New Hampshire Bar Association's
Law-Related Education Program
Presents the

# Mock Trial Competition Handbook

## Rules and Procedures for State Competition

(Revised December 2005)

*Developed by the New Hampshire Bar Association's Law Related Education Program, sponsored in part by the New Hampshire Bar Association and the New Hampshire Bar Foundation. Please feel free to contact the NHBA's Law Related Education Coordinator, Robin E. Knippers, at (603) 224-6942 ext. 3259 or at reknippers@nhbar.org, or visit our website at www.nhbar.org for more information. We welcome your comments and suggestions at any time.*

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## Introduction

The New Hampshire Bar Association's Mock Trial Competition is sponsored by the Law-Related Education Program. The mission of the Law-Related Education Program is to implement programs designed to teach students about the law, the legal system, and the fundamental principles and values upon which our constitutional democracy is based. The Competition is open to all New Hampshire schools and students from grades 4 through 12.

This manual outlines the rules and procedures that will govern the Mock Trial Competition. In addition, it provides model scripts for the basic parts of a trial. Substantive information regarding the roles of the courts, judge, jury and attorneys, and explanations of different portions of a trial are located in the Overview of the American Legal System: A Guide for Classroom Use. The fact-pattern for this year's competition can be found in the handout entitled Mock Trial Competition Case Materials.

All participants are reminded that the goal of the Mock Trial Program is to introduce students to the judicial system. The Mock Trial Case has been designed to give both sides of the case helpful and harmful facts, as well as helpful and harmful law. Teams are not judged on whether the side that they represent has the correct legal position. Rather the judging is based upon how well the students present their roles. In short, a team may be right under the law and still not win in the competition.

## Mock Trial Competition Information and Procedures

### I. Competition Participants

Participants in the competition will be divided into the following three divisions:

1. **Elementary**: The elementary school division consists of students in grades 4 & 5. At the district level, the school will videotape its presentation of the trial. The school will present both sides of the trial. Videos are judged by a group of attorneys and educators who view all submissions. The best two teams from the district level will compete live at the state-final round of competition.

2. **Middle/Junior High**: The middle/junior high school division consists of grades 6-8. The teams compete live at the district and state-final round of competition.

3. **High School:** The high school division consists of grades 9-12. High schools compete live at the district and state-final rounds of competition. The winning team at the state-final competition will be invited to represent the State of New Hampshire at the National Mock Trial Championship in May.

### II. Teams

(1) Each school may enter more than one team in the competition. Each team must pay a separate registration fee. Schools entering multiple teams may compete against each other.

(2) Schools may select a team in any manner they choose. For instance, a team may be comprised of students from the same class, or a mixture of students from different classes or as an after-school activity.

a. Because each team will argue both sides of a case, one way to increase the number of participating students is to have different students assigned to each side of a case. For example, six students could be assigned to the prosecution/plaintiff's side and six students assigned to the defendant's side. During one competition round, only one of the teams of the six, however, will participate for the team.

b. If you wish to discuss your team's composition before making a roster, please call the LRE Coordinator at 224-6942.

(3) Each team must consist of at least six (6) members, but not more than sixteen (16) members. If at any level of the competition a team competes with less than six (6) team members, that team will be penalized five (5) points for each round of competition in which it participated with less than six (6) members.

a. If, due to unforeseen circumstances, such as illness, family emergency, etc., a member of a team cannot participate in a round of competition leaving that team with less than six (6) members, the coach of that team can request a waiver of this rule by contacting Valenda Morrissette in writing only (via email vmorrissette@nhbar.org or fax to Valenda Morrissette at (603) 224-2910). The request for a waiver must contain the following information: 1) the name of the school and the name of the coach; 2) the name of the team member who will be missing the competition; and 3) the reason for the team member's absence. The request for a waiver must be sent at least twenty-four (24) hours before the start of the competition in which the team will be competing with less than six (6) members.

b. If, due to the nature of the emergency, the request for waiver cannot be made 24 hours prior to the competition, then the coach should contact a representative of the Mock Trial Committee at the competition site prior to the start of the competition and provide the above information regarding the circumstances surrounding the emergency. The Mock Trial Committee will then evaluate the request for a waiver and inform the team of its decision by the end of that day's competition.

c. The decision to grant a waiver is within the sole discretion of the Mock Trial Committee.

(4) Each team must also provide a timekeeper for each round of the competition. The timekeeper cannot be a coach or teacher of the team that is competing.

**III. Time Limits**

The total time permitted for a trial is 90 minutes. Each side will have 45 minutes to present its case. A team may divide up its 45 minutes in any manner that it chooses. The following guidelines may be helpful during team preparation:

(1) Opening statements: 5 mins. (Per side)
(2) Direct-examination: 6 ½ mins. (Per witness)
(3) Cross-examination: 5 mins. (Per witness)
(4) Closing arguments: 5 mins. (Per side)

If a team's 45 minutes runs out, the remaining witness(es) for that team forfeit their participation regardless of whether a formal objection is made by the opposing team. If a team exceeds its allotted 45 minutes, the opposing team may make one objection to alert the Presiding Judge of the expiration of the opposing team's 45 minutes. The Judge may also rule on his or her own that the team has exceeded the allotted time.

## IV. Rules for Visiting the Courthouse

(1) Backpacks or other bags/purses with multi-zippered compartments will NOT be allowed in the Courthouse.

(2) Parents and other spectators must be informed in advance that no weapons are allowed in courthouses, including pen knives, metal nail files, sewing scissors, pepper spray, etc. Court personnel will hold any items that are questionable.

(3) Teachers/chaperones/parents/coaches should remember that court may be in session when the students are visiting. Students should not be allowed to wander and should keep their voices low.

