat process for witness #1 here.
  - Witness #3
    - Repeat process for witness #1 here.
- Recess (5-minute restroom break for team members and judges in front of bar)
- Defense then presents its Case-in-Chief with all three witnesses.
  - Witness #1
    - The directing attorney calls the first Defense witness to the stand.
    - The directing attorney asks Witness #1 questions.
    - The opposing team’s crossing attorney asks Witness #1 questions.
    - The directing attorney can redirect.
    - If there is a redirect, then crossing attorney can re-cross.
  - Witness #2
    - Repeat process for witness #1 here.
  - Witness #3
    - Repeat process for witness #1 here.
- Recess (2 minutes to prepare for closing with no one leaving courtroom)
- Closing argument presented by Prosecution/Plaintiff attorney. The team may conduct a rebuttal if remaining time permits. [See Rule 4.4-K Trial Sequence: Rebuttal.](#)
- Closing argument presented by Defense attorney.
- Rebuttal argument presented by Prosecution/Plaintiff attorney.
- Dispute Process.
  - Recess (2 minutes to determine if disputes are warranted).
  - Recess (2 minutes to prepare response to disputes if applicable).
  - Dispute rulings.
- Peer Awards after each round.
- Civility Award (after third round) submitted electronically by the lead teacher.
- Depart quietly to not disturb other courtrooms still in session.

Each team must call all three of its assigned witnesses listed in the case materials. 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. [See Rule 4.6-D – Time Limits: Calling Last Witness When Time Expired.](#)

F. Exhibits

The SC Bar provides each courtroom with one enlarged (11 x 17 inches) color set of exhibits, one bound copy of the mock trial case materials, and one bound copy of the competition handbook placed in a neutral location accessible to both teams. The scoring judges and witness stand also have a separate set of exhibits. [See Rule 3.3 – Bailiff: Verifying Exhibits.](#)

G. Objections

A student attorney may object at any time to challenge the admissibility of evidence according to the Mock Trial Rules of Evidence. The student attorney wishing to make the objection shall stand, if able, and state "Objection, your Honor." and the basis for the objection.

The student attorney who conducts the direct examination of a witness is the only student who may make objections during the opposing attorney's cross-examination of that witness. Likewise, the attorney who conducts cross-examination of a witness is the only student who may object during the direct examination of that same witness. An objecting student attorney may confer with co-counsel concerning the objection after obtaining permission from the presiding judge, but only that student attorney may address the presiding judge.

Students may not use any objections outside of the Modified Rules of Evidence used for the Mock Trial Competition.

When an objection is made, the presiding judge asks the objecting attorney to defend the objection. The presiding judge then provides the opposing student attorney an opportunity to defend why the question is proper or the evidence is admissible. After the opposing counsel has responded, there is no more argument on that objection unless requested by the presiding judge. The presiding judge then decides whether the objection is "Overruled" or "Sustained." If an objection is overruled, thereby allowing the question to be answered or the answer to remain in the trial record, the objecting student attorney cannot "Move to Strike" the evidence from the record. If an objection is sustained, thereby disallowing the question or the answer, the objecting student attorney should "Move to Strike" to remove harmful testimony from the record ([See Rule 4.7 \(A\) Motions](#)). Students are not scored based on the presiding judge's rulings, but rather on how the students argue and respond to the objection. Students are also scored on their ability to adjust to the admission or exclusion of evidence resulting from the presiding judge's ruling.

*An example of an objection correctly made is "Objection." Then wait for the presiding judge's attention and then state, "Objection, your Honor. Relevance." Attorneys may not make speaking objections or provide explanation unless requested by the presiding judge. Example of a speaking objection not permitted, "Objection, your Honor. The question about ABC is not relevant because we are here today to determine XYZ and ABC is not relevant to that."*

A video link showing **objection examples** can be viewed.

Visit [www.scbare.org/lre](http://www.scbare.org/lre) and then click on Middle School or High School Mock Trial on the left of the main page. Go to *Videos for Coaches and Students* and scroll through the video clips available.

### **Official Comment #1:**

#### **Possible Objections**

**A. Argumentative Questions** ..... Evidence Rule 902

**B. Lack of Proper Foundation** ..... Evidence Rule 904

**C. Assuming Facts Not in Evidence** ..... Evidence Rule 901

**D. Questions Calling for Narrative or General Answer** ..... Evidence Rule 611

**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 wasting time.

**F. Repetition / Asked and Answered**

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

*Teams are not precluded from raising additional objections 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 said more than a “yes” or “no” in response. Though the practices of presiding judges differ on this point, most presiding judges 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.” Presiding judges cut the witness off after a sentence or so of explanation (if requested to do by the cross-examining attorney), on the grounds that any further explanation is better left to redirect examination. Teams shall be prepared to adjust their objections on this point to the preferred style of the presiding judge.*

### **Official Comment #3:**

*The reference to both “E. Non-Responsive Answer” and F. Repetition/Asked and Answered” is Evidence Rule 403 (“wasting time”).*

**Official Comment #4:**

**Better Mock Trial teams handle objections by making fewer objections and handling most objectionable items on cross-examination, or impeachment. Think “quality” of objections verses “quantity.”**

H. Redirect / Re-cross

Redirect and re-cross-examinations are permitted. The scope of cross-examination is not limited to the scope of the direct examination. The scope of redirect, however, is limited to the subject matter of the cross-examination of that witness. Likewise, the scope of re-cross is limited to the subject matter of the redirect. There is no re-cross without redirect.

I. Recesses

Teams are granted up to a five-minute recess in between Case-in-Chief presentations. An additional two-minute recess takes place prior to presenting closing arguments to allow each team time to prepare their closing argument. During the first five-minute recess, competing team members and judges in front of the bar are permitted to leave for restroom break with no communication with anyone. A teacher/attorney coach will stand at the door of the courtroom to monitor and prevent communication in the hallways. In the second two-minute recess prior to closings, no one is permitted to leave the courtroom or have any communication with the bailiff, timekeeper, artist (HS), journalist (HS) nor anyone behind the bar. Any communication in violation of this rule subjects the offending team to a penalty in accordance with Rule 4.10 Trial Communication and Rule 6.3 Scoring Penalties. Individuals behind the bar may not leave or communicate during either recess.

J. Closing Argument

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. The Prosecution/Plaintiff delivers its closing argument first, followed by the Defense.

K. Rebuttal

The Prosecution/Plaintiff may reserve a portion of its closing time for a rebuttal. They need not request or state that they are reserving time for a rebuttal. The rebuttal is limited to the scope of the Defendant’s closing argument. If the presiding judge does not ask for rebuttals, it may be requested.

**Official Comment:**

*Prosecution/Plaintiff reserve some of their time to conduct a rebuttal to reinforce or counter any damaging points brought up in the Defense closing.*

L. Objections During Opening Statement and Closing Argument

No objections may be raised during opening statements or during closing arguments. If a student attorney believes an objection would have been warranted during the opposing team’s opening statement or closing argument, the opposing student attorney for the respective opening or closing may stand to be recognized by the presiding judge and say, “Your Honor, if I had been permitted to object during the opening statement/closing argument, I would have objected to the

statement that \_\_\_\_.” The opposing team is allowed a rebuttal. The presiding judge does not rule on the objection. Each scoring judge weighs the objection and awards or deducts points for each attorney individually. The objection may only be made immediately following the opening statement/closing argument and may not be raised as a Post-Trial Dispute.

**A video link showing an [Objection to a Closing Argument](#) example can be viewed.**

**Visit [www.scb.org/lre](http://www.scb.org/lre) and the click on Middle School or High School Mock Trial on the left side of the main page. Go to *Videos for Coaches and Students* and scroll through the video clips available.**

**Official Comment:**

*The objection permitted by this rule should generally be used only to challenge an opening statement that improperly argues the law, as opposed to setting forth a summary of the evidence to be presented.*

*The objection permitted by this rule should generally be used only to challenge a closing argument 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 consider such use of this rule is improper, and may, in their sole discretion, adjust their scores accordingly.*

**Example No. 1:** *Plaintiff’s attorney in a medical malpractice trial argues in the closing argument that the Plaintiff should prevail because the opinion of Plaintiff’s witness, Dr. Reed, conclusively showed that the Defendant was negligent. At the conclusion of the closing argument, Defense attorney invokes this rule and objects to the portion of Plaintiff’s closing argument that referred to Dr. Reed’s expert opinion. Defense attorney argues that, since Dr. Reed was never admitted as an expert by the Court, Plaintiff’s attorney’s discussion of Dr. Reed’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 attorney invokes this rule and objects. This time, Defense attorney argues that Plaintiff’s discussion of Dr. Reed’s expert opinion should be stricken because Dr. Reed 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 shall be made in the closing argument itself, not in a post-argument objection.*

#### **4.5 Timekeeping**

Time limits are mandatory and enforced. The Prosecution/Plaintiff timekeeper is the official timekeeper of the two timekeepers provided between the two teams competing in a trial. Presiding judges have the discretion to deal with any timekeeping issues and make final rulings. Timekeepers are responsible for fairly and accurately keeping and reporting the time during the trial presentation.

#### A. Timekeeper

Each team is required to provide a student who serves as the official timekeeper for that team. The Prosecution/Plaintiff timekeeper is the official timekeeper for that round, unless the presiding judge and scoring judges agree they are witnessing the lead timekeeper having difficulty in keeping time. A different timekeeper may be used for each round. An attorney or witness may also serve as timekeeper if they are not serving in another capacity during that round. The bailiff may also serve as a timekeeper simultaneously. If a team only has six members, a witness may be used as a timekeeper.

If a team does not provide a timekeeper, the team is subject to penalties for misallocation of duties pursuant to this rule, Rule 3.2 Team Composition and Allocation of Duties, Rule 5.4 Completion of Scoresheets, and Rule 6.3 Scoring Penalties with a mandatory eight point penalty per scoring judge.

It is highly recommended that the performing timekeeper watch the timekeeper training available in the video resources section and practice while the attorneys practice directs and crosses.

#### B. Aids for Timekeeping

The SC Bar provides the following items on competition day:

- Timesheets: Timekeepers must sign timesheets and turn them in to the presiding judge at the end of each round if an overage exists.
- Additional Supplies: Scratch paper, erasable pen, and a clipboard.

Teams need to bring the following:

- Three Sets of Timecards: **Timecards must be purchased prior to the competition. If already purchased, a new set of timecards does not need to be purchased.** The three sets of timecards are for the opening/closings, direct examinations, and cross-examinations. Timekeepers may only use the official timecards purchased from the SC Bar and no others. The timecards are provided in specific increments and noted accordingly. Modification of intervals is not permitted. Note that the timecards start in an ascending order (lowest to highest) and build to the maximum number of minutes in that section. In addition, as the timecards begin to reach the last minute allowed in that phase, the timecards change from white to yellow, and the last timecard is in red showing the maximum amount of time available and “STOP.”
  - Opening/Closing Timecards: The timecards are provided in the following increments: 1:00, 2:00, 3:00, 4:00, 4:15, 4:30, 4:45, 5:00/STOP.
  - Direct Examination Timecards: The timecards are provided in the following increments: 2:00, 4:00, 6:00, 8:00, 10:00, 12:00, 14:00, 16:00, 18:00, 20:00, 21:00, 22:00, 23:00, 24:00, 24:15, 24:30, 24:45, 25:00/STOP.
  - Cross-Examination Timecards: The timecards are provided in the following increments: 2:00, 4:00, 6:00, 8:00, 10:00, 12:00, 14:00, 16:00, 18:00, 19:00, 19:15, 19:30, 19:45, 20:00/STOP.

