

# MEMO

TO: All Mock Trial Participants

FROM: Atty. Kevin Lonergan, Chair, Public Education Committee  
Marsha Varvil-Weld, Public Education Program Manager

RE: 2014 Mock Trial Tournament

DATE: September 2013

On behalf of the State Bar of Wisconsin's Public Education Committee, we welcome your participation in the 2014 Mock Trial Program. We are very pleased you decided to join us this year.

We are grateful to the members of the State Bar Mock Trial Writing Committee for writing this year's case. Each year the case writing committee attempts to write a case based on the previous years' suggestions that will captivate you during your many hours of preparation. This year's mock trial case involves high school student, Taylor Hamilton. The victim is Alex Cooper. When Taylor's car collided with Alex, he was badly injured. Was Taylor careful enough or was Taylor distracted by friends and a text message?

As you prepare the case, please remember the goal of this program is participation, not competition. The mock trial website, located at [www.wisbar.org/lre](http://www.wisbar.org/lre), will be your source for information regarding the case and the tournament throughout the next several months.

There are hundreds of volunteers that make this program work. Please take time to thank those people who have helped make the tournament a success from year to year. Your teacher and attorney coaches, the tournament coordinators, judges, case writers, sponsors, funders and court personnel all enable us to provide you with a unique educational opportunity. Sometimes just saying "thank you" is enough.

And of course, we thank you, the students, for your continued enthusiasm, participation and support for this program.

Have fun!


**The State Bar of Wisconsin's Public Education Committee  
would like to extend a sincere thank you to our  
major sponsors. Their support is crucial  
to the success of the Mock Trial Program.**

## **Major Sponsors**

State Bar of Wisconsin  
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**The State Bar of Wisconsin also wishes to acknowledge  
the following donors for their generous support  
of the Mock Trial Program:**

### **Mock trial gifts through August 2013 include:**

American Board of Trial Advocates

State Bar of Wisconsin – Criminal Law Section

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Wisconsin Association of Criminal Defense Lawyers

Henak Law Office SC

**THANK YOU!**

**A special thank you to the following people for their time and assistance in developing the 2014 case materials:**

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Atty. Kristen Lonergan  
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Atty. Michael Rosenberg  
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Atty. Tonya Turchik

**The following people were instrumental in the guidance and review of the 2014 case materials:**

Atty. Ellen Henak  
Atty. Emily Lonergan  
Atty. Michael Rosenberg

**THANK YOU!**

## 2013-2014 Mock Trial Tournament Dates

Mock Trial Case Materials Released.....	Oct. 1, 2013
Mock Trial Coaches Conference.....	Oct. 21, 2013
Final entry deadline.....	Dec. 13, 2013
Team Drop Deadline.....	Jan. 10, 2014
Regional Tournaments..... At various locations around the state	Feb. 8, 2014
Tie-Breaker Rounds..... (if necessary)	Feb. 15, 2014
State Semi-Finals..... Dane County Courthouse Madison	Mar. 9, 2014
Awards Banquet..... Lowell Center Madison	Mar. 9, 2014
State Finals..... Wisconsin Supreme Court Madison	Mar. 10, 2014
National Championship..... Madison, WI	May 8-10, 2014

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## **Mission Statement**

The mission of the Wisconsin High School Mock Trial Program is to foster understanding and respect for the legal system and the rule of law.

## **Goals of mock trial**

- (a) To promote greater understanding and appreciation for the law, court procedures, and the American judicial system;
- (b) To improve basic life skills, such as critical thinking, communication, and advocacy skills;
- (c) To improve communication and cooperation among community members, including students, teachers, government leaders, law professionals and citizens;
- (d) To heighten appreciation for the principle of equal justice for all;
- (e) To promote an awareness of current legal issues;
- (f) To promote the exchange of ideas among students from throughout Wisconsin while providing a fun, rewarding and memorable experience of interaction;
- (g) To foster teamwork, collaboration, and cooperation among young people of diverse interests and abilities.

## **Philosophy**

Participation in the Wisconsin High School Mock Trial program is completely voluntary. The opportunity to actively participate in the learning process through healthy competition provides a unique educational opportunity for young people. The education of young people is a primary goal of the mock trial program. Involvement does, however, require a commitment on the participants' part to respect the goals and philosophy of the program.

For the purposes of the mock trial program, participants are defined as students, observers, teacher-coaches, attorney-coaches, coordinators and volunteer judges.

Participants are expected to demonstrate exemplary conduct both in and out of the courtroom during all mock trial-related functions. All participants must maintain standards of conduct that insure the respect of each participant.

As a means of diligent application of the Wisconsin Mock Trial Tournament's Rules of Competition, the Public Education Committee of the State Bar has adopted the following Code of Ethical Conduct for all participants:

## **Code of Ethical Conduct**

**§1** All participants and observers will promote and practice the ideals of good sportsmanship and show respect to the opposing team, observers, mock trial administrators, coordinators, judges, and other volunteers. Mock trial participants shall do all of the following:

- (a) Maintain a cordial and respectful demeanor and be guided by a fundamental sense of integrity and fair play in all mock trial activities;
- (b) Be civil in their dealings with one another and with the public and conduct all proceedings with civility and respect for each of the participants and facilities;

- (c) Abstain from making disparaging, demeaning or sarcastic remarks or comments about one another and abstain from any conduct that may be characterized as uncivil, abrasive, hostile, or destructive;
- (d) While participating in court, dress in a manner showing proper respect for the court, the proceedings and the law;
- (e) Advise team observers that proper conduct is expected within the courthouse and, where possible, prevent team members and non-team members from creating disorder or disruption;
- (f) Conduct themselves in a manner that demonstrates sensitivity to the necessity of preserving decorum and the integrity of the judicial process by adhering to courtesy, good manners and dignity.

**§2** All participants will focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly, and with the utmost civility. Members will not willfully violate the Rules of the Competition in spirit or in practice.

**§3** Teacher Coaches agree to focus attention on the educational value of the Mock Trial Tournament. They shall discourage willful violations of the Rules. Teachers will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the competition's Rules and this Code of Ethical Conduct.

**§4** Attorney Coaches agree to uphold the highest standards of the legal profession and will zealously encourage fair play. They will promote conduct and decorum in accordance with the competition's Rules and Code of Ethical Conduct. Attorney Coaches are reminded that they are in a position of authority and thus serve as positive role models for the students.

**§5** Presiding judges and evaluators are asked to observe the trials with an objective eye. Interjecting one's own personal style and biases is of no value in the education process. Team members have agreed to abide by the Rules and this Code in spirit and in practice; therefore, violations should result in a lowering of the score. All judges and evaluators should be prepared and knowledgeable about the Code of Ethical Conduct, the Rules of the competition, the case materials, and the procedures.

**§6** All participants are bound by all sections of this Code and agree to abide by the provisions. Teams are responsible for insuring that all observers are aware of the Code. Violations of the Code of Ethical Conduct will be grounds for reductions in team scores and can result in suspension or dismissal from the program by the regional or state coordinator

# TOURNAMENT FORMAT

## I. REGIONAL FORMAT

### A. Number of regions

For purposes of this tournament, the state will be divided into regions, with each region sending one team to the state tournament. The number of regions each year is determined by the number of teams registered to participate in mock trial. It is preferred that each region have 8-12 teams. After the final entry date of **December 13, 2013**, teams will be notified of their assigned regions.

### B. Size of Regions

In an attempt to even out the number of teams in each region, the minimum number of teams in a region will be six, and the maximum number of teams in a region will be fourteen. If there are fewer than six teams registered in one particular region by the final entry date, those teams may be moved to the next closest region that can accommodate them.

If a region falls under six teams **after** the drop deadline, every effort will be made to make an adjustment if possible.

### C. Regional tournament overview

The regional tournament is a one-day event with each school participating.

**NOTE:** Every attempt will be made to avoid having regions with an odd number of teams participating. (See **Rule 5.8** of the Rules of Competition for a more detailed explanation.)