(4) Each courthouse contains limited facilities for eating lunch. With the exception of the main lobby area, NO FOOD OR DRINKS are allowed in the courthouse. Please inform parents of this rule, in case they are delivering food to participants.

If you have any questions, see a member of the New Hampshire Mock Trial Committee.

## V. Requests for Interpretation of the Rules and Case

The Mock Trial Committee shall make all necessary interpretations of the rules and the mock trial case. Questions must be submitted in writing (via e-mail, regular mail or fax) by the teacher or lawyer-coach to the LRE Coordinator. A response will be sent in writing, and posted on the website so that all teams are informed of the question and its answer. The deadline for submission of questions will be two weeks prior to the first district competition. Send your questions to:

Mock Trial Competition Interpretation New Hampshire Bar Association, 112 Pleasant Street, Concord, NH 03301-2947 or e-mail to: vmorrissette@nhbar.org or fax to Valenda Morrissette at (603) 224-2910.

**VI. Scoring & Advancement**

(1) Each round of competition at the district and statewide level will be scored by three judges. One of these three judges may also be the presiding judge of the trial.

(2) Teams will advance based upon their win/loss record. If two teams at a competition have the same win/loss record, the tie will be broken by reference to the number of ballots (score sheets) each team received in each round of competition. If the two teams are still tied, the raw scores received by the two teams will be used to break the tie.

(3) The top performing teams from each division will advance to the statewide competition. The number of teams advancing per site is determined annually, prior to the start of the competition.

The following is an example of how a team would advance when there are four (4) teams competing at a site:

**Round 1 Team A v. Team B and Team C v. Team D**

Teams A & D win the first round: A receives 3 ballots, B earns 0 ballots, C earns 1 ballot, D earns 2 ballots.

**Round 2 Team A v. Team D and Team B v. Team C**

Teams D and B win the second round: A receives 1 ballot, D receives 2 ballots, B receives 3 ballots, C receives 0 ballots.

Team D is the top team, because it won both rounds. The second place team is A, due to it receiving the second highest number of ballots.

| | Team A | Team B | Team C | Team D |
|---|---|---|---|---|
| **Win/Loss Record** | | | | |
| Round 1 | W | L | L | W |
| Round 2 | L | W | L | W |
| **Ballots** | | | | |
| Round 1 | 3 | 0 | 1 | 2 |
| Round 2 | 1 | 3 | 0 | 2 |

See page 33 for an example of the scoring sheet that will be used by judges during the competition. Copies of the scoring sheets will be forwarded to team coaches by first class mail after the competition.

## RULES OF THE COMPETITION

The following are the rules that govern the Mock Trial Competition. The Mock Trial Committee reserves the right to add or change these rules at its sole discretion.

### Decorum

1. Each round of competition is held in an actual courtroom, most often before a New Hampshire judge. Every participant and observer will be expected to show respect toward the judge during the competition, just as this would be expected during actual court proceedings. This includes a respectful attitude toward the opposition, before, during, and after the competition. At the discretion of the scoring judges or representatives from the Mock Trial Committee, any participant that violates this rule will be docked ten (10) points. In the case of an egregious violation, the team member(s) will be disqualified from the round, or be disqualified from the entire competition.

2. The tone of voice used in the examination of witnesses and during all other components of the trial will be respectful. It is not acceptable to yell at or insult the witness, judge or other attorneys.

3. Every time an attorney addresses the judge/jury, that attorney should be standing.

4. Attorneys should not interrupt the judge when he/she is speaking. Wait for the judge to finish and then make your argument.

### Rules Relating to Behavior During the Mock Trial

1. Teams that are not assembled at the designated start time of a trial will lose the round by default, and receive zero ballots.

2. Teacher-coaches and attorney-coaches are NOT allowed in front of the Bar ( i.e. into the actual courtroom area) after set-up. A competition staff member will give a one-minute warning at which time everyone will be seated. Teams will lose five (5) points for non-compliance.

3. Lawyer-coaches, parents, teachers and all other observers are NOT allowed to participate during the competition. This includes passing notes, conferencing, signaling participants or voicing an opinion in response to a presiding judge's ruling. The offending team will lose ten (10) points.

4. The only person permitted to object to the cross-examination of a witness is the attorney who did the direct-examination of that witness, and vice versa. This rule will be strictly enforced. Teams will lose five (5) points for non-compliance. See page 28 for further explanation of this rule.

5. Pre-trial, written or other motions (i.e. to suppress evidence or for directed verdict) will NOT be permitted.

6. Voire dire is NOT allowed.

7. Students may observe other team performances when they are not performing.

**Rules Relating to Mock Trial Materials**

1. A list of witnesses is found at the beginning of the mock trial case. Teams may not create additional witnesses. Each witness must testify on direct and be cross-examined.

2. The facts given in each case, which include sworn statements, may not be disputed at trial. No new facts may be created. However, additional nonconflicting facts that may be reasonably inferred may be added. In addition, students should feel free to let their own personality and background show through to bring the mock trial characters to life and make their performance realistic, spontaneous and believable, rather than stiff, staged and rehearsed.

3. Each witness statement is a signed, sworn statement, and may only be submitted to challenge the credibility of the witness. Reading the entire witness' statement is not permitted.

4. Students may read other cases, materials, articles, etc. in preparation for the mock trial. In objecting to questions, a team may only cite the Simplified Rules of Evidence found on pages 18-27.

**Rules Relating to Exhibits or Demonstrative Evidence**

1. The use of demonstrative evidence is limited to that which is in the fact pattern, or may be reasonably inferred from it.

2. Participants may bring in any evidence and enlarge or use any diagram or document.

3. Counsel and witnesses may draw or make simple charts or drawings in court for the purpose of illustrating the direct-examination, cross-examination or the closing argument.

4. Teams must provide their own easels, paper and markers. Overhead projectors and stands, TV/VCRs or other audio-visual equipment and furniture are prohibited.