- Two Stopwatches: One stopwatch is to track time for the Prosecution/Plaintiff side and one stopwatch is to track time for the Defense side. Cell phones and/or kitchen timers may not be used as stopwatches.

See the Forms and Resources for a sample of the timesheet, the timecards ([opening/closing, directs, crosses](#)) print and [additional information for timekeepers](#).

C. Placement of Timekeepers

Timekeepers from both teams must be seated together and may not move from the SC Bar's assigned location unless the teams address any concerns with the presiding judge prior to the round starting and space is available for the change. The assigned seating location is in the front row of the jury box furthest from the witness stand so that scoring judges can be closest to the witness stand. Timekeepers are to remain seated during the trial.

D. Proper Communication

Timekeepers raise the official timecards quietly. Timekeepers may communicate with their competing team members only during the dispute process or when directed by the presiding judge.

E. Improper Communication

Timekeepers may not verbalize, wave the timecards, use hand gestures, or use any other means to get a student attorney's attention. Timekeepers may not communicate with any team members, coaches, courtroom artists (HS), courtroom journalists (HS), or visitors during the recesses.

F. Conferring Times / Reporting Overages or Discrepancies

At the end of each phase of the trial (e.g., after both opening statements, at the end of each Case-in-Chief (direct and cross), and at the end of the closing arguments), timekeepers record and confer with one another on the total amount of time used by both sides. A time discrepancy is reported to the presiding judge when the timekeepers do not have the same times (hence discrepancy) and if the times are more than 15 seconds. Up to 15 seconds in different times is permitted to allow for the variances in stopping and starting a stopwatch. If a student performed over the allotted time by more than 15 seconds, that is an overage and the presiding judge is immediately notified. The presiding judge rules on the overage immediately. After the ruling, the timekeepers clear their stopwatches for the next phase to begin. The decisions of the presiding judge resolving overages are final.

G. Timing

Timing begins for each trial phase when the first word during that phase is spoken by the student attorney or at the direction of the presiding judge. Time stops when the last word is spoken by the student attorney.

In a Case-in-Chief, there are three witnesses, and each witness has a direct and cross-examination. When timekeeping, there are two stopwatches and two sets of timecards. One stopwatch records the direct while using the direct examination timecards. When the timing of



the direct examination stops, the stopwatch also stops and time is recorded. Pick up the second stopwatch and the cross-examination timecards. Time the cross and record time used. If there is a redirect or re-cross, the timekeeper picks up the appropriate stopwatch and timecards. This process is repeated for the two remaining witnesses. Once the Case-in-Chief is finished with all three witnesses is when timekeepers record total times and confer with each other.

Time only stops for objections, questioning from the presiding judge, or administering the oath. Time does not stop for the introduction of exhibits, retrieving exhibits, re-organizing exhibits, or for student attorneys to confer with co-counsel. Timing is not held off for retrieval of exhibits prior to starting. The presiding judge has the discretion to stop the clock for any reason including any technical difficulties in a virtual competition.

Stopwatches continue timing as long as an attorney or witness is speaking even if the “STOP” card is reached, so that overages can be documented. Timekeepers confer after each witness to verify any discrepancies. Stopwatches are cleared after each phase (opening, the Case-in-Chief for each side, and closing).

#### H. Displaying Timecards

Timekeepers do not have to hold timecards up the entire time. Timekeepers should hold the timecards up for a few seconds until the student attorney speaking and the presiding judge have seen the updated timecards and then lower the cards. Otherwise, the student attorney looking at the timecards may be misled that the timecard was just flipped and have more time versus actual time.

#### I. Emergency for Timekeepers

In the event a timekeeper has an emergency in the courtroom, that team shall defer to its opponent’s timekeeper for that trial segment. The team whose timekeeper had to leave may substitute another timekeeper qualified under Rule 4.5.A - Timekeeper for the remaining trial segments. The timekeepers shall confer consistent with Rule 4.5.F – Conferring Time / Reporting Overages or Discrepancies regarding time used at the beginning of each trial segment.

#### J. Additional Responsibilities

Additional timekeeping responsibilities include timing:

- The recess between Case-in-Chiefs (up to five minutes).
- The second recess to prepare for closing arguments (up to two minutes).
- The disputes process (up to two minutes).
- The peer award discussion time (up to two minutes).
- The presiding judges’ critique (up to two minutes).

**Timekeeper Training is available in the video resources.**

**Visit [www.scbare.org/lre](http://www.scbare.org/lre) and click on the Middle School or High School Mock Trial logo on the main page. Go to *Videos for Coaches and Students* and scroll through the video clips available.**

### **4.6 Time Limits**

The time limits for the phases of the trial are as follows:

<b>Opening Statements</b>	Five minutes per side
<b>Direct Examinations</b> (redirects are optional permitting time available)	25 minutes total per side
<b>Cross-Examinations</b> (re-crosses are optional permitting time available, and a redirect occurred.)	20 minutes total per side
<b>Closing Arguments</b> (rebuttal is optional if time available)	Five minutes per side

A. Time Allotments

Attorneys are not required to use the entire time allotted to each phase of the trial. Time remaining in one phase of the trial may not be transferred to another portion of the trial.

B. Inquiring About Time

The student attorney currently performing in a phase of the trial is allowed to ask the presiding judge for permission to inquire from the timekeeper how much time has been used or is left in that timed phase.

C. Time Extensions

The presiding judge has sole discretion to grant time extensions. Such extensions should be granted sparingly and should be limited in duration to include finishing a question, answer, or thought. The student attorney may request the presiding judge's permission for a time extension up to 30 seconds to conclude the presentation only after the allotted time has been exhausted. If such an extension is granted, no penalty shall be assessed unless the extension is exceeded. If time has expired and a student attorney continues without permission from the presiding judge, the scoring judges shall impose a penalty in accordance with the rules. The timekeeper should indicate on the timesheet if a time extension was granted or not. If approved, flip timecards back to show 30 seconds.

D. Calling Last Witness When Time Expired

Direct Examination: Teams must call their third witness even if the team runs out of time on the first two witnesses. In that event, the team is allocated up to three minutes for direct examination of its third witness and the team receives a penalty of 10 points per scoring judge.

Cross-Examination: Teams must cross-examine the third witness even if the team runs out of time after crossing the first two witnesses. In that event, the team is allocated up to three minutes for cross-examination of the third witness and the team receives a penalty of ten points per scoring judge.

E. Time Penalties

If a team has two or more time penalties in different phases of the trial, each overage is treated independently. [See Rule 6.3 Scoring Penalties](#) for a list of penalties associated with time overages and penalties.

## 4.7 Motions

Teams may not make motions except as follows:

- A. To strike testimony following a successful objection to its admission.
- B. To substitute an alternate listed on the team roster for a competing team member.
- C. To alert the presiding judge of a special medical concern.

#### **4.8 Sequestration**

Teams may not request the sequestration of witnesses.

#### **4.9 Student Performance**

Witnesses and lawyers shall dress professionally as if they were appearing in an actual courtroom.

- A. Dress Attire  
Students should dress as professionally as possible within their means. Dress attire should be courtroom appropriate. The students' performance should stand out and not their clothing.
- B. Accents  
Use of accents is not considered costuming.
- C. Costuming  
Costumes (e.g. uniforms, badges, wigs, hats, canes, etc.) are not allowed. Teams may not wear lapel pins of any kind. Teams may not wear any clothing which identifies the participating school.
- D. Creation of Scars / Physical Conditions  
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 if afflicted with any condition, deformity, or disability described in the affidavits. Under no circumstances is the opposing team permitted to question the existence of such conditions based on the fact 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 the witness to show the jury.
- E. Notes  
Student attorneys may use notes in presenting their cases. Student attorneys may consult with each other at the counsel table quietly or through written notes.

Witnesses shall not use notes or affidavits while testifying. Witnesses may only read from or refer to exhibits or affidavits provided by the SC Bar when properly presented to them by a student attorney.

#### **Official Comment:**

*Refer to the scoring guide for further clarification on notes standards.*

*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 are likely to be considered "note dependent" and receive a lower 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.*

F. Physical Traits (differs from 4.9 D)

A witness is prohibited from referring to personal / physical traits or that of another witness where such information is not included in the witness statement. (For example, a witness cannot call attention to a person's height to show inability to complete some physical act included in the case materials or state that the witness was treated differently because of gender. An attorney is likewise prohibited from making arguments pointing out physical traits of a witness not otherwise included in the case materials. Such references are creation of material facts. See Rule 2.3. Teams are not prohibited, however, from raising issues about general or common human traits and abilities relevant to the case.

G. Props / Demonstrative Aids

Teams shall not use props or demonstrative objects other than items provided by the SC Bar as part of the case. Teams shall not bring any other items to use as props or demonstrative objects. Teams shall not use loose items found in the courtroom (e.g., pens, a physical pointer, a laser pointer, water bottles, flip charts, tissues, etc.) for props, or exhibits, or other demonstrative purposes.

#### **4.10 Communication**

No one behind the bar shall talk to, signal, communicate with, mouth to, or coach their witness or student attorneys during trial. This rule remains in force during any recess that may occur. Competing team members in front of the bar (other than the timekeeper) may communicate and pass notes among themselves during the trial; however, no disruptive communication is allowed.

Coaches, team members not competing in the current round, team alternates, and visitors must remain behind the bar after the trial begins. Team members participating the round may sit in front of the bar and communicate with one another. The team members participating in the current round may only communicate with the bailiff, timekeeper, and coaches during the post-trial dispute process as set forth in Rule 6.1 Disputes Hearing Process – Post Trial. During the trial, bailiffs, timekeepers, sketch artists, and journalists are not to communicate with anyone unless prompted by the presiding judge.

#### **4.11 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 SC Bar, are not allowed to view other teams' performances and are required to wear coded badges provided at the on-site registration.

The presiding judge may stop the trial due to interruptions in the gallery; i.e. talking, entering/exiting (other than during the time of a witness transition), improper use of cameras, etc.

Any team or its visitors violating this rule are subject to discipline pursuant to Rule 1.2 Code of Conduct.

#### **4.12 Electronics: Cell Phones, Video Cameras, and Cameras**

Lead teacher coaches are asked to have their cell phones on vibrate to be reached by the Regional and/or State Mock Trial Coordinator in the event of an emergency. Cell phones and laptops should not be used in the gallery as this creates a distraction to the other guests and teams. Each competition venue determines if cell phones, cameras, and/or video cameras are permissible.

Any team has the option to refuse a request to participate in video recording and still photography without explanation. Video cameras may be used during the competition only with the consent of the presiding judge and with consent of both teams. If the opposing team violates this rule, the lead teacher coach or lead attorney coach stands and approaches the gallery bar during a transition, waits to be recognized by the presiding judge, and brings the concern to the court. Flash pictures may not be taken during the competition at any time.

No team may disseminate any recording of any competition round without the permission of the State Mock Trial Coordinator. Each team shall inform any family member or other observer of this rule. Violations of this rule, even by an individual who is not a team member, may result in sanction of the team affiliated with the individual who recorded and/or posted, shared, or otherwise disseminated the recording up to and including disqualification from the competition.

Media representatives may use various devices to document the Mock Trial rounds, as approved by SC Bar. Media representatives are most likely wearing identification badges representing their affiliated station or publication. Should the lead teacher coach see a media representative attempting to film or interview a team member who has a school district opt out, the media representative should be approached immediately by the lead teacher coach and/or parent to stop such activity.

#### **4.13 Procedure for Introducing Exhibits**

The Mock Trial Case Materials include exhibits and either team can use any of the exhibits. Each side is scored on its attempt to introduce evidence and the other side is scored based on its objections. Only exhibits entered into evidence may be used in closing arguments.