Each team participates in four trials, alternating side presentation in subsequent rounds whenever possible. The daily schedule is determined by random draw in the first round of competition. Power-matching is used to pair teams during all subsequent rounds of competition. At the end of the day, the tournament coordinator compiles the win/loss record of each team; the number of ballots each team has received; and the total number of points awarded each team. The regional winning team is determined by the team with the best win/loss record (first); the highest number of ballots (second); or, if teams are tied in the first two categories, the greatest number of points (third). If all criteria above are tied and the teams have competed against each other, the team winning in the head-to-head competition will be declared the winner.

### **Wild Card Teams (NEW)**

1. The total number of teams participating in the state semifinals will be 14.

2. The Advisory Board has removed the previous “Rhinelander” Rule.
3. Due to the uncertain number of regions each year, the state coordinator may deem it necessary to utilize wild card teams to ensure that there is a total of 14 teams available for the state competition. If there is no second place tournament to determine which second place teams participate in state semifinals and:
4. If wild card teams are needed for state, the chosen team(s) shall be randomly drawn from the second-place teams; and
5. No school can send more than one team to state.

D. Team Presentation (NEW)

Teams should be prepared for the possibility that they may have to play one side of the case three times. Side presentation rules state:

1. If a team has competed against another team previously, they cannot play the same side;
2. If a team has played one side 3 times, they automatically play the other side, and;
3. If both teams have played the same side 3 times, a coin toss determines side presentation.

**Note:** Teams should never play a team they have previously competed against. If possible, they should also never be judged by the same judging panel more than once.

**Remember:** If a school has more than one team entered in the tournament, it is possible that the teams will compete against each other. There will be no attempt to avoid this possibility in any round of competition in the tournament. Random means exactly that – random!

E. Tied Teams

**In the event of a tie**, if the teams **have met** each other previously, the team that won the earlier round is declared the regional champion. If the teams **have not met** previously, tie-breaker rounds are scheduled for the week following the regional competition. Side-presentation for tie-breaker rounds is determined by random draw in the first round and alternating sides for the following rounds.

**If more than two teams are tied** with the same overall win/loss record; ballots; and points; all tied teams [*assuming they have not met previously*] play-off to determine the regional winner. For example: Teams A, B, C and D have tied.

Assuming none of the teams have met each other previously, pairings are determined by random draw. The winners of the round then play each other to determine who will represent that region at the state level. If possible, the final two teams alternate the side of the case presented.

**In the event of a tie with an odd number of teams**, the team that receives the bye is determined by random draw. The winner of the first round then plays the team receiving the bye to determine the regional winning team.

The play-offs will be held on Saturday, February 15, 2014, if a play-off is necessary. The regional tournament coordinator determines the time and location. **Any team not able to play-off on that date forfeits.** *In emergency situations, an alternate date may be decided by the regional coordinator.* Both teams must agree to the alternate date and the state mock trial coordinator must approve it.

The regional coordinator chooses **all** judges for the play-off.

All teams at the regional level are ranked according to overall win/loss records, judges' ballots, and performance points, in that order.

F. Scoring and score sheets

One teacher-coach and one attorney-coach from different schools may assist the regional coordinator with scoring as requested. They may help the coordinator by double-checking scores and assisting with power-matching if requested.

Scoring disputes are not appealable. Any disputes in scores must be resolved before the regional tournament is concluded and cannot be appealed at a later time.

G. Appeals

Because power-matching and scoring are very closely linked, there is no satisfactory or timely solution to power-matching errors and scoring errors other than a complete redo of that particular tournament which is affected. Therefore, there will be no appeals allowed regarding power-matching or scoring errors. The only appeals heard will be strictly rules violations or violations of the Code of Conduct. [Please see the appeals form in the coordinator section of the handbook.]

Every effort will be made to ensure a successful and rewarding tournament experience for all those who participate. As in past years, every effort will continue to be made to ensure that the program is administered to the highest standard possible.

H. Forfeiture

If a regional winning team withdraws or forfeits its right to participate at the state tournament for any reason, the State Mock Trial Coordinator, in consultation with

the Mock Trial Advisory Board, has the authority to determine which, if any, team will participate in its place.

## II. STATE FORMAT

A. Regional winners compete in the state tournament. The **state tournament** is a two-day event, with four semifinal rounds on the first day and the final round on the second day.

1. On the first day, each team competes in four trials. The first round is matched by random draw; the remaining rounds are power-matched. Power-matching is the standard system used at the National Mock Trial Championship. Under power-matching, teams are matched according to their win/loss records so they compete against other teams with similar records. This insures that teams in the final round meet equally skilled teams in the semifinal rounds.
2. Teams' win/loss records, judges' ballots and cumulative points determine advancement and brackets. Scores from the judges are entered into the Wisconsin High School Mock Trial computer software application which then calculates the brackets teams fall into. The scoring software is programmed according to the National High School Mock Trial scoring criteria. Within each bracket, teams are power-matched with the top team playing the bottom team and the two middle teams playing each other. If a tie exists at the end of the four rounds, the advancing two teams are the ones that have the highest achievement in the following categories, respectively: (1) win/loss records, (2) judges' ballots, and (3) cumulative points. Point spread is used to break ties within the bracket only. If all criteria are tied and the teams have played each other previously, the winner of that round will be declared the winner.

During the tournament, each team presents both sides of the case. To the greatest extent possible, teams alternate side presentation in subsequent rounds. **However, power-matching assures bracket integrity over side presentation.** [Please see power-matching explanation in handbook.] So it is possible that a team could play one side of the case three times and the other side only once.

3. At the end of the day, the state coordinator compiles the win/loss record of each team. The two teams with the best win/loss records advance to the finals. Once the two teams have been announced, the decision is final. *There are NO appeals allowed following the announcement.*

4. The final round of the state competition is judged by justices from the Wisconsin Supreme Court on the day following the semifinals. The winner of the final round is declared the state champion.
5. The state champion is eligible to participate in the national competition in Madison, WI in May, 2014. If the first place team cannot participate, the second place team is eligible. Should neither team be able to participate, the State Bar of Wisconsin will determine a participant. Each team participating in the national championship may send up to eight students (six participating as witnesses and attorneys, and two alternates) to the national tournament. Each team may send one additional student to act as a timekeeper at all trials. If the timekeeper is the ninth student on the team, he/she is not considered part of the official team.

Schools are encouraged to fund as much of their own expenses for the national tournament as possible. However, the State Bar of Wisconsin will donate \$2,000 to the state championship team to help defray the cost of traveling to the national tournament.

## COMPETITION RULES

The Wisconsin High School Mock Trial Competition is governed by the Rules of the Competition and the Wisconsin High School Mock Trial Federal Rules of Evidence. Any clarification of rules or case materials will be issued by email to all participating teams no less than two weeks prior to the regional and state tournaments.

### **I. ADMINISTRATION**

#### **Rule 1.1. Rules**

All trials will be governed by the Rules of the Wisconsin High School Mock Trial Competition and the Wisconsin High School Mock Trial Federal Rules of Evidence.

Every team is responsible for knowing and following the rules. Teacher and attorney coaches are responsible for their team members. Minor, repeated, or flagrant violations of the rules, may result in a reduction of team points during any given round or disqualification from the competition. The decision as to appropriate penalty is at the discretion of the site tournament coordinator.

All teams are responsible for the conduct of persons associated with their teams throughout the mock trial event.

Serious disciplinary infractions in any area of the program can result in suspension or dismissal from the program by the State Coordinator. Questions or interpretations of these rules are at the discretion of the State Coordinator, his/her designee, or the Appeals Panel, whose decision is final.

#### **Rule 1.2. Code of Conduct**

The Rules of the Competition, as well as proper rules of courthouse and courtroom decorum and security, must be followed. The Mock Trial Coordinator possesses discretion to impose sanctions, up to and including forfeiture or disqualification, for any misconduct, flagrant rule violations or breaches of decorum, which affect the conduct of a trial or impugn the reputation or integrity of any team, school, participant, court officer, judge or the mock trial program. [See also Rules 6.1 and 6.2].

#### **Rule 1.3. Emergencies**

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 that would cause a team to be unable to continue a trial or to participate with less than six members, the team must notify the tournament coordinator as soon as reasonably practical. If the coordinator, in his or her sole discretion, agrees that an emergency exists, he or she shall declare an emergency and will decide whether the team will forfeit or may direct that the team take appropriate measures to continue any trial round with less than six members. A penalty may be assessed.