## Principal Responsibilities of the Lawyer-Coach

1. Provide an overview of the NH court system. The LRE Coordinator may have resource materials for your use, in addition to the materials provided in the Guide to Classroom Use.

2. Discuss principles of civility, and the legal principles applicable to the case.

3. Review the case materials and reproduce handouts from this manual for students.

4. Assist with the coordination of activities necessary to implement a mock trial.

5. If desired, procure a sufficient number of attorneys, law students and judges to serve as trial participants and/or resource persons.

6. For the elementary school division, make arrangements to use a courtroom for the filming of the team's entry, and arrange for a judge/attorney to act as a presiding judge.

7. Assist students in developing their roles and testimony, when needed.

8. Observe the team's performances of the trial during the competition.

9. Participate in a team's closing session at school to review the team's performance.

## How to Proceed

The following is a suggestion for how to prepare a team to participate in the Mock Trial Competition.

1. Review the Mock Trial Handbook: A Guide for Classroom Use which provides an overview of the judicial system and the steps in a trial.

2. Review the Mock Trial Competition Case Materials. The Case Materials contain sufficient legal cases and statutes for the students to have a general understanding of the legal issues involved. Students may, but are not required to, do additional research for their own information, but it cannot be used during the competition. Coaches and teams are reminded that scoring is based upon a team's performance – not upon which side may have the "correct" legal argument.

3. Select students to role-play the various people involved in the trial. In addition to the lawyer roles, each team will need to have students play the witnesses. For each side of the case there are eight (8) possible attorney roles and three (3) witness roles. Each team will have at least six (6) team members to perform each of the following roles for a particular side. The trial will proceed in the following order:

| **Prosecution/Plaintiff** | | **Defendant** |
|---|---|---|
| (1) Opening Statement | | (2) Opening Statement |
| (3) Direct-Examination of Prosecution/Plaintiff's Witness #1 | | (4) Cross-Examination of Prosecution/Plaintiff's Witness #1 |
| (5) Direct-Examination of Prosecution/Plaintiff's Witness #2 | | (6) Cross-Examination of Prosecution/Plaintiff's Witness #2 |
| (7) Direct-Examination of Prosecution/Plaintiff's Witness #3 | | (8) Cross-Examination of Prosecution/Plaintiff's Witness #3 |
| (10) Cross-Examination of Defendant's Witness #1 | | (9) Direct-Examination of Defendant's Witness #1 |
| (12) Cross-Examination of Defendant's Witness #2 | | (11) Direct-Examination of Defendant's Witness #2 |

| | | |
|---|---|---|
| (14) Cross-Examination of Defendant's Witness #3 | | (13) Direct-Examination of Defendant's Witness #3 |
| (15) Closing Statement | | (16) Closing Statement |

4. Familiarize students with the layout of a courtroom. Please see page 30 for a diagram of a typical courtroom. During the competition, teams may not rearrange the courtroom. If necessary, counsel may reasonably move the podium with the permission of the Presiding Judge.

5. Review the cases and statutes provided in the Case Materials. In particular, think about what is it that you are asking the jury to do or not do. What is it that you have to prove in order to win your case? For example, if your client was injured in a traffic accident, you may need to prove that the defendant driver was negligent because he was speeding.

6. Review the facts of your case and who the witnesses are. Once you know what the law is for your case, you need to review and organize the facts in a way that will help you prove your case. To do this keep the following ideas in mind:

   A. Which witnesses are most helpful to your side of the case? Why are they most helpful?

   B. Which facts weaken the other side's story? To help you prove your side of the story, you will also want to show all the weaknesses in the other side's case:

      a. that its evidence is not reliable (for example, that a witness may be mistaken or not be telling the truth);
      b. that its evidence doesn't make sense;
      c. that its evidence doesn't prove anything;
      d. that there are facts which make its story less believable.

   C. Talk with each witness to see if there are any additional facts that can be reasonably extrapolated from his/her statements, and make sure that the witnesses haven't changed their statement.

   D. Think about how you are going to present your side of the story. Remember that a trial is like a story – where you tell the jury your side of what happened. In order to have the jury care about your side of the story, it needs to care about your client and the other witnesses that support your side.

E. Think about using exhibits. One way to get the jury interested in your case is to have things to show them. For example, if the case involved a shovel, you might want the jury to see the shovel and have your witness demonstrate how he was holding the shovel. There are special rules for introducing exhibits. Please see page 29 for an example of how to introduce exhibits.

F. Think about using demonstrative exhibits. This is usually a diagram or a chart that attorneys use to help explain something to the jury. For example, if your case involved a traffic accident, you could make a map of the intersection and have the witness draw where her car was and where the defendant's car was at the time of the accident. Demonstrative exhibits are not introduced into evidence.

7. Write out your portion of the trial. Students should write out each part of the trial that they will be doing. Students should practice direct-examinations with their witnesses. While students cannot practice cross-examinations with the witnesses, they can still write out questions that they would like to ask. The information on the following pages can be used to help students develop their parts.

## COURTROOM PROCEDURE FOR A TRIAL

The following information can be used in conjunction with the materials provided in An Overview of the American Legal System in order to help students develop their particular part of the trial.

**I. Opening of the Court**

Bailiff: (The bailiff rises and says in a loud, clear voice): "All rise. The _____ Court is now open and in session, the Honorable Judge_____ presiding."

Judge enters. Everyone rises and remains standing until the judge sits down.

Bailiff: "All persons having business before the court may now approach the bench."

Judge: "The case(s) of _____ versus _____. Is the prosecution/plaintiff ready?"

Prosecution/Plaintiff's Attorney: (standing) "The prosecution/plaintiff is ready."

Judge: "Is the defendant ready?"

Defense Attorney: (standing) "The defendant is ready."