##### *Official Comment for Procedure on Introducing Exhibits:*

- 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 # [x]?"
- B. Briefly show the proposed exhibit to opposing counsel.
- C. Ask the witness to identify the exhibit. "I now hand you what has been marked for identification as Exhibit # [x]. Would you identify this document please?" Witness shall answer to identify the exhibit only.
- D. 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.
- E. Offer the exhibit into evidence. "Your Honor, we offer Exhibit # [x] into evidence."
- F. Presiding Judge: "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney shall be prepared to object at this time.
- G. Opposing Counsel: "No, your Honor." or "Yes, your Honor." If the response is "yes", the objection is stated for the record.
- H. Presiding Judge: "Is there any response to the objection?"

- I. Answer "No, your Honor." Or "Yes, your Honor." If the response is "yes," provide the legal reasoning for the objection to be stated for the record.
- J. Presiding Judge: "Exhibit # [x] (is/is not) admitted." If admitted, questions on content may be asked.
- \*\*\* *Teams may not publish exhibits to the jury.*

**A video link showing examples of entering evidence can be viewed.**  
**Visit [www.scbars.org/lre](http://www.scbars.org/lre) and then click on the Middle School or High School Mock Trial logo on the main page. Go to *Videos for Coaches and Students* and scroll through the video clips available.**

#### **4.14 Technology**

Technology in front of the bar is not permitted, which includes laptops, tablets, chrome books, watches of any kind, any wearable technology, cell phones, or any other electronic devices. Possession of any of these devices in front of the bar, whether in use or not, constitutes a five point penalty per violation.

#### **4.15 Conduct**

##### **A. Team**

All teams (teacher coaches, attorney coaches, and students) are expected to read the Code of Ethical Conduct Agreement prior to the competition. Teams agree to the following:

1. The Rules of the Competition and the Code of Ethical Conduct are to be followed by all participants in the South Carolina Bar's Mock Trial Competitions. Coaches are discouraged from willful violations of the letter and the spirit of the Rules of this Code.
2. The use or possession of alcohol, drugs, and weapons is forbidden at all competition sites and at all Mock Trial sponsored events.
3. Team members, coaches, and other observers promise to participate in all events associated with the South Carolina Bar's Mock Trial competitions with the highest standards of professional behavior showing respect for their fellow team members, opponents, coaches, judging panel, staff, volunteers, and all other persons before, during, and after the competitions.
4. The South Carolina Bar's Mock Trial competitions are designed for teams to behave themselves as professionals in and out of the courtroom. Team members, coaches, and visitors must always follow appropriate courtroom and courthouse decorum, both inside and outside the courtroom.
5. Displays of bad sportsmanship at any time during the competition are prohibited. Whether winning or losing, team members, coaches, and all visitors are expected to be gracious and supportive of other teams.
6. No team member, coach, or visitor associated with your team may view another team competing outside of your round.
7. It is expected that everyone respects their surroundings, follow all published courthouse regulations, use appropriate receptacles for all trash, leave restrooms and all other court and common areas of all venues in good order, and otherwise behave as professionals.
8. All students listed on the School Information Sheet are registered at the same school or approved to compete at the school due to home schooling or district re-alignment.
9. All Mock Trial participants (teacher coaches, attorney coaches, and students) agree to the following Mock Trial Oath: I will maintain the respect and courtesy due to courts of justice, judicial officers, and those who assist them. To opposing parties, counsel, and witnesses, I

pledge fairness, integrity, and civility, not only in court, but also in all written, oral, and social communications. I will employ for the purpose of maintaining the causes confided to me only such means as are consistent with trust and honor and the principles of professionalism, and will never seek to mislead a party, the judge, or jury. And I will maintain the dignity of the legal system and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged.

10. Teams should be cautious about their use of social media. If any student who is reported to the SC Bar for disparaging or taunting social media posts, that individual may be suspended from Mock Trial activities. To report a social media issue, the lead teacher coach must email a photo or screenshot of the social media post in question to the State Mock Trial Coordinator.

#### B. Visitors

Visitors are welcome to attend the competitions if they are associated with teams, however space is limited. Visitors are provided coded visitor badges to watch their respective teams. Visitors are not allowed to move around in the courtroom during a trial or bring food and beverages in the courtrooms, and in some cases the courthouse entirely. Visitors are to be respectful to courthouse staff, Mock Trial Coordinators, the SC Bar staff, and all opposing teams. If violated, the visitor(s) are subject to removal.

No walk-ins are accepted to ensure team safety. All visitors need prior approval from team coaches. SC Bar approved visitors may observe any team. An example of a SC Bar approved visitor(s) would be teachers/students observing Mock Trial for future implementation, clerks of court, SC Bar staff, etc.

All visitors remain quietly seated during the trial and may not sit in the aisles or stand in the back of the courtroom. If it is necessary to enter or exit the courtroom during the trial, it must be done during a transition, when a witness is leaving the stand.

Visitors are not to communicate during the trial as they are observers only. This includes no communication with team members during any recess.

Prior to the competition, the team's lead teacher coach is responsible for briefing team visitors on the Competition Rules and Code of Ethical Conduct Rules that apply to visitors during the competition. The SC Bar reserves the right to remove anyone who violates rules stated by the competition venue or the SC Bar.

#### **4.16 Most Effective Nominations Made by Peers**

Each team has up to two minutes to determine the Most Effective recipients from the opposing team. Prior to leaving the courtroom, each team announces the recipients.

The presiding judge documents the recipients. Printed certificates are mailed to the lead teacher coach after the competition.

#### **4.17 Professionalism and Civility Award Nominated by Teams**

The Professionalism and Civility Award was created to highlight the importance of professionalism among teams participating in our Mock Trial competitions.

Each team submits one team ballot nominating another team for the Professionalism and Civility Award and also nominates a second team in the event a tie breaker is needed. Teams may not campaign for this award. A team may not nominate itself. When discussing this award among the team, coaches should emphasize the importance of professional behavior inside and outside the courtroom throughout the competition. The discussion of this award provides the team with an excellent opportunity to review the Code of Ethical Conduct and the Rules of the Competition that deal with ethics and decorum. Discussions about this award provides coaches the opportunity to discuss the high standards of professionalism attorneys are held to as members of the Bar.

The qualities that teams nominated for the award must demonstrate inside and outside the courtroom include: a professional demeanor, civility, integrity, honesty, fair play, shaking hands of opponents, respect for the competition, respect for fellow competitors, respect for volunteers and all associated with the program throughout the competition, and respect for courthouse staff and their facilities.

Nominations are submitted digitally by the lead teacher from each team at the end of the third round.

## **SECTION V: JUDGING AND TEAM ADVANCEMENT**

### **5.1 Rulings**

All rulings of the presiding judge are FINAL.

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

Each round is scored by a “jury” panel serving as “scoring judges,” which may consist of judges, attorneys, law students, or experienced Mock Trial teachers. Teams may address the scoring judges as members of the jury. The presiding judge is an attorney or a sitting judge.

All presiding and scoring judges receive the Mock Trial Case Materials, the Competition Handbook, and judges’ training prior to the competition.

The panel of scoring judges consists of at least two individuals. The composition and selection of judges is at the discretion of the Regional and/or State Mock Trial, with the following format:

- A. One presiding judge and three scoring judges (only scoring judges complete digital scoresheets).
- B. One presiding judge and two scoring judges; the third scoresheet aka “ghost ballot” is an average of the other two scoresheets cumulative totals. Regardless of the averaged total, the presiding judge determines which team wins the ghost ballot via the Presiding Judge Ballot.
- C. One presiding judge and two scoring judges; the presiding judge scores and the panel does not have a ghost ballot.
- D. One presiding judge and more than three scoring judges (the coordinator will pre-determine which three scoring judges will be counted prior to the start of the round).

The state championship round has a larger judging panel at the discretion of the State Mock Trial Coordinator.



In the event of an emergency (i.e. sudden illness, etc.) when a scoring judge or presiding judge member must leave the courtroom, the presiding judge calls for a brief recess, assesses whether the individual is able to return in a reasonably short period of time, and then resumes the proceedings when the individual returns to the courtroom. If the individual is unable to return, the State and/or Regional Mock Trial Coordinator is notified. Scoring continues as noted above in Rule 5.2.B. During any recess under this rule, the teams remain seated in their appropriate positions within the courtroom until the trial resumes.

The Regional Mock Trial Coordinator and/or State Mock Trial Coordinator has discretion in any case in a scoring judge's irregularity to disqualify the scoring judge's scoresheet and continues with a presiding judge's ballot.

### **5.3 Scoresheets / Ballots**

The term scoresheet or ballot is used in reference to the digital form on which points are recorded.

Scoresheets allow for evaluation up to 10 points for each individual performance as well as an overall team performance. Overall team performance considers civility, abusive/excessive objections, scripting, delay tactics, usage of exhibits, thematic presentation, consistency of legal arguments, and teamwork.

Scoring judges do not necessarily reflect the rulings of the presiding judge during the trial in their scores. Scoresheets are completed individually by each scoring judge.

Scores are not finalized until the scoring and presiding judge discuss and defend scoring variances of more than two points.

Scores are not announced at the end of each round. End of competition scoresheets are sent electronically to the coaches the following week after scores and rankings are confirmed. Scoresheets may be shared with students.

The term "ballot" refers to the decision made by a scoring judge as to which team scored the most points in the round. The team earning the highest points on a scoring judge's scoresheet is the winner of that ballot.

The team earning at least two of the three ballots, wins the round. The number of ballots earned is one of the determining factors when power matching and for the purposes of ranking teams. [See Rule 5.7 Power Matching](#) for more explanation and examples of power matching.

### **5.4 Reserved**

### **5.5 Team Advancement to the State Competition**

A middle school state competition is held if 20 or more teams compete in the regional competitions. Twelve teams advance to the state competition. Region winners automatically advance, and the remaining slots are determined by the next highest wins, ballots, and points across all regional competitions combined. When announcing the 12 advancing teams, three back-up teams are also announced. The back-up teams are to hold the state competition dates and plan for participation until

the first Friday after the regional competitions. (*Back-up teams have advanced to the state competition and back-up teams should take this position very seriously.*)

Should an advancing team withdraw from participating in the state competition, the next highest ranking back-up team is notified to fill the vacancy.

To participate in the state competition, a team registration fee of \$150 is due prior to the state competition. The state competition takes place over the course of two days (typically a Friday and Saturday) for all the advancing teams. Some teams may need overnight lodging the Friday night of the competition. Teams are responsible for their meals, travel, and lodging expenses.

## 5.6 Format of Competitions

A. Regional Competitions: Teams are notified seven business days prior to arriving at the regional competition of their team code and the side performance for the first round with teams randomly paired. Random drawings for team pairings are done by the SC Bar prior to the competition day. Team pairings are not based on any criteria. Pairings and sides are subject to change should a team withdraw between the announcement of pairings and the competition day. The second and third round is power matched based on the results of the previous competition rounds.

### **Round Format for Regional Competitions on Saturday: (Both Levels)**

**Saturday – Round One:** Teams Randomly Paired Morning Round.

**Saturday – Round Two:** Power Matched Afternoon Round (based on Round one results).

**Saturday – Round Three:** Power Matched Afternoon Round (based on Round two results).

**Monday** – Closing assembly for all regions via Zoom.

B. State Competition: Twelve teams are notified no later than six business days prior to arriving at the state competition of their new team code and their side performance for the first round based on seeding. Should a team drop, side performance may change.

### **Round Format for State Competition:** (Middle and High School)

**Friday: Round One: Seeded Round (P.M.)** [See Rule 5.7 C Power Matching.](#)

**Round Two: Power Matched Round (P.M.)** based on round one results

Teams are notified to check the rounds listing page on [sctbar.org](http://sctbar.org) on Friday night no later than 10 P.M. for their courtroom assignment and side performance for Saturday morning.