A forfeiting team will receive a loss and points totaling the average number of the ballots and points equal to the average of its own ballots and points earned in subsequent rounds, if possible. The non-forfeiting team will receive a win and an average number of ballots and points totaling the average number of the ballots and points equal to the average of its own ballots and points earned in subsequent rounds.

The site coordinator will make the final determination of emergency, forfeiture, reduction of points, or advancement.

#### **Rule 1.4. Tournament Coordinators**

The State Coordinator shall establish the date and location for the mock trial regional, semifinal and final round competitions. Regional Coordinators shall determine times for the regional competition and have the authority to make decisions on-site. Should any irregularities in the competition occur, the Regional Coordinator shall confer with the State Coordinator when possible, to resolve any issues. Participants must comply with dates, times or decisions made by Coordinators or withdraw from the tournament.

#### **Rule 1.5. Attorney Coaches**

Attorney Coaches with a child entered in the tournament can coach his or her child's mock trial team and may also act as a judge (if needed) for any of the trials during the tournament, except those trials in which his or her child is competing. Attorney coaches will be asked to judge only in emergency situations.

#### **Rule 1.6. Drop Deadline**

Schools that drop a team after the drop deadline of **January 10, 2014** will be placed on probation the following year. The District Administrator for the school will be notified of this probation. If a school on probation drops a team for a second year after the deadline, the Mock Trial Advisory Board has the option of barring that school from competition the following year or limiting the number of teams it may register.

If a team drops out of the competition without notice after 5:00 p.m. the Thursday prior to competition for reasons other than “An Act of God”, the school will not be allowed to compete for at least one year.

The Mock Trial Advisory Board reviews all appeals on the status of participation for those schools violating the drop policy.

#### **Rule 1.7 Appropriate Dress for All Participants**

All participants in the mock trial program, including judges, coaches, team members, and coordinators, are expected to wear appropriate dress for a courtroom. Judges, coaches, and coordinators should remember that their appearance helps set the tone. Although team members need not wear suits or skirts, all participants should be clean and neat and avoid revealing clothing.

Participants also are urged to wear clothing that fits and to avoid wearing any jewelry, shoes or hair styles which may become distracting.

## **II. THE CASE**

### **Rule 2.1. The Case**

The case is an original fact pattern that may contain any or all of the following: statement of facts, indictment, stipulations, witness statements/affidavits, jury charges, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered.

The case shall consist of three witnesses per side, all of whom shall have names and characteristics that would allow them to be played by either males or females. All three of the witnesses must be called and examined by each side.

### **Rule 2.2. Witnesses Bound by Statements (REVISED)**

Each witness is bound by the facts contained in his/her own witness statement, the Statement of the Case or Statement of Facts, if present, and/or any necessary documentation relevant to his/her testimony. In addition, reasonable inferences may be made from the witness' statement. If a witness is asked information not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue in the case.

If a witness testifies outside of the facts in the witness statements, the witness may be impeached on cross examination and the matter may be dealt with in closing argument or through the testimony of other witnesses.

Scoring judges must take into account in their scoring whether a witness testified to the facts not in the witness' statement. In doing so, scoring judges may consider whether the witness was asked on cross-examination for information that was not contained in the witness's statement. Scoring judges also must take into account in their scoring of the attorney whether the attorney created the situation and whether the attorney effectively dealt with the situation in cross examination and/or in closing argument.

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

### **Rule 2.3 Unfair Extrapolation (NEW)**

[Omitted]

### **Rule 2.4. Gender of Witnesses**

All witnesses are gender-neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any student may portray the role of any witness of either gender.

### **Rule 2.5. Voir Dire**

Voir dire examination of a witness is not permitted.

### **III. TEAMS**

#### **Rule 3.1 Team Conduct**

All participants are expected to display proper courtroom decorum and sportsmanlike conduct.

The selling of individual team merchandise during regional or state competitions is not permitted.

#### **Rule 3.2. Team Eligibility**

Teams competing in the Wisconsin High School Mock Trial Competition must be comprised of students enrolled in grades 9-12 at the time of the competition. This rule specifically prohibits those students who graduate in December or January, prior to the competition, from participating.

Students enrolled at a school that does not have a mock trial team may be permitted to participate on a team at a nearby school that does have a mock trial team as long as the school permits it, and as long as the student meets all the other criteria for participation. Similarly, two schools that do not have the resources (students, financial) to field a mock trial team, but can support a team by combining resources with another school, are allowed to do so. Exceptions regarding eligibility issues are made on a case-by-case basis and should be directed to the State Coordinator.

A team that earns a berth at the state tournament must be comprised of the same students (including alternates) that participated in the regional tournament. This rule specifically prohibits a school from choosing among students from two teams to select participants for the state team.

In emergency situations, one team member substitution will be allowed for participation at the state tournament with the State Coordinator's prior permission.

#### **Rule 3.3 Team Sponsor**

Each school must have present at all times during State Bar sponsored competitions, a teacher coach or other school administrative staff person designated by the school to be responsible for the team(s).

#### **Rule 3.4. Team Composition**

Ideally, teams consist of at least **eight** members with **six** members assigned to roles representing the Petitioner/Plaintiff and Defense/Defendant side, and at least **two** alternate members, whose duties may be assigned at the discretion of the team's coach(es). Teams may have up to a total of **twelve** members. However, only **six** members, not including a timekeeper, may participate in any given round. Each team's timekeeper is considered part of the official team. [See Rule 3.5 and Rule 3.6 for further explanation.] If a team has only six members, the team may use members who serve as witnesses to fill the timekeeping role. If a team is using witnesses to fill the timekeeping role, two members may trade off timekeeping during a single round, but must do so without disrupting the trial.

The Team Roster must be **submitted to the State Coordinator one week prior to the regional tournament**. The Team Roster is official at that time and no additional students will be permitted to be added. The submitted roster is the official team for the regional tournament and also for the semifinals and championship rounds, should the team qualify.

### **Rule 3.5. Team Presentation**

Teams must present both the Petitioner/Plaintiff and Defense/Defendant sides of the case at least once, using six team members in each trial round, exclusive of the timekeeper. For each trial round, teams shall use three students as attorneys and three students as witnesses. Each team may have up to twelve students (including the timekeeper) with six students being used as alternates. Team members may switch positions from trial to trial but, with the exception of the timekeeper role in teams of only six students, may not switch positions during a single trial.

### **Rule 3.6. Team Duties**

Team members are to evenly divide their duties. Each of the three attorneys will conduct one direct examination and one cross-examination; in addition, one will present the opening statement and another will present the closing argument.

In other words, the eight attorney duties for each team will be divided as follows:

- A. Opening Statement
- B. Direct Examination of Witness #1
- C. Direct Examination of Witness #2
- D. Direct Examination of Witness #3
- E. Cross Examination of Witness #1
- F. Cross Examination of Witness #2
- G. Cross Examination of Witness #3
- H. Closing Argument (including Rebuttal) [See Rule 4.5]

Opening Statements must be given by both sides at the beginning of the trial. The opening statement and closing argument must be given by different attorneys on each team.

The attorney examining a particular witness on direct examination is the only person who may object to the opposing attorney's questions. The attorney cross-examining a witness will be the only one permitted to make objections during the direct examination of that witness.

Each team must call three witnesses. Witnesses must be called only by their own team and examined by both sides. Witnesses may not be recalled by either side.

### **Rule 3.7. Team Roster Form**

Schools participating in the tournament must **submit a team roster (page 46)** to the State Coordinator by **3:00 p.m. on the Friday one week before the regional tournament**. The roster must include all team members, coaches and timekeeper. All students participating on the team should be identified along with the team ID and school name. The team roster becomes the official team roster for both the regional and state competitions. Only those names appearing on

the roster will be eligible for state participation should the team qualify. The timekeeper should be included on the roster.

Each team should have **nine** copies of the Team Roster Form (page 47) filled out prior to arrival at the courthouse for the regional tournament. One copy must be turned in to the regional coordinator. Teams must also provide a completed roster to the presiding judge and to the opposing team prior to each of the four rounds of the competition. Teams traveling on to participate in the semifinals must also bring **nine** copies of the team roster for distribution at the semifinals.