**II. Opening Statement to the Jury**

A. Purpose: To inform the jury of the nature and facts of the case. An opening statement is like a preview of a movie – you want to give the jury enough information so that it is interested in what will happen next but not so much information that it won't pay attention during the trial.

B. Include:
   1. Your name;
   2. Client's name;
   3. The facts and circumstances that led to bringing the case against the defendant or if you are the defendant, why you did not do anything wrong; and
   4. Conclusion.

C. Avoid:

1. A rundown of what each witness will testify to;

2. Exaggeration and overstatement- don't use such phrases as "it is crystal clear that the defendant committed the crime;"

3. Arguing - it violates the function of the opening, which is to provide the facts of the case from your client's viewpoint;

4. Telling the jury what you think the other side is going to say – the opening is about your case not about the other side.

## III. Script of an Opening Statement

People speak in a certain way in court. Here is an example of what an opening statement may sound like. You can use this example to help you plan your opening. If the exact words are too hard to pronounce or to remember, you can use similar words of your own.

Judge: "Does the prosecution/plaintiff wish to make an opening statement?"

Prosecution/Plaintiff's Attorney: (Standing) "Yes, your Honor."

"Good Morning/Afternoon your honor, ladies and gentlemen of the jury. My name is _____. I and my colleagues _____ represent _____. We are here today because _____."

Prosecution/Plaintiff's attorney proceeds with opening statement.

"Thank you." Prosecution/Plaintiff's attorney sits down.

Judge: " Does the defense wish to make an opening statement?"

Defense Attorney: (Standing) "Yes, your Honor."

"Good Morning/Afternoon your honor, ladies and gentlemen of the jury. My name is _____. I and my colleagues _____ represent _____. We are here today because _____."

Defendant's attorney proceeds with opening statement.

"Thank you." Defendant's attorney sits down.

## IV. Direct-Examination of a Witness

A. Purpose: To ask questions of witnesses that are favorable to your side in order to present your side of the story to the jury.

B. How to Proceed: Write a set of questions for each witness that you will call at trial. For example, if one of the facts in your story is, "Before that day, the dog bit three people," You may ask the following questions to get that fact into the evidence:

Has the dog ever bitten anyone else?
How many persons has the dog bitten?

C. Suggestions:

1. All witnesses you call to the stand should be asked identifying questions so that the jury can have an understanding of who that witness is. Some questions you may want to ask include: "What is your name? What is your occupation? Where do you live? Where do you work? Where do you go to school?"

2. Make sure that you ask only for facts favorable to your side of the story.

3. If you have physical evidence to present such as an exhibit or a demonstrative exhibit, you will need to ask certain questions of witnesses who can identify the evidence in order to get the exhibit into evidence. Please see page 29 for a model script of how to use exhibits at a trial.

4. Avoid complex or long-winded questions; questions should be clear and simple.

5. Be a "friendly guide" for the witnesses as they tell their stories.

6. Be prepared to gather information via questions and answers.

## V. Cross-Examination of Witnesses:

A. Purpose: To get the witness to admit to facts that will help your case and to negate your opponent's case by discrediting its witnesses.

B. Suggestions:

1. Listen carefully when the witnesses for the other side testify. You may want to ask questions on cross-examination about something the witness says. Remember, your aim in cross-

examination is to get the witness to admit some fact which will help your side, or to show the witness is lying, or is unsure or confused about his/her testimony.

2. Ask leading questions that the witness has to agree or disagree with. Don't ask "Why" because then the witness will get to tell his/her whole story which is not what you want the jury to hear.

3. Generally don't ask questions unless you know the answer because you do not want to be surprised by the answer.

4. Be fair, courteous; avoid the "Isn't it true ...?" type of questioning.

5. Avoid being rude or overly aggressive. It is fine to insist that the witness answer the question if he/she is avoiding it – it is not fine to yell at or browbeat the witness.

**VI. Script of A Direct-Examination and Cross-Examination of a Witness.**

Judge: "Will the prosecution/plaintiff call its first witness?"

Prosecution/Plaintiff's Attorney: (Standing) "Yes, your Honor. The prosecution/plaintiff calls _____."

Clerk: "Do you solemnly swear or affirm that your testimony will be the truth, the whole truth and nothing but the truth?"

Witness: "Yes."

Prosecution/Plaintiff's Attorney: Begin direct-examination of witness.
"Good morning/good afternoon Mr./Ms. _____.
Could you please state your name for the record?
Mr./Ms. _____ Where do you live?
And where do you go to school or where do you work?"

When prosecution/plaintiff's attorney is finished questioning the witness:

Prosecution/Plaintiff's Attorney: "Your honor, I have no further questions at this time."

Judge: "Does the defense wish to cross-examine this witness?"

Defense Attorney: "Yes, Your Honor."
Defense attorney proceeds with the cross-examination.

When defense attorney is finished questioning the witness:
Defense Attorney: "I have no further questions."

Judge (to the witness): "Thank you, you may step down."

Judge: "Does the prosecution/plaintiff have any further witnesses?"

Prosecution/Plaintiff's Attorney: Rise and say "yes" or "no," depending on whether you have more witnesses.

Judge: If prosecution/plaintiff's attorney says, "Yes," the Judge will instruct the prosecution/plaintiff to, "Call the next witness." If the lawyer says, "No, the prosecution/plaintiff rests," the Judge will then ask, "Is the defense ready?" The defense will then present its case through its witnesses. When all of the defense witnesses have testified, the defense attorney will tell the Judge that "the defense rests."

"We will have a one minute recess so the lawyers can prepare their closing arguments."

## Simplified Rules of Evidence

Elaborate rules are used to regulate the admission of evidence at trial. These rules are designed to ensure that both parties receive a fair hearing. This means that not everything an attorney wants to introduce to the jury can be introduced to the jury.