**Saturday: Round Three: Power Matched Round (A.M.)** (based on round two Results).

**Closing Assembly (P.M.):** Most Effectives, Civility Award, and Top Two Teams Announced.

The two teams with the highest number of total wins, total ballots, total scores, and point spread (if necessary) after the third round compete in the two championship rounds performing alternating sides.

**Championship Round One (P.M.):** Top Two Teams Compete.

**Championship Round Two (P.M.):** Top Two Teams Compete (switch sides).

**State Championship Title Announcement (P.M.):** The team with the highest number of wins, ballots, and points from the two championship rounds is named the state champion.

## 5.7 Power Matching

Power matching is the act of pairing teams together for the next round of competition based on a previous round's results. Power matching provides:

- A. All teams are guaranteed to present each side of the case at least once.
- B. Brackets are determined by win/loss record. Sorting within brackets is determined in the following order: (1) win/loss record; (2) total ballots; (3) total points; and (4) point spread, *if necessary*.
- C. Odd Number of Teams in a Bracket at Regional Competitions:
  - 1. Pairing for the Second Round: If there are an odd number of teams or less than four teams in the top bracket, one team from the second bracket are brought up to the top bracket. This process ensures there is a minimum of four teams in the top bracket.
  - 2. Pairing for the Third Round at Regionals:
    - A. **With 10 or more teams** competing in the region, if there are an odd number of teams or **less than six teams in the top bracket**, between one and four teams are brought up to ensure six teams are in the top bracket.
    - B. **With less than 10 teams** competing in a region, if there are an odd number of teams or **less than four in the top bracket**, one team from the second bracket is brought up to ensure four teams are in the top bracket.  
If moving a team(s) to the top bracket created an odd number in the second bracket, one team is brought up from the third bracket.
- D. For the state competition, teams carry their total wins, total ballots, total points, and total point spread earned at the regional competition to the state competition only to be ranked in their first round, known as "seeding." The top six teams represent one bracket. The bottom six teams represent the second bracket. The second and third rounds at the state competition are power matched based on each team's performance at the state competition.
  - Pairing for Third Round at State:
    - 1. The top bracket consists of the top four teams after round two.
    - 2. If moving a team(s) to the top bracket created an odd number in the second bracket, the bottom team of the second bracket and the top team of the bottom bracket are bracketed together to create a two-team third bracket.
- E. Provided there are no conflicts, the team at the top of a bracket is matched with the lowest ranked team of that same bracket, the second ranked team is matched with the second to lowest team within that same bracket, and so forth, until all teams are paired.
- F. Normally, a team does not meet the same opponent twice. If this occurs, side performance is alternated.
- G. Bracket integrity in power matching supersedes sub-rules A and F.

### Example Ranking After First Round Results at Regionals

(Highest to Lowest)

Ranking	Team Code	Opponent	Total Wins	Total Ballots	Total Points
1	<b>AB</b> (Plaintiff)	EF (Defense)	1 Win	3	287
2	<b>GH</b> (Defense)	CD (Plaintiff)	1 Win	3	259
3	<b>HI</b> (Defense)	JK (Plaintiff)	1 Win	2	284
4	<b>LM</b> (Plaintiff)	NO (Defense)	1 Win	2	275
5	<b>JK</b> (Plaintiff)	HI (Defense)	0 Wins	1	280
6	<b>NO</b> (Defense)	LM (Plaintiff)	0 Wins	1	273
7	<b>CD</b> (Plaintiff)	GH (Defense)	0 Wins	0	250
8	<b>EF</b> (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, HI 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 and NO to be ranked higher than the teams that won no ballots. 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.

### Example Power Matching for the Second Round at Regionals

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

- By the directions, all the teams that win their round are in the top bracket and all those that did not win are in the bottom bracket (*Results above are from the first round*).
- Notice the dark line that separates the two groups with a win and without a win.
- There are no pairing conflicts in this example because there were an even number of teams with wins and losses. If there are an odd number of teams in a round, a pairing conflict could occur.
- 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 flip roles and play the side of Defense in the second round and LM plays 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 flips roles and plays the role of Plaintiff in the second round and HI plays 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 flip sides and JK plays Defense and EF plays 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 flip sides and NO plays Plaintiff and CD plays Defense.
  - **Result: NO v. CD (NO is Plaintiff and CD is Defense.)**

#### Example Power Matching for the Third Round at Regionals

Ranking	Team Code	Prev. Round Sides		TOTAL			ROUND ONE RESULTS				ROUND TWO RESULTS			
		1	2	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 (*if necessary when points are tied*).
- Notice the 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 have won one round. The bottom 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, thus moving teams three and four up.
- 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 is made Defense and JK is made Plaintiff because they can automatically flip sides based on their previous round performance in the second round with the result of JK as plaintiff and GH as defense, which looks like JK vs. GH. They can play one another since they did not play each other in the previous two rounds. **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 pairing this bracket, the top team GH is now 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 performs as 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. LM performed as the Plaintiff in both of their two previous rounds, which means LM must perform Defense in their third round. **Result: JK v. LM (JK is Plaintiff and LM is Defense.)**
- The third step is to pair the remaining two teams in the second bracket. Like in the first proposed pairing, HI would naturally pair with AB. Because HI performed Defense in both of their two previous rounds, must perform as Plaintiff in the third round. **Result: HI v. AB (HI is Plaintiff and AB is Defense.)**
- The fourth step is to pair the remaining two teams in the bottom bracket EF and CD. Both teams do a natural flip for side performance and both have performed both sides of the case. **Result: CD v. EF (CD is Plaintiff and EF is Defense.)**

## 5.8 Side Selection for State Championship Round

In determining which team represents which side in round one, the following procedure is used:

- A. The team with the letter code that comes first alphabetically is considered the "Designated Team."
- B. The coin is tossed by a designee of the SC Bar.
- C. If the coin comes up heads, the Designated Team represents the Prosecution/Plaintiff in round one. If the coin comes up tails, the Designated Team represents the Defense.

## 5.9 Bye Round

A "bye" round procedure becomes necessary when an odd number of teams are participating in any given round at a competition. The odd team in each round without an opponent is called a bye team, resulting in performing only two of the three rounds. If there is a bye round at a competition, bye teams

are assigned a courtroom to practice in during the round and they must stay there. The bye team will perform both sides in the remaining two rounds.

Many teams are assigned as a “floater” team so that bye rounds in a regional competition can be avoided. There are always several floater teams identified when the regional assignments are announced. Floater teams are teams that fall in between two or more regions and can easily travel to a different region; or self-elected to serve as a floater team. Floater teams should remain in constant contact with the SC Bar regarding flexibility and the latest date a team can remain as a floater.

It is the intent to avoid byes when possible. In the event of a circumstance resulting in an odd number of competing teams, the following bye round procedure applies:

A. Round One Bye Team:

- At End of Round One:  
Temporarily, the bye team is awarded a ½ win, 1.5 ballots, and the average number of points from all round one winners as the bye team’s round one scores for the purposes of power matching.
- At End of Round Two:  
Enter the team’s actual win, ballots and points for round two. Round one’s temporary numbers are not adjusted until after the third round.
- At End of Round Three:  
Enter the team’s actual win, ballots and points for round three. The bye team’s wins/losses, ballots, and points earned in rounds two and three are averaged together. The averaged results replace the team’s temporary round one results as their final round one results. All points are rounded up.

B. Round Two Bye Team:

- At End of Round Two:  
Temporarily at the end of round two, this bye team is awarded a ½ win, 1.5 ballots, and the average number of points from all round two winners as the bye team’s round two scores for the purposes of power matching.
- At End of Round Three:  
Enter the team’s actual win, ballots and points for round three. At the end of round three, this bye team’s wins/losses, ballots, and points earned in rounds one and three are averaged together. The averaged results replace the team’s temporary round two results as their final round two results. All points are rounded up.

C. Round Three Bye Team:

- At End of Round Three:  
This bye team receives the average of their wins/losses, ballots, and points earned in rounds one and two as their final round three results. All points are rounded up.

## **SECTION VI: DISPUTE RESOLUTION**

### **6.1 Disputes Hearing Process (Post-Trial)**

For Mock Trial purposes, a violation “inside the bar” aka “in front of the bar” means a rules violation that is committed by a team or team member during the competition round. Violations that occur inside the

bar must be raised with the presiding judge after the closing arguments as a dispute. No forms are completed by teams. Everything is verbally expressed to the presiding judge when prompted.

A. Dispute Process Begins

The presiding judge announces that teams have an opportunity to raise disputes against the opposing team. This is the only opportunity to raise a dispute.

B. Timed Recess for Consultation (up to two minutes)

Competing team members, coaches, the bailiff, and timekeeper are permitted to consult with one another and determine if any rule violations occurred and should be reported verbally to the Presiding Judge. The timekeeper is asked to time once both teams begin conferring with their respective coaches. The timekeeper voices “STOP” when two minutes have been reached. If the timekeeper has nothing to contribute to the discussion, they should remain seated.

Otherwise, they watch their time while at the counsel table with team members and coaches.

1. If a team believes its opponent committed a violation of the rules, the team decides which student attorney is the team’s spokesperson to present the team’s position.
2. During the same initial consultation, the judging panel (presiding and scoring judges) also have an opportunity to raise a rules violation by completing the Rules Violation Penalty Form. Judging panel disputes are not up for discussion.

C. Collection of Rules Violation Penalty Forms

The presiding judge collects the Rules Violation Penalty Forms from the scoring judges for review. The scoring judges are then dismissed. The team found in violation is announced after the teams raise their disputes, if any. If a scoring judge violation is brought up by the teams, then the judge’s violation is disregarded.

D. Hearing Preparation Recess (up to two minutes)

If a hearing is merited, the presiding judge allows teams to reconvene with their respective coaches for further discussion to prepare a response. Competing team members, coaches, the bailiff, and timekeeper are permitted to consult with one another and prepare a verbal response to the rules violations raised against.

1. The timekeeper is asked to time once one or both teams have received their forms. The timekeeper voices “STOP” when two minutes has been reached. If the timekeeper has nothing to contribute to the discussion, they should remain seated.
2. The team’s student attorney spokesperson prepares a verbal response.
3. During this time, if the objecting team does not have a rules dispute to review, the team sits quietly and does not confer with their team members, coaches, bailiff or timekeeper.

E. Hearing (if applicable)

1. The student attorney spokesperson for the team responding to the dispute presents a quick verbal defense statement.
2. The presiding judge considers the responses presented.
3. If the Prosecution/Plaintiff raised a dispute, the presiding judge asks the Prosecution/Plaintiff team spokesperson to state the dispute(s) raised. The Defense team spokesperson is directed to state the team’s response(s).



4. If the Defense team raised a dispute, the presiding judge asks the Defense team spokesperson to state the dispute(s) raised. The Prosecution/Plaintiff team spokesperson is directed to state the team's response(s).
5. Attorney coaches, teacher coaches, and visitors are not allowed to address the court regarding a dispute. Only the student attorney spokesperson may present a violation and/or defend a violation.
6. The presiding judge has the discretion to question the student attorney spokesperson and anyone else in the courtroom at his/her discretion. Neither Coaches nor visitors may communicate/consult with the team or the presiding judge during the hearing unless asked to do so by the presiding judge.
7. If neither team presented the dispute raised by the judges prior to their dismissal, the dispute and penalty is announced for the team identified.