Teams must identify themselves by the team identification number assigned at registration. It is imperative that team numbers are not switched. Team results are recorded by team number. If there is any attempt to switch numbers, even between teams from the same school, those teams will be disqualified. No information identifying school or team origin should appear on the roster form. The roster should identify the gender of each witness so references to such parties can be made in the proper gender.

#### **IV. THE TRIAL**

##### **Rule 4.1. Courtroom Setting**

The (Petitioner/Plaintiff) team shall be seated closest to the jury box. No team shall rearrange the courtroom without prior permission of the presiding judge.

Teams should be in their assigned courtrooms no later than ten minutes prior to the starting time of each trial. If a team has not arrived ten minutes after the scheduled starting time, the presiding judge may declare a forfeit. Extenuating circumstances, such as weather conditions, may be taken into consideration by the judge.

##### **Rule 4.2. Stipulations**

Stipulations shall be considered part of the record and already admitted into evidence.

##### **Rule 4.3. Reading into the Record Not Permitted**

Stipulations, the indictment, or the charge to the jury will not be read into the record.

##### **Rule 4.4. Swearing of Witnesses**

The following oath may be used before questioning begins:

"Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth?"

The swearing of witnesses will occur in one of two ways. Either the presiding judge will indicate all witnesses are assumed to be sworn, or the above oath will be conducted by (a) the presiding judge, (b) a bailiff provided by one of the teams; or (c) the examining attorney. Witnesses may stand or sit during the oath.

#### **Rule 4.5. Trial Sequence and Time Limits**

Each team is given a total of 40 minutes to present its case. Each team may determine how to utilize the time allotment. The following are guidelines that can be used in preparing arguments.

The trial sequence and suggested (not mandatory) time limits are as follows:

- A. Opening Statement (3 minutes)
- B. Direct or Redirect (20 minutes)
- C. Cross or Recross (15 minutes)
- D. Closing Argument (2 minutes)

The (Petitioner/Plaintiff) gives the opening statement first. The (Petitioner/Plaintiff) gives the closing argument first and the (Petitioner/Plaintiff) may reserve a portion of its closing time for a rebuttal. The (Petitioner/Plaintiff) rebuttal is limited to the scope of the Defense's closing argument.

#### **Rule 4.6. Timekeeping (REVISED)**

Time limits are mandatory and will be enforced. The judges are instructed to take into account a team's adherence to the total time allotment when making performance evaluations. Thus, it is to each team's advantage to have an accurate timekeeper and to keep its presentation within the 40-minute allotment.

Each team is required to have its own timekeeper. One timekeeper per trial may be used if both sides agree prior to trial. The timekeeper should use a stopwatch [not a watch] to keep time. **The timekeeper is considered part of the official team and therefore, cannot be a teacher or attorney coach.**

Timekeepers from each team are encouraged to sit next to each other during the trial and to consult with each other.

Timekeeping aids, including timekeeping cards, are allowed as long as they are not disruptive in any way.

Objections, questioning from the judge, administering the oath, and a witness's review of his/her own affidavit during cross-examination, are not counted as part of the 40-minute time allotment.

**NOTE:** Time **does not stop** for introduction of exhibits or for teams requesting time to regroup.

#### **Rule 4.7. Time Extensions and Scoring**

Teams will have points deducted for going over the 40-minute time allotment. However, the presiding judge has sole discretion to grant time extensions. Presiding judges are instructed to communicate time violations on the *Presiding Judge Score Sheet*. The point deductions (per score sheet) are automatically deducted by the scoring software according to the violations below:

**Time Violation**

less than one minute  
one-two minutes  
two-three minutes  
three-four minutes  
four-five minutes  
over five minutes

**Point Deduction**

one point  
two points  
three points  
four points  
five points  
10 points

**Rule 4.8. Motions Prohibited**

No motions may be made other than motions to strike testimony after a sustained objection and motions to admit documentary evidence (i.e. "I move the admission of Exhibit 1.").

In the event of an emergency, a recess may be called. Should a recess be called, teams are not to communicate with any observers, coaches, or judges. Any violations of this shall be handled at the discretion of the presiding judge and could result in a penalty by point deduction.

**Rule 4.9. Sequestration**

Teams may not invoke the rule of sequestration.

**Rule 4.10. Bench Conferences**

Bench conferences may be granted at the discretion of the presiding judge, but should be held from the counsel table in the educational interest of handling all matters in open court.

**Rule 4.11. Supplemental Material/Costuming**

Teams may refer only to materials included in the trial packet. No illustrative aids of any kind may be used, unless provided in the case materials. No enlargements of the case materials will be permitted. Absolutely no props or costumes are permitted unless authorized specifically in the case materials. Costuming is defined as hairstyles, clothing, accessories, and makeup, which are case specific. Costuming does not include physical acting, such as accents or limps.

**Rule 4.12. Trial Communication**

Coaches, alternates and observers shall not talk to, text, signal, communicate with, or coach their teams during trial. This rule remains in force during any emergency recess time that may occur. Team members may communicate, among themselves, during the trial; however, no disruptive communication is allowed. Signaling of time by the teams' timekeepers shall not be considered a violation of this rule.

Coaches, alternates, and observers must remain outside the bar in the spectator section of the courtroom and may not communicate with any member of their participating team during competition (which includes any breaks that may occur in the trial). Only team members participating in the round may sit inside the bar and communicate with each other.

Coaches, team members and observers are prohibited from discussing any other team's performance with coaches from other schools and other teams (including their own) that have not yet competed against the team observed. Use of any type of electronic device or social media is considered a form of discussion. [See also Rule 4.26].

Participants may not discuss their team's performance or any other teams' performance with any of the judges during the competition, including breaks and recesses. Further, it is **not** permissible to contact a judge after the tournament at his/her home or place of business.

#### **Rule 4.26 Restrictions on Use of Social Media During the Tournament**

While participating in any tournament, coaches, team members and observers are prohibited from using any electronic devices, including any computer or telephone of any kind, to communicate with anyone concerning the conduct of any trial round, including any information concerning the performance, presentation, members, appearance, or conduct of his or her own team or any other team. This prohibition applies to communication by blog, email, text message, Twitter, or in any other way on a computer, cell phone, or other device. Use of an electronic device to solely disseminate coordinator-posted information, including the location and time of a round is permissible. (Please note that the school name of an opponent is not posted.)

#### **Rule 4.13. Viewing a Trial**

Team members, alternates, attorney-coaches, teacher-coaches, and all other persons directly associated with a mock trial team are not allowed to view other teams' performances during the competition, as long as their team remains in the competition. Any exceptions to this rule must be authorized by the State Coordinator. Teams are responsible for making sure their team observers understand and comply with this rule.

Teams **MUST** sit behind their own team members in the courtroom during the trial and **NOT** behind the other team's participants. If there are any seats available behind the opposing team when the trial begins, observers may fill in those empty seats.

No person shall display anything that identifies their school or place of origin while in the courtroom.

#### **Rule 4.14. Videotaping/Photography**

Any team has the option to refuse participation in videotaping, tape recording, and still photography by opposing teams. Media coverage will be allowed. Media representatives authorized by the State or Regional Coordinator must identify themselves to the tournament coordinators.

The location of recording equipment and method of recording any team will be at the discretion of the presiding judge.

#### **Rule 4.15. Jury Trial**

Teams may address the scoring judges as the jury. Arguments are to be made to the presiding judge and jury (scoring judges). (*This rule may vary from year to year depending on the case.*) In 2014, the case will be tried to a jury.

#### **Rule 4.16. Standing during Trial**

Unless excused by the judge, attorneys will stand while giving opening and closing statements, during direct and cross examinations, and for all objections.



**Rule 4.17. Objections during Opening Statement/Closing Argument**

No objections may be raised during opening statements or closing arguments.