If an attorney believes that a rule of evidence is being violated, that attorney must make an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence should be admitted or excluded.

If an attorney does not make an objection, the evidence will be admitted by the judge. Thus, the burden is on an attorney to know the rules and to be able to use them to protect his/her client and to limit the actions of opposing counsel and his/her witnesses.

Formal rules of evidence are quite complicated and difficult. For the mock trial competition, the rules of evidence have been modified and simplified below.

Not all judges will interpret the rules of evidence the same way, and you must be prepared to point out the specific rule you think is being violated and to argue persuasively for the evidence to be excluded.

No matter which way the judge rules, accept the judge's ruling with courtesy.

Because the Rules are lengthy, teams should bring a copy of them to the competition so that they can refer to them if necessary.

**RULE 402. RELEVANCE OF EVIDENCE** – Relevant evidence is admissible at trial, but irrelevant evidence is not. Relevant evidence is physical evidence or testimony that makes a fact that is of consequence in the trial more or less likely. For example, the fact that a defendant is a volunteer at the local shelter is irrelevant to whether he was driving carelessly when he was involved in a car accident. If the defendant's lawyer attempts to introduce evidence of the defendant's volunteer work, then the Prosecution/Plaintiff's attorney can object that the testimony is irrelevant to whether the defendant is responsible for the car accident.

**RULE 403. UNFAIR PREJUDICE** - If relevant evidence is unfairly prejudicial, it may confuse the issues or waste the court's time, and it could be excluded by the court. This may include testimony, pieces of evidence and demonstrations that have no direct bearing on the issues of the case or making the issues clearer. For example, the fact that a defendant sued for driving carelessly is a billionaire would be unfairly prejudicial if introduced as evidence at trial because the jury might decide that because the defendant has a lot of money, it is okay to find that he caused the accident because he has the money to pay for the Plaintiff's medical bills.

**RULE 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes**

(a) **Character Evidence.** Evidence of a person's character or *character trait*, is not admissible to prove *action regarding* a particular occasion, except:

(1) **Character of accused.** Evidence of a pertinent character trait offered by an accused, or by the prosecution to rebut same;

(2) **Character of victim.** Evidence of a pertinent character trait of the victim of the crime offered by an accused, or by the prosecution to rebut same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the aggressor;

(3) **Character of witness.** Evidence of the character of a witness as provided in Rules 607, 608 and 609.

(b) **Other crimes, wrongs, or acts.** Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person in order to show an action conforms to character. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

**RULE 405. METHODS OF PROVING CHARACTER**

(a) **Reputation or opinion.** In all cases where evidence of character or a *character trait* is admissible, proof may be made by testimony as to reputation or in the form of an opinion. On cross-examination, *questions may be asked regarding relevant, specific conduct*.

(b) **Specific instances of conduct.** In cases where character or a character trait is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

**RULE 406. HABIT; ROUTINE PRACTICE -** Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization, on a particular occasion, was in conformity with the habit or routine practice.

**RULE 407. SUBSEQUENT REMEDIAL MEASURES -** *When measures are taken after an event which, if taken before*, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose; such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

**RULE 408. COMPROMISE AND OFFERS TO COMPROMISE -** Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negativing a contention of undue delay, or proving an effort to obstruct investigation or prosecution.

**RULE 409. PAYMENT OF MEDICAL OR SIMILAR EXPENSES -** Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

**RULE 410. INADMISSIBILITY OF PLEAS, PLEA DISCUSSIONS, AND RELATED STATEMENTS -** Except as otherwise provided in this Rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:

(1) a plea of guilty which was later withdrawn;

(2) a plea of nolo contendere;

(3) any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the forgoing pleas; or

(4) any statement made in the course of plea discussions made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty which is later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

**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 husband and wife;
2. communications between attorney and client;
3. communications among grand jurors;
4. secrets of state; and
5. communications between psychiatrist and patient.

**WITNESSES**

**RULE 601. GENERAL RULE OF COMPETENCY -** Every person is competent to be a witness.

**RULE 602. LACK OF PERSONAL KNOWLEDGE -** A witness may not testify to a matter unless *the witness has personal knowledge of the matter*. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses.

**RULE 607. WHO MAY IMPEACH -** The credibility of a witness may be attacked by any party, including the party calling the witness.

**RULE 608. EVIDENCE OF CHARACTER AND CONDUCT OF WITNESS**

(a) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations:

1. the evidence may refer only to character for truthfulness or untruthfulness, and
2. evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence, or otherwise.

(b) Specific instances of conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be asked on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

Testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination with respect to matters related only to credibility.

**RULE 609. IMPEACHMENT BY EVIDENCE OF CONVICTION OF CRIME -** *(this rule applies only to witnesses with prior convictions.)*

(a) **General Rule.** For the purpose of attacking the credibility of a witness, evidence that a witness other than the accused has been convicted of a crime shall be admitted if elicited from the witness or established by public record during cross-examination, but only if the crime was punishable by death or imprisonment in excess of one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.

(b) **Time Limit.** Evidence of a conviction under this Rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the Court determines that the value of the conviction substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) **Effect of pardon, annulment, or certificate of rehabilitation.** Evidence of a conviction is not admissible if (1) the conviction has been the subject of a pardon or other equivalent procedure based on a finding of the rehabilitation of the person convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, other equivalent procedure based on a finding of innocence.

(d) **Juvenile adjudications.** Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) Not applicable.

**RULE 611. MODE AND ORDER OF INTERROGATION AND PRESENTATION**
(a) **Control by Court.** The Court shall exercise reasonable control over questioning of witnesses and presenting evidence so as to:

1. make the *questioning* and presentation effective for ascertaining the truth,
2. to avoid needless *use* of time, and
3. protect witnesses from harassment or undue embarrassment.