F. Conclusion of Hearing

1. The presiding judge may declare a brief recess and retire from the courtroom to deliberate with the Region or State Coordinator.
2. Upon return, the presiding judge announces the decision(s) in open court and documents the ruling.
3. The presiding judge announces only the disputes that have a penalty assessed with the scoring judges. The scoring judges are presented the disputes that were merited and individually assess penalties within the penalty ranges stated for each type of penalty.
4. Once the dispute process is concluded, violations committed by a team or team member may not be further handled by the presiding judge, the Regional and/or State Mock Trial Coordinator on that day or any subsequent days. There are no appeals.

## 6.2 Violations: During Trial

A team is subject to a penalty for the following rule violations that are handled during the trial. Teams may not raise the following rule violations with the SC Bar staff, Regional and/or State Coordinator.

If the presiding judge determines that a violation under this section occurred, the presiding judge informs the scoring judges. The scoring judges consider the violation(s) raised before assessing scoring penalties listed in Rule 6.3 Scoring Penalties.

A. Time Violations:

The presiding judge documents any time disputes during the trial. In the event of a time violation, the scoring judges assess a penalty against the team in the penalty box as set forth in Rule 6.3 Scoring Penalties.

- B. Creation of Material Fact Violations: A team may only raise a Creation of Material Fact Violation as an evidentiary objection during the round at the time the alleged violation occurred. [See Rule 2.3 Creation of Material Fact](#). A student attorney with a good faith belief that a witness created a material fact may elect to raise an objection instead of attempting to impeach the witness. The attorney 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 affidavit or exhibits. In response, the opponent must be prepared to explain either (1) the fact

does not give a significant legal advantage or (2) the fact can be fairly inferred from the affidavit or exhibits.

After hearing from both sides, the presiding judge immediately rules in open court on the Creation of Material Fact objection. If the presiding judge sustains the objection, each scoring judge must assess a penalty as set forth in Rule 6.3 Scoring Penalties against the team presenting the fact in the penalty box and not against the individual witness offering the fact. If the presiding judge overrules the objection; finding no material fact was created, the presiding judge determines whether the objection was made in good faith. If the presiding judge determines the objection was not made in good faith, each scoring judge must assess a penalty before completing the scoresheet as set forth in Rule 6.3 Scoring Penalties against the team in the penalty box and not against the individual witness.

Teams may not raise a creation of material fact violation during the Dispute Hearing Process noted in Rule 6.1.

- C. Notes or Technology Violations: Students may raise a notes or technology violations as they discover or learn of the violation during the trial or during the Dispute Hearing Process noted in Rule 6.1. [See Rules 4.9 Notes](#) and [4.14 Technology](#).

### 6.3 Scoring Penalties

The presiding judge determines if a Rules Violation, Time Violation, or Creation of Material Fact Violation occurred, and informs the scoring judges. The scoring judges consider the violation(s) raised and assess penalties individually before finalizing their scoresheets.

#### Scoring Penalties Listing

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

##### Rules Violations

##### Penalty Range

- Student Performance: Costuming, Creation of Scars/Physical Conditions, Physical Traits, Props ..... 2 – 10 points
- Failure to Call all Witnesses [See Rules 3.2 and 4.4 E](#)..... Team Forfeits
- Improper Communication [See Rules 4.4 I, 4.5 E, 4.10, 7.7, and 8.7](#) ..... 1 – 10 points
- Possession of Each Prohibited Electronic Device (see Rule 4.14) .....5 points
- Unequal Distribution of Tasks
  - Among the Team [See Rule 3.2](#) ..... 2 – 8 points
  - Missing Timekeeper [See Rule 3.2 and 4.5-A](#) .....8 points
  - Under or Exceeding # of Attorneys Permitted on a Team [See Rule 3.2 A-B](#).....10 points
- Any Other Rule Not Stated Above is Subject to Penalty ..... 1 – 10 points

##### Creation of Material Fact Violations [See Rule 2.3 and 6.2](#)

- Unintentional ..... 1 – 2 points
- Intentional ..... 3 – 7 points

##### Time Overages Per Violation [See Rules 4.5, 4.6 and 6.2](#)

- 1 to 15 seconds .....0 points

- 16 to 30 seconds (*without extension from presiding judge*) ..... 1 – 2 points
- 31 to 60 seconds ..... 3 – 4 points
- Over 60 seconds ..... 5 – 10 points
- Time Runs Out on Direct/Cross of Third Witness See Rule 4.6 D ..... 10 points

#### **6.4 Discipline for Non-Trial Rules Violations**

Only violations that occur outside the bar are brought by attorney or teacher coaches. Such violations are made promptly to the Regional and/or State Mock Trial Coordinator immediately after the round. The complaining party is asked to complete a Rules Violation Penalty Form. The Rules Violation Penalty Form is taken to a violation resolution panel. Discipline is in the discretion of the violation resolution panel and may range from a scoring adjustment to disqualification from the competition. See Rule 1.2 Code of Conduct.

The violation resolution panel is composed of the LRE Director, a LRE staff person, and the Regional Mock Trial Coordinator and/or a designee.

### **HIGH SCHOOL ONLY**

## **SECTION VII: COURTROOM SKETCH ARTIST COMPETITION**

### **7.1 Registration and Eligibility**

Each school may register up to two courtroom sketch artists to compete in the Courtroom Sketch Artist Competition. A minimum of four registrants must be obtained for the competition to occur.

Courtroom sketch artists are subject to all relevant Mock Trial Competition Rules, restrictions, and eligibility requirements. Sketch pads are checked at the on-site registration to confirm the sketch pad consists of blank pages throughout the pad.

#### **A. Registering with a Mock Trial Team:**

The courtroom sketch artists have a separate submission form. The artist is also included on the School Information Sheet. No additional artists may be added after the deadline. The courtroom sketch artists have the same team code as their Mock Trial team and they accompany their team throughout the entire competition. The Courtroom sketch artists may not double as bailiffs, timekeepers, or any other team role. Courtroom sketch artists compete solely on their own efforts and do not advance to the state competition.

#### **B. Registering without a Mock Trial Team:**

If students register without a Mock Trial team, a teacher sponsor is required. Students along with their teacher sponsor(s) are randomly assigned to courtrooms throughout the day. Students and their sponsors must arrive and stay for a minimum of the first round. To register on a separate application, contact the SC Bar at (803) 252-5139 or [lre@scbar.org](mailto:lre@scbar.org). Registration is due by the stated deadline.

### **7.2 Trials/ Trial Depiction**

Sketches must depict actual courtroom scenes observed by the courtroom sketch artists on the competition day. Sketches are created and completed entirely on the competition day solely by the courtroom sketch artists without the help of any source or person. The courtroom sketch artist sketches trials in which the school is competing in at the regional level. The courtroom sketch artist sits in the jury

box, an available location designated, or, space permitting, behind the bar in the first row. If sketch artists finish their sketches after a round, they may sit with their team as a visitor in subsequent rounds. Once the trial begins, the courtroom sketch artists may not move about the courtroom or leave if seated in front of the bar. The courtroom sketch artists may work throughout the trial rounds and during breaks. The courtroom sketch artists may not communicate with any member of the Mock Trial teams or any visitors in the courtroom during the trials or during the recess.

**Sketch By:**

Former Courtroom Artist State Champion  
Morela Taffe, Indian Land High School

### **7.3 Submission Specifications**

Courtroom sketch artists must supply their own materials. Sketches are done on white paper no smaller than 8.5 inches by 11 inches and no larger than 11 inches by 17 inches in horizontal format. Sketches must be done in color using the following mediums: color pencil, pen and ink,

pastel, and/or marker. No watercolors, chalk, charcoal, or paint are allowed. There should be no signatures on the front of the sketches; only on the back. Courtroom sketch artists are responsible for ensuring their work area is left neat and orderly with all trash disposed of in the appropriate trash receptacle.



Each courtroom sketch artist submits one sketch for judging. Sketches must be submitted to the presiding judge at the end of the round when completed, but no later than the end of the third round. A completed [Sketch Submission Form](#) must accompany the sketch at the time of submission.

### **7.4 Judging Components**

The Regional Mock Trial Coordinator delivers all sketches to the State Mock Trial Coordinator for judging. Judges consist of art teachers/professors, professional artists, etc. with as many as 10 or more judges. The State Mock Trial Coordinator assigns each sketch a random number and removes the Sketch Submission Forms. Numbered sketches are evaluated and scored anonymously by a judging team. The highest scored sketch is the state winner from the regional submissions statewide.

Sketches are judged on the following criteria: accuracy of proportion, realism, authenticity with regard to traditional courtroom sketching, figure/ground relationship, and use of contrast. Each component has a value up to five points.

The winner of the State High School Mock Trial Courtroom Sketch Artist competition is announced no earlier than two weeks following the regional competition on the SC Bar Web site at [www.sctbar.org/lre](http://www.sctbar.org/lre). The Courtroom Sketch Competition winner receives a certificate.

### **7.5 Release of Submission**

All submissions in the High School Mock Trial Courtroom Sketch Artist Competition become the property of the South Carolina Bar and may be used by the Law Related Education Division for any purpose it deems appropriate, including but not limited to reproduction and dissemination.

## 7.6 Submission Form

A Sketch Submission Jotform must be submitted by the student with the registration.

## 7.7 Improper Communication

Sketch artists may not verbalize, wave, use hand gestures, or use any other means to get a team member's attention. Sketch artists may not communicate with anyone during the trial or the recess.

## 7.8 National Participation

The winning state courtroom sketch artist is eligible to compete in the national competition with the accompaniment of an adult chaperone. The SC Bar pays for the registration fee and the sketch artist is responsible for all other expenses, inclusive of meals, hotel, and travel. Artists that participate nationally should be prepared to sketch in color.

**See additional resource for Courtroom Sketch Artists.**  
**Courtroom Sketch Artist Tips for Sketching Mock Trial**

## HIGH SCHOOL ONLY

### VIII. COURTROOM JOURNALIST COMPETITION

#### 8.1 Registration and Eligibility

Each school may register up to two courtroom journalists to compete in the Courtroom Journalist Competition.

Courtroom journalists are subject to all relevant Mock Trial Competition, restrictions, and eligibility requirements. Note pads are checked at the on-site registration to confirm the note pad consists of blank pages throughout the pad.

A. Registering with a Mock Trial Team:

The courtroom journalists have a separate submission Jotform. No additional journalists may be added after the courtroom/journalist deadline. The courtroom journalists have the same team code as their Mock Trial team and they accompany their team throughout the entire competition. The courtroom journalists may not double as bailiffs, timekeepers, or any other team role. Courtroom journalists compete solely on their own efforts and do not advance to the state competition.

B. Registering without a Mock Trial Team:

If students register without a Mock Trial team, a teacher sponsor is required. Students along with their teacher sponsor(s) are randomly assigned to courtrooms throughout the day. Students and their sponsors must arrive and stay for a minimum of the first round. To register on a separate application, contact the SC Bar at (803) 252-5139 or [lre@scbar.org](mailto:lre@scbar.org). Registration is due by the stated deadline.

#### 8.2 Trials / Trial Depiction

Articles must describe actual courtroom presentations observed by the courtroom journalists on the competition day. Articles are written knowing the type of trial (civil or criminal) answering the questions

who, what, where, when, and why. The articles are written as if the article is appearing in a newspaper referencing what happened in the trial and use of quotes with context. Articles are created and completed solely by the courtroom journalists without the help of any source or person. Laptops are not permitted. The courtroom journalists observe trials in which his/her school is competing at the regional level. The courtroom journalists sit in the gallery behind the bar in the first row. Once the trial begins, the courtroom journalists may not move about the courtroom. The courtroom journalists may work throughout the trial rounds and during breaks. The courtroom journalists may not communicate with any member of the Mock Trial teams or any visitors in the courtroom during the trials or during the recess.