**Rule 4.18 Objections**

Objections should be limited to those contained in the Rules of the Competition and the Wisconsin High School Mock Trial Federal Rules of Evidence. The following are reasonable grounds for objection:

- A. Opinion: Counsel is asking the witness to give an opinion for which he/she has not been qualified.
- B. Speculation: Counsel is asking the witness to speculate in order to answer the question.
- C. Narrative: Questions must be stated so as to call for a specific answer. (Example of improper question: “Tell us what you know about this case.”)
- D. 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.
- E. Non-responsive: A witness’ answer is objectionable if it fails to respond to the question asked.
- F. Assuming facts not in evidence. Attorneys may not ask a question that assumes unproved facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by evidence (sometimes called a hypothetical question).
- G. Argumentative questions. Attorneys shall not ask argumentative questions. However, the court may, in its discretion, allow limited use of argumentative questions on cross-examination.
- H. Lack of proper predicate/foundation. Attorneys shall lay a proper foundation prior to moving to the admission of evidence or asking a witness for an expert or lay opinion. After a motion has been made to admit an exhibit, the exhibit may still be objected to on other grounds.

Offer of Proof: If an objection is sustained to evidence that is considered vital to the case, or that would be important for an appellate court’s review, especially in a jury trial, a participant may wish to make an “offer of proof” to place the evidence on the record outside the jury’s hearing.

Teams are not precluded from raising additional objections which are available under the Wisconsin High School Mock Trial Federal Rules of Evidence; however, teams should not go beyond these materials to master the Wisconsin Evidence Statutes. If an opposing team goes

beyond these rules, this paragraph should be brought to the attention of the presiding judge. Judges are instructed to deduct points for inappropriate objections.

Winning or losing the ruling on an objection is not important, but rather the team's knowledge of the rules. Also important are how the team reacts to the decision of the presiding judge, the presentation of the objection and the opponent's response (both verbally and strategically) to the objection and to the court's ruling.

#### **Rule 4.19. Ruling on Objections**

Judges will be instructed to handle objections in the following manner: the objection will be stated; the opposing team will respond; the objecting team will reply; and the judge will rule on the objection. It is to each team's advantage to make substantive objections and not use objections as a team strategy.

#### **Rule 4.20 Expert Witness Testimony**

Whether a witness is qualified to offer an expert opinion is an issue of proper foundation, which is subject to objection, and credibility, which is determined by the jury or other fact finder.

Therefore, when a witness is being asked to give an expert opinion, the judge shall not immediately declare or recognize the witness as an expert. The attorney for the witness must lay proper foundation to qualify the witness and the opposing attorney may make any appropriate objections. See Rules of Evidence, Article VII. The judge shall rule on the objections.

#### **Rule 4.21. Procedure for Introduction of Exhibits**

(Remember, timing does NOT stop during this process.)

As an example, the following steps effectively introduce evidence:

- A. All evidence will be pre-marked as exhibits.
- B. Ask permission to approach the bench. Show the presiding judge the marked exhibit.
  - a. Your honor, may I approach the bench to show you what has been marked as Exhibit No.\_\_\_\_?"
- C. Show the exhibit to opposing counsel.
- D. Ask permission to approach the witness. Give the exhibit to the witness.
- E. "I now hand you what has been marked as Exhibit No.\_\_\_\_ for identification."
- F. Ask the witness to identify the exhibit. "Would you identify it please?"
- G. Witness answers with identification only.
- H. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No.\_\_\_\_ into evidence at this time. The authenticity of this exhibit has been stipulated."

- I. Court: "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
- J. Opposing Counsel: "No, your Honor," or "Yes, your Honor." If the response is "yes," the objection will be stated on the record. Court: "Is there any response to the objection?"
- K. Court: "Exhibit No. \_\_ is/is not admitted."

**Rule 4.22. Use of Notes**

Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes or case materials while testifying during the trial except for proper evidentiary purposes (i.e. identifying exhibits, refreshing recollection, impeachment etc.). Attorneys may consult with each other and witnesses at counsel table verbally or through the use of notes.

**Rule 4.23. Redirect/Recross**

Redirect and Recross examinations are permitted, provided they conform to the restrictions in Rule 611(d) in the Wisconsin High School Mock Trial Federal Rules of Evidence.

**Rule 4.24. Scope of Closing Arguments**

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

**Rule 4.25. The Critique**

The judging panel is allowed **nine minutes total** for debriefing. Presiding judges should first instruct scoring judges to complete their score sheets; the presiding judge will review all sheets for completion; score sheets are to be turned in to the score sheet runner before the critique is given. If the score sheet runner is not in the courtroom to collect the score sheets, judges may begin debriefing with the teams. The presiding judge is to limit the critique to the allotted **nine minutes total time**. The timekeeper(s) will monitor the critique following the trial. Judges shall not make a ruling on the legal merits of the trial. Judges may not inform the students of score sheet results.

There is **NO** critique after the fourth round.

**V. JUDGING AND TEAM ADVANCEMENT**

**Rule 5.1. Finality of Decisions**

All decisions of the judging panel are FINAL.

**Rule 5.2. Composition of Judging Panels**

The judging panel will consist of three individuals: one presiding judge and two attorney scoring judges (all three of whom complete score sheets).

All presiding and scoring judges are asked to download the Mock Trial Handbook including the case materials, and will receive an emailed copy of orientation materials detailing time and

location to report. All judges will be provided training on the day of the competition prior to the first round of judging. A judges' training video is available online at [www.wisbar.org/lre](http://www.wisbar.org/lre), judges are strongly encouraged to view it prior to the competition.

The Championship round will be judged by justices of the Wisconsin Supreme Court.

### **Rule 5.3. Score Sheets/Ballots**

The term "ballot" refers to the decision made by the presiding and scoring judges as to which team made the best presentation in the round. The scoring judge "score sheet" is the form on which speaker and team points are recorded. The presiding judge "score sheet" is synonymous with the "ballot." The team that earns the highest points on an individual judge's score sheet is the winner of that ballot. The team that the presiding judge designates as the "better performance" wins the presiding judge ballot. The team that receives two of the three ballots wins the round. The ballot votes determine the win/loss record of the team for power-matching and ranking purposes.

### **Rule 5.4. Completion of Score Sheets**

Each scoring judge shall record a number of points (1-10) for each portion of the trial. It is not necessary for judges to tabulate the points awarded on the score sheets as the software application will automatically total the columns. Each scoring judge shall also enter the team ("P" for Petitioner/Plaintiff or "D" for Defense/Defendant) in the Tiebreaker Box for the team that he/she believes has provided the better performance. The scoring software application will automatically award the ballot to the team with the higher numerical score.

In the event of a numerical tie in both columns by the scoring judges which results in a tie in the column Totals boxes, the Tiebreaker Box shall determine award of the ballot. There can be no tied rounds.

### **Rule 5.5. Team Advancement**

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

- A. Win/Loss record - equals the number of rounds won and lost by a team;
- B. Total number of ballots - equals the number of judges' votes a team earned in completed rounds;
- C. Total number of points accumulated in all rounds completed;
- D. Point spread against opponents – used to break a tie within a bracket. The point spread is the difference between the total points earned by the higher ranking team less the total points of that team's opponent in each previous round. The greatest sum of these point spreads will break the tie in favor of the team with the largest cumulative point spread;
- E. If all criteria are tied and two teams have played each other, the team that won in the head-to head trial, is declared the winner between the two teams.

**Rule 5.6. Power- Matching/Seeding - State Tournament**

A random match by the software application will determine opponents in the first round. A power-matching system will determine opponents for all other rounds. The two teams emerging with the strongest record from the four semifinal rounds will advance to the final round.

The final round state winner will be determined by the justices from the championship round only.

Power- matching will provide that:

- A. Pairings for the first round will be random;
- B. All teams are guaranteed to present each side of the case at least once;
- C. Brackets will be determined by win/loss record. Sorting within brackets will be determined in the following order: (1) win/loss record; (2) ballots; (3) speaker points; and (4) point spread – only used to break a tie. The team with the highest number of ballots in the bracket will be matched with the team with the lowest number of ballots in the bracket; the next highest with the next lowest; and so on until all teams are paired;
- D. If there is an odd number of teams in a bracket, the team at the bottom of that bracket will be matched with the top team from the next lower bracket;
- E. Teams will not meet the same opponent twice;
- F. To the greatest extent possible, teams will alternate side presentation in subsequent rounds. Bracket integrity in power-matching will supersede alternate side presentation. It is possible that your team may end up playing one side of the case three times.

**Rule 5.7. Selection of Sides for Championship Round – State Tournament (REVISED)**

If the teams in the championship round have met previously in the state tournament, each team will represent the opposite side of that represented in the earlier meeting.