(b) **Scope of cross-examination.** *The scope of 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, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.*

(c) **Leading questions**. Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness' testimony). Ordinarily, leading questions are permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used.

(d) **Redirect/Re-cross.** 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 re-cross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.

**RULE 612. WRITING USED TO REFRESH MEMORY -** If a written statement is used to refresh the memory of a witness either while or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross examine the witness on the material and introduce into evidence those portions which relate to the testimony of the witness.

**RULE 613. PRIOR STATEMENTS OF WITNESSES -** Examining witness concerning prior statement. In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

Extrinsic evidence of prior inconsistent statement of witness. Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate.

**RULE 701. WITNESS OPINION** - Witnesses may not give opinions on questions that require special knowledge or qualifications unless they are qualified as "experts". Non-expert witnesses may give opinions as to what they saw and heard if those opinions are related to the facts in issue and helpful in explaining their story. An expert may be called as a witness to render an opinion based on professional experience. An expert must be qualified by the attorney for the party for which the expert is testifying. This means that before an expert witness can be asked for an expert opinion, the questioning attorney must "bring out" the expert's qualifications and experience.

**RULE 702. EXPERT OPINION RULE** – If scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may give his or her opinion at trial on the subject of his or her expertise. For example, a plumber with twenty years of experience could give expert testimony on the proper way to install a hot water heater.

**RULE 703. BASIS OF OPINION TESTIMONY BY EXPERTS** – The facts or information upon which an expert bases his or her opinion can be those made known to the expert at or before trial. If the information is reasonably relied upon by experts in the field in forming opinions or inferences, the information need not be admissible in evidence. For example, a doctor testifying at trial as an expert on injuries can rely on x-rays of the Plaintiff's foot to determine the extent of the Plaintiff's foot injury.

**RULE 704. OPINION ON ULTIMATE ISSUE**

(a) opinion or inference testimony otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.

(b) In a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused.

For example, in a civil case between two drivers in an accident, an expert in accident reconstruction could testify that in her opinion, the accident was caused by the Defendant driving too fast. In a criminal case, an expert cannot testify that in his opinion the Defendant is guilty or innocent.

**RULE 802. HEARSAY RULE** - A statement made by someone other than the person testifying which is offered into evidence to prove the truth of the matter asserted. The credibility of the statement rests with someone other than the witness on the stand.

Example: Ms. Jones testified in court "My best friend, Ms. Smith, told me that Bill was driving a car 80 miles per hour." The Prosecution/Plaintiff wants to use this to prove that Bill was driving 80 miles an hour. It would be unfair to let Ms. Jones testify to this because Ms. Smith is not present for Bill's attorney to question.

If Ms. Jones' statement was offered however, to show that Ms. Smith could speak

English, then its value would hinge on Ms. Jones' credibility (who is under oath, present, and subject to cross-examination) rather than Ms. Smith's, and it would not be hearsay.

**RULE 803. HEARSAY EXCEPTIONS, AVAILABILITY OF DECLARANT IMMATERIAL**

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) Present sense impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then existing mental, emotional, or physical conditions. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purposes of medical diagnosis or treatment. Statements made for the purpose of medical diagnosis or treatment.

(5) Recorded Recollection. A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly.

(6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(18) Learned treatises. To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.

(21) Reputation as to character. Reputation of a person's character among associates or in the community.

(22) Judgment of previous conviction. Evidence of a judgment finding a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a

criminal prosecution for purposes other than impeachment, judgments against persons other than the accused.

**RULE 804. HEARSAY EXCEPTIONS, DECLARANT UNAVAILABLE**

**(a) Definition of unavailability.** "Unavailability as a witness" includes situations in which the declarant -

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or

(2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or

(3) testifies to a lack of memory of the subject matter of the declarant's statement; or

(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

**(b) Hearsay exceptions.** The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

**(1) Former testimony.** Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

**(2) Statement under belief of impending death.** In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be impending death.

**(3) Statement against interest.** A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

**(4) Statement of personal or family history.** (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though

declarant had no means of acquiring personal knowledge of the matter stated; (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

**(6) Forfeiture by wrongdoing.** A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

**RULE 805. HEARSAY WITHIN HEARSAY -** Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statement conforms with an exception to the hearsay rule provided in these rules.

## Procedure for Evidentiary Objections

It is not enough just to know what the rules of evidence are. In addition, an attorney must know the proper way to make an objection to the judge.

### I. When to Object

An attorney may object any time that he/she believes that an opposing attorney has violated the Simplified Rules of Evidence. An attorney should object as soon as he/she thinks a rule has been violated. If an attorney waits too long to object, the judge may decide that it is too late and will let the evidence in.

### II. Who may Object

Only the attorney who has conducted the direct-examination or who will conduct the cross-examination of the witness may object. For example:

> Prosecution/Plaintiff Attorney #1 conducts the direct-examination of Sam Snead.
>
> During the direct-examination, Defense Attorney #2 objects to a question.
>
> Prosecution/Plaintiff Attorney #1 finishes the direct-examination. Defense Attorney #2 conducts the cross-examination.
>
> Prosecution/Plaintiff Attorney #2 objects to a question. Because Prosecution/Plaintiff Attorney #2 did not conduct the direct-examination of Sam Snead, he/she cannot object to the cross-examination being done by Defense Attorney #2. Instead, Prosecution/Plaintiff Attorney #1 must object.

### III. Procedure for Objecting

The attorney wishing to object should stand up and do so at the time of the violation and say, "objection." The judge will ask the reason for the objection. Then the judge will turn to the attorney who asked the question, and that attorney usually will have a chance to explain why the objection should not be accepted ("sustained") by the judge. The judge will then "sustain" the objection, thereby disallowing the question or disregarding the answer; or the judge will "overrule" the objection, thereby allowing the question to be answered and entered on the trial record.