**Official Note:** *Journalists shall obtain a copy of the list of witnesses and exhibits located in the online Mock Trial Case Materials to assist them in correct spellings of names, titles, etc.*

### **8.3 Submission Specifications**

Courtroom journalists must supply their own materials. Courtroom journalists are responsible for ensuring their work area is left neat and orderly with all trash disposed of in the appropriate trash receptacle.

Article entries must be submitted as a Word Document (no PDFs) sized for 8.5 inch by 11 inch paper, 1 inch margins on all four sides, double spaced, 12 point Arial font, the student's name on the first line, the school name on the second line, and a centered title on the fourth line with narrative following beginning on line six. There is a limit of two pages.

Each courtroom journalist submits one article for judging. Articles are emailed by the school's Mock Trial lead teacher coach to the State Mock Trial Coordinator no later than 5:00 p.m. on the first Monday following the regional competition once the lead teacher coach confirms the piece is a good representation of his/her school's work.

See the Courtroom Journalist Submission Form found in the Forms and Additional Resources Section.

### **8.4 Judging Components**

The State Mock Trial Coordinator assigns each article a random number. The numbered articles are evaluated and scored anonymously by a judging team. Judges consist of attorneys, teachers, newspaper writers and editors, etc.

Articles are judged on the following criteria: accuracy, clarity, objectivity, and style. Each component is worth up to five points. Penalties for grammar and spelling are deducted from the total score but may not exceed a penalty greater than 10 points.

Articles are written from a journalist perspective as if observing a real trial and writing for a newspaper. Articles should not include team views on performances, opinions of judges, clothing, etc.

The highest scored article is the state winner from the regional submissions statewide. The winner of the State High School Mock Trial Courtroom Journalist Competition is announced within two weeks

following the regional competition on the SC Bar web site at [www.scbar.org/lre](http://www.scbar.org/lre). The winner receives a certificate.

### **8.5 Release of Submission**

All submissions in the High School Mock Trial Courtroom Journalist Competition become the property of the South Carolina Bar and may be used by the Law Related Education Division for any purpose it deems appropriate, including but not limited to reproduction and dissemination.

### **8.6 Submission Form**

A Courtroom Journalist Submission Form must be submitted with the article created.

### **8.7 Improper Communication**

Courtroom journalists may not verbalize, wave, use hand gestures, or use any other means to get a team member's attention. Courtroom journalists may not communicate with anyone during the trial or recesses.

**See additional resource for Courtroom Journalists.**  
**[Courtroom Journalist Tips for Writing a Mock Trial News Article](#)**

**2024-25**  
**MODIFIED RULES OF EVIDENCE <sup>1</sup>**

In a trial, elaborate rules are used to regulate the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that both parties receive a fair hearing and to exclude any evidence deemed irrelevant, incompetent, untrustworthy, or unduly prejudicial. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the presiding judge. The presiding judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the presiding judge will probably allow the evidence. The burden is on the team to know the rules and to be able to use them to protect their client and to limit the actions of opposing counsel and their witnesses (for example, to exclude hearsay and prevent unfair extrapolation).

The Mock Trial Rules of Evidence are a modified version of the Federal Rules of Evidence. If there is any conflict between the Mock Trial Rules of Evidence and the Federal or South Carolina Rules of Evidence, the Mock Trial Rules of Evidence will control.

Formal Rules of Evidence are quite complicated and differ depending on the court where the trial occurs. For purposes of the Mock Trial competition, the Rules of Evidence have been modified and simplified below. Not all presiding judges interpret the Rules of Evidence (or procedure) the same way and you must be prepared to point out the specific rule (quoting it, if necessary) and to argue persuasively for the interpretation and application of the rule you think proper. **No matter which way the presiding judge rules, accept the ruling with grace and courtesy.**

It is important to ensure the substance of the rule when making and defending an objection and not cite the rule number only.

***Rules of Evidence for use of the Middle and High School Mock Trial Competitions are included below and overrule any prior Rules of Evidence.***

***Anything outlined in a light grey box is something that South Carolina is providing as additional information.***

## **ARTICLE I. GENERAL PROVISIONS**

### **Rule 101 Scope**

These rules govern proceedings in the South Carolina Mock Trial program.

### **Rule 102 Purpose and Construction**

These rules shall be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and ascertain the truth and secure a just determination.

### **Rule 103 Reserved**

### **Rule 104 Conditional Admission**

(a) Reserved

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<sup>1</sup> The applicable rules of evidence have been streamlined for the High School Mock Trial Competition.



- (b) The court may admit proposed evidence on the condition that the proof necessary for admission be introduced later.

**Rule 105 Limiting Evidence That Is Not Admissible Against Other Parties or for Other Purposes**

If the court admits evidence that is admissible against a party or for a purpose – but not against another party or for another purpose – the court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly.

**Rule 106 Remainder of Related Writings or Recorded Statements**

If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part – any other writing or recorded statement – that in fairness ought to be considered at the same time.

**ARTICLE II. JUDICIAL NOTICE**

**Rule 201 Judicial Notice of Adjudicative Facts**

- (a) This rule governs judicial notice of an adjudicative fact only, not a legislative fact.
- (b) The court may judicially notice a fact that is not subject to reasonable dispute because it is a matter of mathematical or scientific certainty. For example, the court could take judicial notice that  $10 \times 10 = 100$  or that there are 5,280 feet in a mile.
- (c) The court:
  - 1) May take judicial notice on its own.
  - 2) Must take judicial notice if a party requests it and the court is supplied with the necessary information.
- (d) The court may take judicial notice at any stage in the proceeding.
- (e) A party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed.
- (f) In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

**ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS**

No Federal Rules of Evidence under Article III apply to the Mock Trial program.

**ARTICLE IV. RELEVANCY AND ITS LIMITS**

**Rule 401 Test for Relevant Evidence**

Evidence is relevant if:

- (a) It has any tendency to make a fact more or less probable than it would be without the evidence.
- (b) The fact is of consequence in determining the action.

**Rule 402 General Admissibility of Relevant Evidence**

Relevant evidence is admissible unless these rules provide otherwise. Irrelevant evidence is not admissible.

### **Rule 403 Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons**

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

### **Rule 404 Character Evidence; Crimes or Other Acts**

#### **(a) Character Evidence:**

- (1) **Prohibited Uses:** Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

#### **Official Comment:**

*In other words, mention of a person's typical behavior is not admissible when trying to prove that the person behaved in a way that matches the behavior discussed in the current case.*

- (2) **Exceptions for a Defendant or Victim in a Criminal Case:** The following exceptions apply in a criminal case:

- (A) A defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it.

#### **Official Comment:**

*In other words, once the character evidence is provided by the Defendant, the Prosecution/Plaintiff can attack these statements with character evidence that would normally be excluded as improper character evidence.*

- (B) A defendant may offer evidence of an alleged victim's pertinent trait, and if the evidence is admitted, the prosecutor may:

- (i) Offer evidence to rebut it.
- (ii) Offer evidence of the defendant's same trait.

#### **Official Comment:**

*In other words, the accused in a criminal case can point out important and related character traits of the victim, such as aggressiveness, to defend him/herself. The Prosecution can then argue that the victim exhibited traits of peacefulness in the past. The Prosecution may also then argue that the defendant him/herself has exhibited aggressiveness in the past.*

- (C) In a homicide case, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

#### **Official Comment:**

*In other words, if the charge against the Defendant is murder and the Defendant raises self-defense or otherwise alleges that the victim started the fight, then the Prosecutor may offer evidence that the victim was a peaceful person.*

- (3) **Exceptions for a Witness:** Evidence of a witness's character may be admitted under:

Rule 607 Who May Impeach, and  
Rule 608 A Witness's Character for Truthfulness or Untruthfulness; and  
Rule 609 Impeachment by Evidence of a Criminal Conviction.

(b) **Other Crimes, Wrongs, or Other Acts:**

- (1) **Prohibited Uses:** Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.
- (2) **Permitted Uses:** This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

**Official Comment:**

*In other words, mention of a person's prior crimes, wrongs, or acts is not admissible to prove that the person acted in conformity with the prior bad acts. However, such evidence may be admissible to show motive, identity, common scheme or plan, intent, or absence of mistake or accident.*

*If Rule 404 is found to apply, see Rule 405.*

**Rule 405 Methods of Proving Character (This rule applies if character evidence is admissible.)**

(a) **Reputation or Opinion:**

When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct.

(b) **Specific Instances of Conduct:**

When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.

**Rule 406 Habit, Routine Practice**

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

**Rule 407 Subsequent Remedial Measures**

When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove:

- Negligence
- Culpable conduct
- A defect in a product or its design
- A need for a warning or instruction

But the court may admit this evidence for another purpose, such as impeachment or, if disputed, proving ownership, control, or the feasibility of precautionary measures.

#### **Rule 408 Compromise and Offers to Compromise** *(Civil Case Only)*

**(a) Prohibited Uses:**

Evidence of the following is not admissible — on behalf of any party — either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

- (1) Furnishing, promising, or offering — or accepting, promising to accept, or offering to accept — a valuable consideration in compromising or attempting to compromise the claim
- (2) Conduct or a statement made during compromise negotiations about the claim — except when offered in a criminal case and when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative, or enforcement authority

**(b) Exceptions:**

The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

#### **Rule 409 Offers to Pay Medical and Similar Expenses** *(Civil Case Only)*

Evidence of furnishing, promising to pay, or offering to pay medical, hospital, or similar expenses resulting from an injury is not admissible to prove liability for the injury.

#### **Rule 410 Pleas, Plea Discussions, and Related Statements**

**(a) Prohibited Uses:**

In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:

- (1) A guilty plea that was later withdrawn
- (2) A nolo contendere plea
- (3) A statement made during a proceeding on either of those pleas under Federal Rule of Criminal Procedure 11 or a comparable state procedure
- (4) A statement made during plea discussions with an attorney for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea

**(b) Exceptions:**

The court may admit a statement described in Rule 410(a) Prohibited Uses (3) or (4):

- (1) In any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together.
- (2) In a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

#### **Rule 411 Liability Insurance**

Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. But the court may admit this evidence for another purpose, such as proving a witness's bias or proving agency, ownership, or control.

## ARTICLE V. PRIVILEGES

### Rule 501 General Rule

There are certain admissions and communications excluded from evidence on grounds of public policy. Among these are:

- (1) Communications between spouses
- (2) Communications between attorney and client
- (3) Communications between medical or mental health care providers and patients

## ARTICLE VI. WITNESSES

### Rule 601 General Rule of Witness Competency

Every person is competent to be a witness.

### Rule 602 Need for Personal Knowledge

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under Rule 703 Bases of Opinion Testimony by Experts. [See Rule 2.2 Witnesses Bound by Statements.](#)

### Rule 603 Oath or Affirmation

Before testifying, every witness is required to declare that the witness will testify truthfully, by oath or affirmation, by the oath provided in these materials. The bailiff swears in all witnesses at one time before opening statements as follows:

“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?”

A video link showing the [bailiff opening court](#) can be viewed. Visit [www.scbar.org/lre](http://www.scbar.org/lre) and the click on the Middle School or High School Mock Trial logo on the main page. Go to *Videos for Coaches and Students* and scroll through the video clips available.

### Rule 607 Who May Impeach

Any party, including the party that called the witness, may attack the witness's credibility.

A video link showing [examples on how to impeach](#) can be viewed. Visit [www.scbar.org/lre](http://www.scbar.org/lre) and the click on the Middle School or High School Mock Trial logo on the main page. Go to *Videos for Coaches and Students* and scroll through the video clips available.