If the teams did not previously meet and either team has presented the same side of the case three times during the semifinal rounds, then that team will present the opposite side of the case from that which it presented three times during the semifinal rounds, unless both teams have presented the same side of the case three times during the semifinal rounds.

If neither of the scenarios above applies, the following procedure may be used:

- A. The team with the number code that comes first numerically will be considered the "Designated Team."
- B. A designee of the state coordinator will toss a coin.
- C. If the coin comes up heads, the Designated Team shall represent the Petitioner/Plaintiff in the championship round. If the coin comes up tails, the Designated Team shall represent the Defense/Defendant.

**Rule 5.8. Effect of Bye/Default**

During the tournament, every attempt will be made to avoid having an odd number of teams participate in any region. Therefore, there may be juggling of teams from region to region.

It is impossible to predict the distribution of teams across the state or to control circumstances that may necessitate a team to drop out. It is possible that teams from the same school may be assigned to different regions, although this will be avoided if at all possible.

In the event that it is not possible to evenly distribute teams across the regions, the regional competition will assign teams a “bye” for each round of the competition. Each team may receive only one “bye” round. The team drawing a bye will win that round by default. The bye team, in rounds two through four, will be given a win and the number of ballots and points equal to the average of its own ballots and points earned in its other rounds. [See power-matching explanation in the tournament coordinator section of handbook.]

## **VI. DISPUTE RESOLUTION**

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

Disputes pertaining to a particular trial round **inside the bar** must be filed immediately following the conclusion of that trial. Disputes must be brought to the attention of the presiding judge.

If any team believes that a substantial rules violation has occurred, one of its student attorneys must indicate that the team intends to file a dispute. The presiding judge will provide the student attorney with a dispute form, on which the student will record in writing the nature of the dispute. The student may communicate only with the other five participating team members before lodging the notice of the dispute or in preparing the form.

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

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

The presiding judge will review the written dispute and determine whether the dispute should be heard or denied. If the dispute is denied, the judge will record the reasons for this, announce her/his decision to the court, complete his/her score sheet (if applicable), and turn the dispute form in with the score sheets. If the judge believes the grounds for the dispute merit a hearing, the form will be shown to opposing counsel for their written response. After the team has recorded its' response and transmitted it to the judge, the judge will ask each team to designate a spokesperson. After the spokespersons have had time (not to exceed three minutes) to prepare their arguments, the judge will conduct a hearing on the dispute, providing each team's spokesperson three minutes for a presentation. The judge may question the spokespersons. At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. After the hearing, the presiding judge will adjourn the court and retire to consider her/his ruling on the dispute. The presiding judge may consult with the scoring judges prior to ruling on the dispute. A final decision will be recorded in writing on the dispute form with no further announcement.

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

If the presiding judge determines that a substantial rules violation has occurred, the judge will determine whether to deduct points and, if so, how many. If the judge determines points should be deducted, the presiding judge will inform the scoring judges. The scoring judges will consider

the dispute before reaching their final scoring decisions. The dispute may or may not impact the final decision. Even if the presiding judge does not mandate the deduction of points, the scoring judges may consider proven rules violations in determining their scores.

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

Disputes that occur **outside the bar** during a trial round may be brought by teacher or attorney-coaches exclusively. Such disputes must be made promptly to the tournament coordinator who will ask the complainant to complete a dispute form. The tournament coordinator will (a) notify all pertinent parties; (b) allow time for a response, if appropriate, and (c) rule on the dispute. The tournament coordinator may notify the judging panel of the affected courtroom or may assess an appropriate penalty.

The tournament coordinator may consult with any person(s) of his or her choosing in ruling on disputes.

#### **Rule 6.5 Appeals Process - Regional Tournaments Only**

The tournament coordinator in each region has the authority to handle disputes during the regional tournament. Every effort shall be made to resolve disputes on the day of the tournament. However, any dispute that arises during the course of the day, or at the end of the day that the tournament coordinator is not able to resolve, may be eligible for appeal.

The Appeals Panel will not overturn a decision previously made by the regional coordinator nor will it consider matters that were not first directed to the regional coordinator except in extraordinary circumstances.

*Power-matching results and scoring adjustments are not subject to appeal. All scoring adjustments must be made prior to leaving the regional competition.*

Appeals must be filed with the state coordinator, either by fax or email, by 10:00 a.m. on Monday morning following the regularly scheduled tournament. *Materials faxed or emailed should not exceed three (3) pages in length.* In addition, the appellant must provide a copy of the materials to each respondent attorney and teacher coach and the regional coordinator.

Respondent(s) must reply to the State Coordinator no later than Tuesday at 10:00 a.m. and must provide copies of the response and any other relevant materials to each appellant attorney and teacher coach and the regional coordinator. (See Appeals Form in coordinator section of the handbook.)

The Appeals Panel (consisting of the State Coordinator and/or at least three members of the Mock Trial Advisory Board) will rule on the appeal by 5:00 p.m. Tuesday and all parties, including the regional coordinator, will be notified.

## **WISCONSIN HIGH SCHOOL MOCK TRIAL FEDERAL RULES OF EVIDENCE**

For purposes of the mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence and its numbering system. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure. Text in italics or underlined represents simplified or modified language.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate.

The Mock Trial Rules of Competition and the Wisconsin High School Mock Trial Federal Rules of Evidence govern the Wisconsin High School Mock Trial Tournament.

### **Article I. General Provisions**

#### **Rule 101. Scope**

These Wisconsin High School Mock Trial Federal Rules of Evidence govern the trial proceedings of the Wisconsin High School Mock Trial Tournament.

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

These Rules are intended to provide fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.

### **Article II. Judicial Notice** - Not applicable

### **Article III. Presumptions in Civil Actions and Proceedings** - Not applicable

### **Article IV. Relevancy and its Limits**

#### **Rule 401. Definition of "Relevant Evidence"**

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

#### **Rule 402. Relevant Evidence Generally Admissible: Irrelevant Evidence Inadmissible**

All relevant evidence is admissible, except as otherwise provided in these Rules. Irrelevant evidence is not admissible.

#### **Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time**



Relevant evidence may be excluded if its' probative value is outweighed by the danger of unfair prejudice, if it confuses the issues, if it is misleading, or if it causes undue delay, wastes time, or is a needless presentation of cumulative evidence.

#### **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**

(1) **Admissibility.** 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.

(2) **Method of Proof.** Habit or routine practice may be proved by testimony in the form of an opinion or by specific instances of conduct sufficient in number to warrant a finding that the habit existed or that the practice was routine.

## **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 with an attorney for the prosecuting authority which does not result in a plea of guilty, or which results in a plea of guilty that 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.

## **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 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.

## **Article VI. 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. [See Rule 2.2.]

### **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 if 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.

### **Rule 610. Religious Beliefs or Opinions**

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

### **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/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 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**

(a) **Examining a 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.

(b) **Extrinsic evidence of a 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.

## **Article VII. Opinions and Expert Testimony**

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

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

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

If scientific, technical, or other specialized knowledge will assist 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 testify in the form of an opinion or otherwise.

### **Rule 703. Bases of Opinion Testimony by Experts**

The facts or data upon which an expert bases an opinion may be those perceived by, or made known to the expert, at or before the hearing, if of a type reasonably relied upon by experts in the field in forming opinions or inferences. The facts or data need not be admissible in evidence.

### **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.

### **Rule 705. Disclosure of Facts or Data Underlying Expert Opinion**

The expert may testify in terms of opinion or inference and give reasons without prior disclosure of the underlying facts or data, unless the Court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

## **Article VIII. Hearsay**

### **Rule 801. Definitions**

The following definitions apply under this article:

(a) **Statement.** A "statement" is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.

(b) **Declarant.** A "declarant" is a person who makes a statement.

(c) **Hearsay.** "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) **Statements which are not hearsay.** A statement is not hearsay if:

(1) **Prior statement by witness.** The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is; (A) inconsistent with the declarant's testimony, and was given under oath, subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition; or (B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive; or (C) one of identification of a person made after perceiving the person; or

(2) **Admission by a party-opponent.** The statement is offered against a party and is; (A) the party's own statement in either an individual or a representative capacity; (B) a statement of which the party has manifested an adoption or belief in its truth; (C) a statement by a person authorized by the party to make a statement concerning the subject; (D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship; or (E) a statement by a co-conspirator of a party during the course of furtherance of the conspiracy.