NOTE: Winning or losing the ruling on an objection is not what is important, but rather the presentation of your objection and your opponent's response (both verbally and strategically) to the objection and your poise in continuing your questioning after the ruling, is what is important.

**Procedure for the Introduction of Exhibits/Evidence**

1. All evidence must be pre-marked. This means that if you know you want to introduce something at trial, for example, the parties' contract, prior to the trial you should mark the Exhibit with a sticker that says what side you are on and what number exhibit it is. For example, "Prosecution/Plaintiff's Ex. 1". This helps the Judge and jury keep track of the exhibits later.

2. Tell the judge that you would like to show the witness what has been marked as Exhibit ___.

3. Show the exhibit to opposing counsel.

4. Ask for permission to approach the witness. "Your honor, may I approach the witness?" Give the exhibit to the witness.

5. Say to the witness: "I now hand to you what has been marked as Exhibit No. ___ for identification." The judge may ask to see the exhibit, in which case you should approach the bench and show the judge the exhibit.

6. Ask the witness to identify the exhibit. "Would you identify it, please?" or "Have you seen this before?" In order to get an exhibit into evidence, the witness must have seen the document or item previously. Thus, not all exhibits can be introduced through all witnesses.

7. Witness answers with identification only. "Yes, this is my baseball bat."

8. Offer the exhibit into evidence. "Your Honor, Prosecution/Plaintiff/Defendant offers Exhibit No. ___ into evidence at this time."

9. Judge: "Is there an objection?" If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.

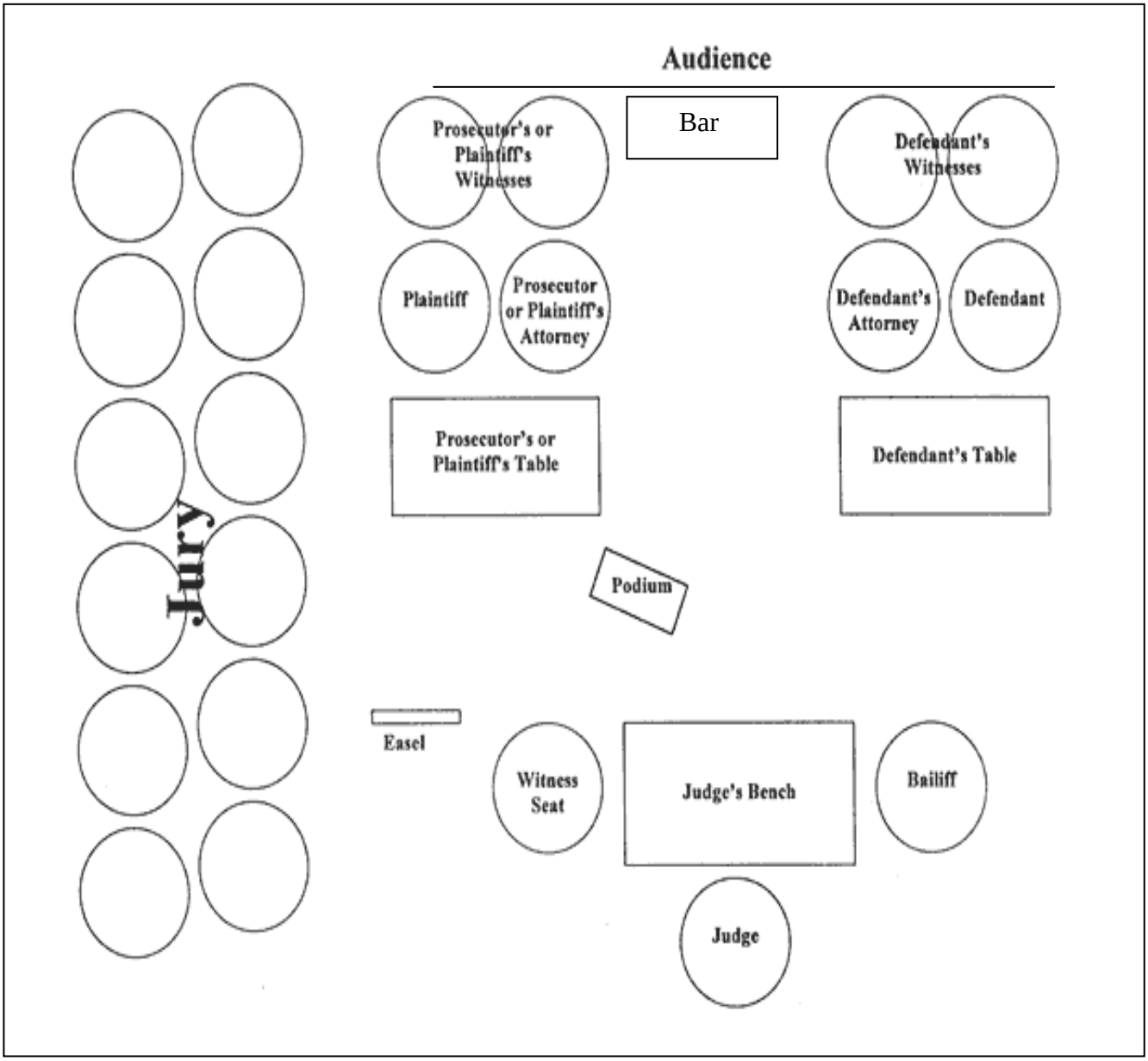
10. Opposing Counsel: "No, your Honor", or "Yes, your Honor." If opposing counsel objects, he/she should explain why. The other side will then be given the opportunity to respond.

11. Judge: "Exhibit No. ___ is/is not admitted."

12. Now that the exhibit has been introduced into evidence, the attorney can continue to ask questions about it to the witness. Once an exhibit has been introduced into evidence, either side may use it as part of the questioning of any witness.