### Rule 608 A Witness's Character for Truthfulness or Untruthfulness

#### (a) Reputation or Opinion Evidence:

A witness' credibility may be attacked or supported by testimony about the witness' reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

**(b) Specific Instances of Conduct:**

Except for a criminal conviction under Rule 609 Impeachment by Evidence of a Criminal Conviction, extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:

- (1) The witness
- (2) Another witness whose character the witness being cross-examined has testified about

By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness's character for truthfulness.

**Rule 609 Impeachment by Evidence of a Criminal Conviction**

*(this rule applies only to witnesses with prior convictions)*

**(a) In General:**

The following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

- (1) For a crime that, in the convicting jurisdiction, was punishable by death or by imprisonment for more than one year, the evidence:
  - (A) Must be admitted, subject to Rule 403 Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons, in a civil case or in a criminal case in which the witness is not a defendant
  - (B) Must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant
- (2) For any crime regardless of the punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime required proving — or the witness's admitting — a dishonest act or false statement.

**(b) Limit on Using the Evidence after 10 Years:**

This subdivision (b) applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect.

**(c) Effect of a Pardon, Annulment, or Certificate of Rehabilitation:**

Evidence of a conviction is not admissible if:

- (1) The conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the person has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or
- (2) The conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(d) **Juvenile Adjudications:**

Evidence of a juvenile adjudication is admissible under this rule only if:

- (1) It is offered in a criminal case
- (2) The adjudication was of a witness other than the defendant
- (3) An adult's conviction for that offense would be admissible to attack the adult's credibility
- (4) Admitting the evidence is necessary to fairly determine guilt or innocence

(e) **Pendency of an Appeal:**

A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency is also admissible.

**Rule 610 Religious Beliefs or Opinions**

Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility.

**Rule 611 Mode and Order of Interrogation and Presentation**

(a) **Control by Court; Purposes:**

The Court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

- (1) Make those procedures effective for determining the truth
- (2) Avoid wasting time
- (3) Protect witnesses from harassment or undue embarrassment

**Scope of Direct Examination:** *Direct questions shall be phrased to evoke facts from the witness. Witnesses may not be asked leading questions by the attorney who calls them. A leading question is one that suggests to the witness the answer desired by the examiner and often suggests a "yes" or "no" answer.*

**Example of a Direct Question:**

- (1) "Mr. Patterson, what did you do immediately after seeing Mr. Winstead run from the house?"
- (2) "Mr. Patterson, prior to today, have you ever met Mr. Winstead?" (Note: Although this is a "Yes" or "No" question, it is NOT a leading question because it does not suggest what the questioner wants the answer to be.

**Example of a Leading Question:**

"Mr. Patterson, is it not true that you knew Mr. Winstead prior to today?" (This conveys the intent of the question for the witness to answer "Yes" and is therefore improper for direct.

**Example of a Question which calls for a Narrative (improper for direct):**

"Mr. Patterson, tell us everything you know about Mr. Winstead."

*While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions must not be so broad that the witness is allowed to wander or "narrate" a whole*

story. Narrative questions are objectionable, but it is rare for an attorney on direct to ask a question (such as the example here) that is obviously too broad.

Often, the issue does not arise until the witness goes clearly beyond what is necessary to answer the question. If that occurs, opposing counsel can object that “the witness is giving a narrative answer” (i.e., beyond what is necessary to answer the question.)

(b) **Scope of Cross-Examination:**

The scope of the cross-examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness’ statement and/or relevant exhibits, **including** all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness’ statement and/or relevant exhibits that are otherwise material and admissible.

*Cross-examination is the questioning of a witness by an attorney from the opposing side of the case. Cross-examination is not limited to direct questioning.*

(1) **Form of Questions:** *An attorney may ask leading questions when cross-examining the opponent's witnesses. Questions tending to evoke a narrative answer shall be avoided. Example of a leading question: "Mrs. Winstead, isn't it true that your son chose of his own free will to join the army?"*

(2) **Scope of Witness Examination:** *In the Mock Trial competition, attorneys are allowed unlimited range on cross-examination of witnesses as long as questions are relevant to the case. Witnesses must be called by their own team and may not be recalled by either side. All desired questioning of a particular witness must be done by both sides in a single appearance on the witness stand.*

A video link showing **cross-examination examples** can be viewed.

Visit [www.scbart.org/lre](http://www.scbart.org/lre) and then click on the Middle School or High School Mock Trial logo on the main page. Go to **Videos for Coaches and Students** and scroll through the video clips available.

(c) **Leading Questions:**

Leading questions should not be used on direct examination except as necessary to develop the witness’ testimony. Ordinarily, the court should allow leading questions:

- (1) On cross-examination
- (2) When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party

(d) **Redirect / Recross:**

After cross-examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on recross, but such questions must be limited to matters raised on redirect examinations and should avoid repetition.



(e) **Permitted Motions:**

The only motion permissible is one requesting the presiding judge to strike testimony following a successful objection to its admission.

**Official Comment:**

A team may treat its own witness as “hostile” under Rule 611(c). Any witness may portray the character as “hostile” and teams may develop strategy around that portrayal. Teams are cautioned, however, that scoring judges might see this as a tactic designed to use leading questions to bolster a weaker performance and could score down accordingly. A skilled team can use this technique strategically (that is, to provide a realistic portrayal of a character or to demonstrate a lawyer’s ability to control a hostile witness) without over-relying on leading questions.

For example, a lawyer walking a weaker witness through a direct examination with leading question after leading question by calling the witness “hostile” will score lower. A lawyer who methodically challenges a hostile witness then forces an admission or other testimony with a well-timed leading question or two will score higher.

**Rule 612 Writing Used to Refresh Memory**

- (a) **Scope.** This rule gives an adverse party certain options when a witness uses a writing to refresh memory:
- (1) While testifying
  - (2) Before testifying, if the court decides that justice requires the party to have those options
- (b) **Adverse Party’s Options.** An adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness about it, and to introduce in evidence any portion that relates to the witness’s testimony.

**Rule 613 Witness’s Prior Statement**

(a) **Showing or Disclosing the Statement During Examination:**

When examining a witness about the witness’s prior statement, a party need not show it or disclose its contents to the witness. However, the party must, on request, show it or disclose its contents to an adverse party’s attorney.

(b) **Extrinsic Evidence of a Prior Inconsistent Statement:**

Extrinsic evidence of a witness’s prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision (b) does not apply to an opposing party’s statement under Rule 801(d)(2) Definitions – Statements That Are Not Hearsay – An Opposing Party’s Statement.

**Official Comment:**

*A cross-examining attorney may want to challenge the credibility of a witness by showing that the witness has testified in court in a way that is inconsistent with that witness’ affidavit. This tactic is called “impeaching the witness.” It may be executed by asking the witness whether s/he has ever given an*

*affidavit inconsistent with the witness' testimony. If the witness maintains that s/he has not testified inconsistently, or states s/he does not remember making the statement, the cross-examining attorney may choose to present the witness's affidavit to him/her to prove the inconsistency. The attorney should ask the presiding judge's permission to approach the witness to show him/her the affidavit (or ask if s/he has a copy on the witness stand already). If permission is granted, the attorney should direct the witness and the court to the page and line containing the inconsistency. The lawyer can read the part of the affidavit containing the inconsistency or ask that the witness do so.*

*As a general rule, the affidavit itself should not be admitted into evidence. One exception, however, would be where a witness testifies in a manner inconsistent with a statement made in that witness' affidavit and maintains the inconsistency even when shown the portion of the affidavit which the cross-examining attorney believes is inconsistent. Under those circumstances, the cross-examining attorney may ask to enter the affidavit into evidence to prove the contradiction to the jury. Either side can request redaction of other portions of the affidavit not relevant to the impeachment. (In Mock Trial, the presiding Judge can order that such portions "be considered redacted" without the need for actual physical redaction.)*

*Note, however, if a witness is impeached with an inconsistent statement in his/her affidavit and admits making the statement (either before or after being shown the affidavit), there is no need to introduce the affidavit (or any portion thereof) into evidence, and such should not be requested.*

*Therefore, if a witness is asked whether he or she made the statement "X" in his/her affidavit and admits it, the attorney asking the question should move on to the next question. If the witness denies making the statement or testified s/he cannot remember making the statement, the attorney may ask permission to have the witness refer to his/her affidavit. If, after having been shown his/her affidavit, the witness maintains s/he did not make that statement, the attorney may request that the affidavit be admitted into evidence.*

**A video link showing [how to impeach examples](#) can be viewed.**

**Visit [www.scbart.org/lre](http://www.scbart.org/lre) and then click on the Middle School or High School Mock Trial links on the left of the main page Go to *Videos for Coaches and Students* and scroll through the video clips available.**

## **ARTICLE VII. OPINIONS AND EXPERT TESTIMONY**

### **Rule 701 Opinion Testimony by Lay Witness**

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- (a) Rationally based on the witness's perception
  - (b) Helpful to clearly understanding the witness' testimony or to determining a fact in issue
  - (c) Not based on scientific, technical, or other specialized knowledge within the scope of Rule 702
- Testimony by Experts

### **Rule 702 Testimony by Experts**

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue
- (b) The testimony is based on sufficient facts or data

**Official Comment:**

*A witness cannot give expert opinions under Rule 702 Testimony by Experts until s/he has been tendered as an expert by the examining lawyer and recognized as such by the court. To have an expert witness admitted by the court, first ask the witness to testify as to his/her qualifications. Then ask the presiding judge that the expert witness be qualified as an expert in the field of \_\_\_\_\_. The presiding judge then asks opposing counsel if there are any objections to having the witness recognized as an expert. Either there are no objections or there is an argument as to why the witness is not qualified as an expert. The presiding judge then rules if as to whether the witness is qualified as an expert.*

*Prior to the court's admission of a witness as an expert, the witness cannot provide any opinions and the attorneys shall object to any attempts by an undesignated expert to render opinion testimony. Once the witness is qualified and admitted as an expert by the court, the witness can offer only opinions that are within the witness' recognized field of expertise.*

**Rule 703 Bases of an Expert's Opinion Testimony**

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.

**Rule 704 Opinion on Ultimate Issue**

(a) **In General – Not Automatically Objectionable:**

An opinion is not objectionable just because it embraces an ultimate issue.

(b) **Exception:**

In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.

**Rule 705 Disclosing the Facts or Data Underlying An Expert's Opinion**

Unless the court orders otherwise, an expert may state an opinion, and give the reasons for it, without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.

**ARTICLE VIII. HEARSAY**

**Rule 801 Definitions**

The following definitions apply under this article:

(a) **Statement:**

A "statement" means a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.

(b) **Declarant:**

A "declarant" means the person who made the statement.

(c) **Hearsay:**

"Hearsay" means a statement that:

- (1) The declarant does not make while testifying at the current trial or hearing; and
- (2) A party offers in evidence to prove the truth of the matter asserted in the statement.

(d) **Statements That Are Not Hearsay:**

A statement that meets the following conditions is not hearsay:

(1) **A Declarant – Witness's Prior Statement:**

The declarant testifies and is subject to cross-examination about a prior statement, and the statement:

- (A) Is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition
- (B) Is consistent with the declarant's testimony and is offered:
  - (i) To rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying
  - (ii) To rehabilitate the declarant's credibility as a witness when attacked on another ground
- (C) Identifies a person as someone the declarant perceived earlier

(2) **An Opposing Party's Statement:**

The statement is offered against a party and/or:

- (A) Was made by the party in an individual or representative capacity
- (B) Is one the party manifested that it adopted or believed to be true
- (C) Was made by a person whom the party authorized to make a statement on the subject
- (D) Was made by the party's agent or employee on a matter within the scope of that relationship and while it existed
- (E) Was made by the party's coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not itself establish the declarant's authority under (C); the existence or scope of the relationship under (D); or the existence of the conspiracy or participation in it under (E).