## **Rule 802. Hearsay Rule**

Hearsay is not admissible, except as provided by these rules.

## **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 observing 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.

(7) **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.

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

(9) **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 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.

**ARTICLE IX - Authentication and Identification** - Not applicable.

**ARTICLE X - Contents of Writing, Recordings and Photographs** - Not applicable.

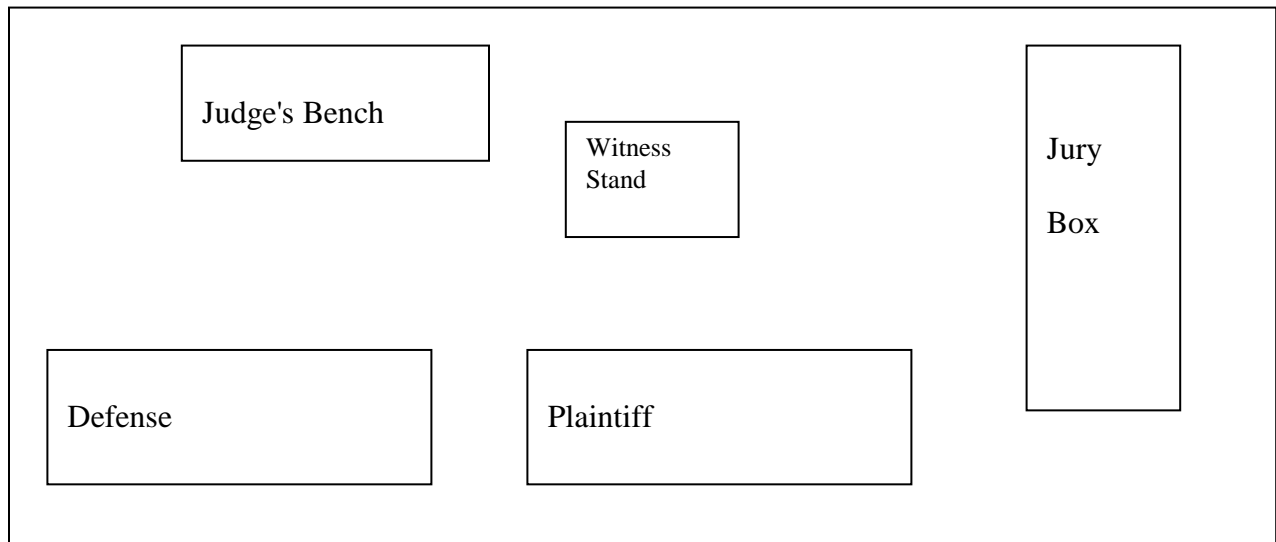
#### **ARTICLE XI - Miscellaneous Rules**

These rules may be known and cited as the *Wisconsin High School Mock Trial Federal Rules of Evidence*.

## TRIAL PROCEDURES

Before participating in a mock trial, it is important to be familiar with the physical setting of the courtroom, as well as the events that generally take place during the trial and the order in which they occur. This year's mock trial case will be handled as a trial before a jury. The presiding and scoring judges should be treated as if addressing a jury.

### I. A TYPICAL COURTROOM LAYOUT



### II. PARTICIPANTS

- A. The Judge or Judges
- B. The Attorneys
  - 1. Prosecution and Defense (Criminal Case)
  - 2. Plaintiff/Petitioner and Defendant/Respondent (Civil Case)
- C. The Witnesses for each side
- D. The Clerk/Bailiff
- E. Court Reporter



### **III. STEPS IN A MOCK TRIAL**

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

1. The Bailiff will call the Court to order by announcing: "All rise for the Honorable Judges \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_. The Circuit Court of Clearwater County is now in session. The Honorable Judge \_\_\_\_\_ presiding." All participants should remain standing until the judges are seated.

The case will be announced, i.e., "The Court will now hear the case of "*Alex Cooper vs. Taylor Hamilton et al.* The judge will ask the attorneys for each side if they are ready.

#### **B. Opening Statements**

1. Plaintiff/Petitioner
  - a. Standing at counsel table or lectern, the attorney introduces him/herself and colleagues to the judge, and summarizes the evidence that will be presented to support the case.
2. Defense/Respondent
  - b. Standing at counsel table or lectern, the attorney introduces himself/herself and colleagues, and summarizes the evidence that will be presented to rebut the case made by the prosecution.

#### **C. Direct Examination by Plaintiff/Petitioner's Attorneys**

1. The attorneys call their witnesses and conduct direct examination in order to present testimony and other evidence to prove their case.

#### **D. Cross-Examination by Defense's Attorneys**

1. After the attorney for the prosecution has completed questioning a witness, the judge allows the defense's attorney to cross-examine the witness. The cross-examiner seeks to clarify or cast doubt upon the testimony of the plaintiff's witnesses.

#### **E. Redirect by Plaintiff/Petitioner's Attorneys**

#### **F. Recross by Defense's Attorneys**

#### **G. Direct Examination by Defense's Attorneys**

1. After both sides have examined all plaintiff witnesses, the defense witnesses are called for questioning.

**H. Cross-Examination by Plaintiff/Petitioner's Attorneys**

1. Cross-examination of each of the defense witnesses follows the same pattern as cross-examination of the plaintiff witnesses.

**I. Redirect by Defense Attorneys**

**J. Recross by Plaintiff/Petitioner's Attorneys**

**K. Closing Arguments**

1. Plaintiff/Petitioner
  - a. The attorney should stand, address the judge and review the case. The review should indicate how the evidence has satisfied the elements of the charge or claim, point out the law applicable to the case and ask for a favorable verdict.
2. Defense/Respondent
  - a. The defense's attorney should stand, address the judge and also review the case, stressing the evidence and the law favorable to the defense's case and asking for a verdict favorable to the defense.
3. Rebuttal
  - a. Rebuttal closing argument by the prosecution/plaintiff/petitioner's attorney is permitted (subject to time limitations).

**L. Deliberations**

1. The presiding judge may confer with the scoring judges before reaching a decision as to which team gave the better overall performance.

## **GUIDELINES FOR STUDENTS**

### **STUDENTS ACTING AS ATTORNEYS AND WITNESSES**

These guidelines provide information for students as they prepare to be witnesses and attorneys in mock trials. Students are responsible for preparing their own roles and should not use materials that have been prepared by their coach or coaches. Assistance in preparation for mock trial is expected and encouraged, but testimony and presentation should be developed by students.

#### **I. GENERAL SUGGESTIONS**

- A. Always be courteous to witnesses, attorneys, and judges.
- B. Rise when addressing the judge.
- C. Direct all remarks to the judge or witness, not to the opposing counsel.
- D. Don't make objections unless you are relatively sure that the judge will agree with the objection. Judges don't appreciate attorneys who constantly make objections, or attorneys who make objections without sufficient foundation.

If the judge rules against you, accept the decision gracefully and act cordially toward the judge and opposing team.

#### **II. ATTORNEYS**

##### **A. OPENING STATEMENTS**

- 1. Objective: To acquaint the judge with the case and to outline what you are going to prove through witness testimony and the admission of evidence.
- 2. What Should Be Included:
  - (a) A short summary of the facts;
  - (b) The burden of proof (the amount of evidence needed to prove a fact) and who has the burden in this case;
  - (c) The applicable law;
  - (d) A clear and concise overview of the witnesses and physical evidence that will be presented and how each will contribute to proving the case.

3. Advice in Presenting:

- (a) Appear confident;
- (b) Use eye contact when speaking to the judge;
- (c) Use the future tense in describing what will be presented (i.e., "The facts will show," or "Witnesses' testimony will prove");
- (d) Do not read too much. Look up occasionally at the judge.

4. Other Suggestions:

- (a) Learn the case thoroughly (facts, laws, burden of proof, etc.);
- (b) Avoid too much narrative detail about witness testimony. Avoid exaggeration and overstatement of facts that may not be proven.

**B. DIRECT EXAMINATION**

1. Objective: To obtain information from favorable witnesses that will be called in order to prove the facts of the case, to present witnesses to the greatest advantage, to establish witness's credibility and to present enough evidence to warrant a favorable verdict.