***Please note that this entire process will be included in your total time for the trial.***

## MODEL DIAGRAM OF COURTROOM




**Please note that not all courtrooms will be set up in this manner. In general, the Prosecutor/Plaintiff sits at the table closest to the jury.**

## EXPLANATION OF THE MOCK TRIAL SCORING SHEET

### Performance Ratings

| POINT(S) | PERFORMANCE | CRITERIA FOR EVALUATING STUDENT PERFORMANCE |
|---|---|---|
| 1-2 | Unsatisfactory | Unsure of self, illogical, uninformed, not prepared, unable to convey ideas, rude. |
| 3-4 | Below Average | Minimally informed and prepared. Performance lacks depth of knowledge of role and courtroom procedure. Communication lacks clarity and conviction, uses notes extensively. |
| 5-6 | Average | Does not rely on script totally but is less confident than when using a script. Grasps major aspects of the case, but does not convey mastery of same. Communication is understandable, but could be stronger in fluency and persuasiveness. |
| 7-8 | Above Average | Fluent, persuasive, clear and understandable. Organizes materials and thoughts well and exhibits mastery of the case and legal proceedings. Good eye contact with jury. Makes objections but lacks mastery of the rules. |
| 9-10 | Outstanding | Superior in qualities listed for above average performance. Thinks well on feet, is logical, keeps poise under duress. Sorts essential from the nonessential and uses time effectively to accomplish major objectives. Demonstrates the ability to utilize all resources to emphasize vital points of the trial. Conducts self with civility. |

## Factors to Consider in Scoring

**OPENING STATEMENTS**
Provides a clear and concise description of the case, introduces key witnesses; states what the case will prove and/or the relief requested.

**DIRECT AND CROSS-EXAMINATIONS**
Uses properly phrased questions (who, what, where, when, how); uses proper courtroom procedure; demonstrates understanding of issues and facts; properly introduces evidence; defends or makes objections in clear and concise terms; complies with all rules of the competition and spirit of fair play.

**WITNESS PERFORMANCE**
Credible in their role; responds spontaneously; helps their side.

**CLOSING ARGUMENTS**
Demonstrates an ability to take evidence presented during the trial and incorporate it in closing, emphasizes the supporting points of their case; weaknesses in opponent's case.

**TEAM PERFORMANCE**
Shows complete, coherent case theme and presentation to jury; balanced roles among witnesses and attorneys. Each team member helps each other.

## NHBA Mock Trial Competition Score Sheet

Date: _____

Round of Competition: 1 2 3

P = Prosecution/Plaintiff: (Team)

D = Defense/Defendant: (Team)

On a score of 1 to 10, rate the teams for the Prosecution/Plaintiff and the Defense/Defendant in the categories below, recording one score in each blank. DO NOT use fractional points.

**Unsatisfactory Poor Average Above Average Excellent**

**1 2 3 4 5 6 7 8 9 10**

| | | **P** | | **D** |
|---|---|---|---|---|
| Opening Statements | | (__) | | (__) |
| Prosecution/Plaintiff/ First Witness | Direct-Examination | (__) | Cross-Examination | (__) |
| | Witness Performance | (__) | | |
| Prosecution/Plaintiff/ Second Witness | Direct- Examination | (__) | Cross-Examination | (__) |
| | Witness Performance | (__) | | |
| Prosecution/Plaintiff/ Third Witness | Direct- Examination | (__) | Cross-Examination | (__) |
| | Witness Performance | (__) | | |
| Defense/Defendant/ First Witness | Cross- Examination | (__) | Direct-Examination | (__) |
| | | | Witness Performance | (__) |
| Defense/Defendant/ Second Witness | Cross- Examination | (__) | Direct-Examination | (__) |
| | | | Witness Performance | (__) |
| Defense/Defendant/ Third Witness | Cross- Examination | (__) | Direct-Examination | (__) |
| | | | Witness Performance | (__) |
| Closing Arguments | | (__) | | (__) |
| Team Performance | | (__) | | (__) |

**Please do not add the scores, or provide a verdict to the teams.**

_____

**Judge's Name (please print)**

**Penalties assessed & explanation for same:**

_____

## Questions for Class Discussion Following Mock Trial

Objective: Students will analyze what they learned from taking part in a mock trial.

1. Who is the most important person in the courtroom? Why?
2. What relief did the prosecution/plaintiff seek?
3. Do you think the parties could have reached a mutual settlement or plea bargain out of court? Why or why not?
4. Describe the strategies used by each legal team.
5. Do you think that justice was achieved in this case?
6. If you were tried for a criminal or civil offense, would you prefer a bench trial or a jury trial? Why or why not?
7. Is there other evidence that would have been useful for the lawyers to present? What would it have been and how would it have been useful?
8. Are there other questions you would have asked the witnesses who testified?
9. What other question (questions) would you have asked the witnesses who testified?
10. What legal questions or issues were raised by the case?
11. What part did you play in the trial? Explain how you felt about this role.
12. "Juries have an important role, but often don't feel as important as they should." Do you agree or disagree with this statement? Explain your reasons.
13. Why might it be necessary to have a lawyer when going to court?
14. Can you give any reasons why a trial might take months to prepare?
15. Important aspects on whether or not a trial is fair include:
    a. Was the jury unbiased?
    b. Did the defendant have the opportunity to have a lawyer?
    c. Was unreliable evidence excluded from the trial?
    d. Were witnesses presented and cross-examined?
    e. Was the defendant present in the courtroom?
    f. Did the judge keep order in the courtroom and apply the law correctly?
    g. Based on these points, did the defendant in your trial receive a fair trial?
16. What is the most important thing you learned by participating in the Mock Trial program?
17. If your class could do the trial over again, what would you do differently?
18. Are there grounds for appeal?
19. Discuss the verdict in the case: Do you think it was fair? Why or why not?

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