**Official Comment:**

*Hearsay generally has a three step analysis:*

- 1) *Is it an "out-of-court" statement?*
- 2) *If so, is it offered to prove the truth of the out-of-court statement?*

3) *If so, is there an exception that allows the out-of-court statement to be admitted despite the fact that it is hearsay?*

*An example of hearsay would be a witness saying, “I heard Bob Smith [who is not testifying in the case] say that he saw the Defendant kill the victim.” If this is offered to try to prove that the Defendant killed the victim, the Defendant’s attorney has no way of cross-examining Bob Smith about what he saw, or whether he has a bias against the Defendant, or whether there is any other reason to disbelieve the statement. Because we cannot test the credibility (truthfulness or untruthfulness) of the substance of Bob’s statement, it is untrustworthy and shall not be admitted.*

*An example that would not be hearsay: a witness testifies “I heard Bob Smith tell the Defendant that the Defendant’s child was at the hospital and was seriously injured.” If this is offered to show why the Defendant raced to the hospital, it is not a statement being offered “for the truth of the matter asserted” (i.e., it is not offered to show the child was actually injured, this is not the point), then it would NOT be hearsay. The statement is being admitted to show why someone took some action, not for the truth of the statement. (And it is irrelevant whether the statement is actually true or not.) In this instance, the issue is whether or not the statement was made (and the witness can be cross-examined on this point), not the truth of the statement.*

*An example that is hearsay, but which is likely an exception (and therefore might be admitted): a witness testifies “I was talking on the phone with the victim when he told me the Defendant was knocking at his door.” This is hearsay; however, it likely falls under exception Rule 803(1) – Present Sense Impression.*

*For the purposes of the Mock Trial competition, the exceptions to the hearsay rule which are listed herein (Rules 803 Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant is Available as a Witness and Rule 804 Hearsay Exceptions; Declarant Unavailable) can be used.*

## **Rule 802 Hearsay Rule**

Hearsay is not admissible except as provided by these Modified Rules of Evidence.

## **Rule 803 Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant is Available as a Witness**

**A video link showing the [hearsay exceptions](http://www.scbar.org/lre) can be viewed. Visit [www.scbar.org/lre](http://www.scbar.org/lre) and the click on the Middle School or High School Mock Trial logo on the main page. Go to *Videos for Coaches and Students* and scroll through the video clips available.**

The following are not excluded by the hearsay rule, regardless of whether the declarant is available as a witness:

### **(1) Present Sense Impression:**

A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

(2) **Excited Utterance:**

A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

(3) **Then Existing Mental, Emotional, or Physical Condition:**

A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

**Examples of Then Existing Mental, Emotional, or Physical Conditions:**

**Emotional State:** *Bob said he was scared.*

**Physical State:** *Jim said he had a headache.*

**Mental State:** *He said he was going to take the car out and see how fast it would go.*

(4) **Statements Made for Medical Diagnosis or Treatment:**

A statement that:

- (A) Is made for – and is reasonably pertinent to – medical diagnosis or treatment
- (B) Describes medical history; past or present symptoms or sensations; their inception; or their general cause

(5) **Recorded Recollection:**

A record that:

- (A) Is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately
- (B) Was made or adopted by the witness when the matter was fresh in the witness' memory
- (C) Accurately reflects the witness's knowledge

If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.

(6) **Records of a Regularly Conducted Activity:**

A record of an act, event, condition, opinion, or diagnosis if:

- (A) The record was made at or near the time by — or from information transmitted by — someone with knowledge;
- (B) The record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;
- (C) Making the record was a regular practice of that activity;
- (D) All these conditions are shown by the testimony of the custodian or another qualified witness; and
- (E) The opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.

(7) **Absence of a Record of a Regularly Conducted Activity:**

Evidence that a matter is not included in a record described in paragraph (6) if:

- (A) The evidence is admitted to prove that the matter did not occur or exist
- (B) A record was regularly kept for a matter of that kind
- (C) The opponent does not show that the possible source of information or other circumstances indicate a lack of trustworthiness

(8) **Public Records and Reports:**

A record or statement of a public office if:

- (A) It sets out:
  - (i) The office's activities
  - (ii) A matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law-enforcement personnel
  - (iii) In a civil case or against the government in a criminal case, factual findings from a legally authorized investigation
- (B) The opponent does not show that the source of information or other circumstances indicate a lack of trustworthiness.

(9) **Records of Vital Statistics:**

A record of a birth, death, or marriage, if reported to a public office in accordance with a legal duty.

(10) **Absence of a Public Record or Entry:**

Testimony that a diligent search failed to disclose a public record or statement if the testimony or certification is admitted to prove that:

- (A) The record or statement does not exist; or
- (B) A matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind.

(11) **Records of Religious Organizations:**

Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) **Omitted**

(13) **Family Records:**

Statements of facts concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions of family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) **Omitted**

(15) **Omitted**

(16) **Statements in Ancient Documents:**

A statement in a document that was prepared before January 1, 1998, and whose authenticity is established.

(17) **Omitted**

(18) **Statements in Learned Treatises, Periodicals, or Pamphlets:**

A statement contained in a treatise, periodical, or pamphlet if:

- (A) The statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination
- (B) The publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice

If admitted, the statement may be read into evidence, but not received as an exhibit.

(19) **Reputation Concerning Personal or Family History:**

Reputation among members of a person's family by blood, adoption, or marriage, or among a person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history.

(20) **Omitted**

(21) **Reputation Concerning Character:**

A reputation among a person's associates or in the community concerning the person's character.

(22) **Judgment of a Previous Conviction:**

Evidence of a final judgment of conviction if:

- (A) The judgment was entered after a trial or guilty plea, but not a nolo contendere plea
- (B) The conviction was for a crime punishable by death or by imprisonment for more than a year
- (C) The evidence is admitted to prove any fact essential to the judgment
- (D) When offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant

The pendency of an appeal may be shown, but does not affect admissibility.

(23) **Omitted**

**Rule 804 Hearsay Exceptions; Declarant Unavailable**

a. **Criteria for Being Unavailable.**

A declarant is considered to be unavailable as a witness if the declarant:

- (1) Is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies



- (2) Refuses to testify about the subject matter despite a court order to do so
- (3) Testifies to not remembering the subject matter
- (4) Cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness
- (5) Is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure:
  - (A) The declarant's attendance, in the case of a hearsay exception under Rule 804: Hearsay Exceptions – Declarant Unavailable: (b)(1) or (6):
  - (B) The declarant's attendance or testimony, in the case of a hearsay exception under Rule 804: Hearsay Exceptions – Declarant Unavailable: (b)(2), (3), or (4)

This subdivision (a) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

**b. The Exceptions:**

The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

**(1) Former Testimony:** Testimony that:

- (A) Was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one
- (B) Is now offered against a party who had — or, in a civil case, whose predecessor in interest had — an opportunity and similar motive to develop it by direct, cross-, or redirect examination

**(2) Statement Under the Belief of Imminent Death:**

In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

**(3) Statement Against Interest:** A statement that:

- (A) A reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability
- (B) Is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability

**(4) Statement of Personal or Family History:** A statement about:

- (A) The declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption, or marriage, or similar facts of personal or family

history, even though the declarant had no way of acquiring personal knowledge about that fact

- (B) Another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage or was so intimately associated with the person's family that the declarant's information is likely to be accurate

(5) **Not Applicable**

(6) **Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability:**

A statement offered against a party that wrongfully caused, or acquiesced in wrongfully causing, the declarant's unavailability as a witness, and did so intending that result.

**Rule 805 Hearsay within Hearsay**

Hearsay included within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

**Rule 806 Attacking and Supporting the Declarant's Credibility**

When a hearsay statement, or a statement described in Rule 801: Definitions (d)(3)(C), (D), or (E), has been admitted in evidence, the declarant's credibility may be attacked, and then supported, by any evidence that would be admissible for those purposes if the declarant had testified as a witness. The court may admit evidence of the declarant's inconsistent statement or conduct, regardless of when it occurred or whether the declarant had an opportunity to explain or deny it. If the party against whom the statement was admitted calls the declarant as a witness, the party may examine the declarant on the statement as if on cross-examination.

**Rule 807 Residual Exception**

Under the following conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not admissible under a hearsay exception in Rule 803: Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant is Available as a Witness and Rule 804: Hearsay Exceptions – Declarant Unavailable:

- (1) The statement is supported by sufficient guarantees of trustworthiness, after considering the totality of circumstances under which it was made and evidence, if any, corroborating the statement
- (2) It is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts

**ARTICLE IX – IMPROPER FORM OF QUESTION**

**Rule 901 Assuming Facts Not in Evidence**

An attorney shall not ask a question that assumes unproven facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by the evidence.

**Rule 902 Argumentative Questions**

An attorney shall not ask a question that asks the witness to agree to a conclusion drawn by the question without eliciting testimony as to new facts; provided, however, that the Court may in its discretion allow limited use of argumentative questions on cross-examination.

**Rule 903 Ambiguous Questions**

An attorney shall not ask questions that are capable of being understood in two or more possible ways.

**Rule 904 Lack of Proper Foundation**

Exhibits are not to be admitted into evidence until they have been identified and shown to be authentic (unless identification and/or authenticity have been stipulated). Even after a proper foundation has been laid, the exhibits may still be objectionable due to relevance, hearsay, etc. "Authentic" means only that a document is what it appears to be, not that the statements contained in the document are necessarily true.

# Mock Trial Forms and Resources

Visit [www.scbar.org/lre](http://www.scbar.org/lre) and click on Middle School or High School Mock Trial respective to your grouping. Scroll down to the bottom of the screen and click on “Forms.”

## Forms Include:

[Bailiff Script](#)

[Courtroom Artist Submission Form](#)

[Courtroom Journalist Submission Form](#)

[Professionalism and Civility Award](#)

[School Information Sheet](#)

[Scoresheet \(Sample for Practicing\)](#)

[Scoring Guide](#)

[Team Drop Form](#)

[Timekeeper Record Form](#)

[Completed Timekeeper Record Form Sample](#)

[Timekeepers' Guide to Success](#)

Timekeeper Card Samples for Downloading

- [Opening / Closing Timecards](#) (5 minutes)
- [Direct Examination Timecards](#) (25 minutes)
- [Cross Examination Timecards](#) (20 minutes)

As with the Forms section, Resources contains many items which will benefit your Mock Trial program.

## Resources include:

[Audition Form Sample](#)

[Awards and Scholarships](#)

[Bailiff Script](#)

[Coaches' Manual for Attorneys and Teachers](#)

[Courtroom Artist Tips](#)

[Courtroom Journalist Tips](#)

[Courtroom Layout](#)

[Glossary of Law Related Terms](#)

[Landmark Cases](#)

[Mock Trial Book from the National Institute of Trial Advocacy](#)

[Mock Trial Cases from Street Law Inc.](#)

[Mock Trial Definitions](#)

[Mock Trial Guide from the American Bar Association](#)

[National High School Mock Trial](#)

[Planning Checklists](#)

[Prior SC Mock Trial Cases](#)

[Procedure to Impeach](#)

[Quick Start: Nuts and Bolts](#)

[Recruiting poster sample](#) - Contact SC Bar for full size copies

[SC Litigation Handbook available from SC Bar CLE Division](#)

[So You're Going to Try Your First Case available from SC Bar CLE Division](#)

[Suggestions on How to Run a Team](#)

[Timekeeper's Guide to Success](#)

[Trial Process Explanation](#)

[What Parents and Visitors Should Know](#)

[What to Expect at Regional Competitions](#)

[What to Expect at the State Competition](#)