2. What Should Be Included:

- (a) Isolate exactly what information each witness can contribute to proving the case and prepare a series of questions designed to obtain that information;
- (b) Be sure that all important items will be presented through witnesses;
- (c) Use clear and simple questions;
- (d) Never ask a question to which you don't know the answer.

3. Advice in Presenting:

- (a) Try to limit questions to ones that have been practiced with witnesses and ask a limited number of questions;
- (b) Be relaxed and clear in the presentation of questions;
- (c) Listen to the answers;

- (d) If you need a moment to think, ask for a moment to collect your thoughts, or to discuss a point with co-counsel;
  - (e) Have all documents marked for identification before referencing them at trial. Refer to them as Exhibit 1, or Exhibit A, etc. After using the exhibit, if it helps your case, ask the judge to admit it as evidence. [See "Rules of Competition," The Trial, Rule 4.21, for procedures regarding introduction of evidence.]
4. Other Suggestions:
- (a) Avoid asking leading questions;
  - (b) Practice testimony with witnesses;
  - (c) When the facts are in evidence, stop questioning. Say "No further questions" or "Your witness."

### C. CROSS-EXAMINATION

1. Objective: To obtain favorable information from witnesses called by the opposing counsel, and if a witness has no testimony favorable to you, to make that witness less believable.
2. Types of Questions to Ask:
  - (a) Questions that reflect on the witness's credibility by showing that he/she has given a contrary statement at another time (for example, the witness first testifies to not being at the scene of an accident and later admits to being there). When such an inconsistency arises, ask the witness, "Did you make this statement on June 1st?" Then read it or show a signed statement to the witness and ask, "Is this your statement?" Then ask the witness to read part of it aloud or read it to the witness and ask, "Did you say that?"
  - (b) Questions that show that the witness is prejudiced or biased or has a personal interest in the outcome (i.e., the witness testifies that the defendant was her landlord and evicted her);
  - (c) Questions that weaken the testimony of the witness by showing that his/her opinion is questionable (i.e., the witness with poor eyesight claims to have observed all the details of a fight that took place 50 feet away in a crowded bar);
  - (d) Questions that show that an expert witness or even a lay witness who has testified to an opinion is not competent or qualified due to lack of training or

experience (i.e., a high school student or even a dentist testifying that in his/her opinion the defendant suffers from a chronic mental disease).

3. Advice in Presenting:

- (a) Be relaxed and ready to adapt prepared questions to the actual testimony given during the direct examination;
- (b) Always listen to the witness's answer;
- (c) Avoid giving the witness an opportunity to re-emphasize the points made against your case during direct examination;
- (d) If the witness is in fact "hostile," don't give him/her an opening to explain anything. Keep to the "yes" or "no" answers whenever possible. Try to stop the witness if his/her answer or explanation is detrimental to your case, by saying, "You may stop there. Thank you," or "That's enough. Thank you."
- (e) Don't harass or attempt to intimidate the witness;
- (f) Don't quarrel with the witness.

4. Other Suggestions:

- (a) Anticipate each witness's testimony and write questions accordingly, but be ready to modify your questions at trial depending on the actual testimony;
- (b) In general, ask only leading questions (questions that suggest the answers and normally require a yes or no answer);
- (c) Be brief. Don't ask so many questions that well-made points are lost;
- (d) Prepare short questions using easily understood language;
- (e) Ask only questions to which you already know the answer.

#### D. CLOSING ARGUMENTS

- 1. Objective: To provide a clear and persuasive summary of the evidence presented to prove the case, along with the weaknesses of the opposing side's case, and to argue for your position.
- 2. What Should Be Included:
  - (a) Thank the judge for his/her time and attention;

- (b) Isolate the issues and describe briefly how your presentation addressed these issues;
  - (c) Review the witnesses' testimony and physical evidence. Outline the strengths of your witnesses and the weaknesses of the opposing side's witnesses;
  - (c) Argue your case by stating how the law applies to the facts presented;
  - (d) Remind the judge of the required burden of proof. If you have the burden, convince the court it has been met. If not, convince the court that the opposing side has failed to meet its burden;
3. Advice in Presenting:
- (a) Don't read all the way through. Maintain eye contact with the judge or look up frequently;
  - (b) Forcefully urge your point of view. Avoid a boring review of the facts;
  - (c) Argue your side, but don't be blind to the opposing side's arguments. Fairness is important;
  - (c) Be very careful to adapt your statement at the end of the trial to reflect what the witnesses actually said and what the physical evidence showed.

### **III. WITNESSES**

#### **A. GENERAL SUGGESTIONS**

1. If you are testifying about records or documents, be familiar with them before coming to trial.
2. When answering questions, speak clearly so that you will be heard.
3. Listen carefully to questions. Before answering, make certain you understand the question. If you do not understand, ask that the question be repeated or clarified.
4. If the judge interrupts or an attorney objects to your answer, stop answering immediately. Likewise, if an attorney objects to a question, do not begin your answer until the judge tells you to do so.

#### **B. DIRECT EXAMINATION**

1. Advice in Preparation:

- (a) Learn the case thoroughly, especially the witness statement;
- (b) Review your testimony with your attorney. Know the questions that your attorney will ask. Prepare clear and convincing answers that contain the information the attorney is trying to get you to provide.

2. Advice in Presenting:

- (a) Be relaxed and in control. An appearance of confidence and truthfulness is important;
- (b) Don't recite the witness statement verbatim. Know its' content beforehand so that you can paraphrase it or put it in your own words, but be sure that your testimony is never inconsistent with, nor a material departure from, the facts set forth in the affidavit. [See "Competition Rules," Rule 2.2.]

C. CROSS-EXAMINATION

1. Advice in Preparing:

- (a) Anticipate what will be asked on cross-examination and prepare answers accordingly. Isolate all the possible weaknesses, inconsistencies or problems in your testimony and be prepared to explain them;
- (b) Practice with your attorney; ask him/her to act as opposing counsel.

2. Advice in Presenting:

- (a) Be relaxed and in control - an appearance of confidence and truthfulness is important. Speak loudly and clearly;
- (b) Don't panic if the attorney or judge asks a question you haven't rehearsed. Don't be afraid to buy time by saying, "Excuse me just a moment while I try to remember."
- (c) Be sure that your testimony is never inconsistent with, nor a material departure from the facts set forth in the witness statement. Minor and inconsequential embellishments are acceptable as long as they can be reasonably inferred from the fact statement. If asked on cross-examination to testify about information that is not a part of the case materials, you may invent an answer that is



consistent with the other affidavits and facts in the trial. This is in fact an opportunity to create an answer helpful to your side.

Keep in mind that such an answer can be disruptive when the other side objects, and may even open the door to the judge issuing an adverse ruling against you. The wiser course may be to respond in character, but with an innocuous answer, such as "I don't remember," or "I don't believe I can answer that question, would you please rephrase it?" If pressed, you may still prefer to step out of character and say "I don't know. That's not included in the case materials."

## STUDENTS ACTING AS CLERK/BAILIFF

An alternate from either team should be prepared to act as the clerk/bailiff. If an alternate is not available, a scoring judge may be asked to act as the clerk/bailiff.

The clerk/bailiff is responsible for the following:

1. The opening and closing of court and all court recesses.

The clerk/bailiff enters the room and calls out: "All rise for the Honorable Judges \_\_\_\_\_, and \_\_\_\_\_. The Circuit Court of Clearwater County is now in session. The Honorable Judge, \_\_\_\_\_, presiding."

All participants should remain standing until the judges are seated. The judge asks the bailiff to call the day's calendar, at which point the bailiff says, "Your Honor, today's case is *Alex Cooper vs. Taylor Hamilton et al.*" The judge then asks if the attorneys for each side are ready. [See Trial Procedures.]

2. The swearing in of all witnesses. (For mock trial purposes the oath has been modified.) "Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth?"
3. The marking of all exhibits entered into court. (Please see the presiding judge prior to the trial for instructions on this procedure.)

## STUDENTS ACTING AS TIMEKEEPER

Each team should be prepared to furnish a timekeeper for each trial. However, you may use one timekeeper per trial if both sides agree prior to trial. Please remember the timekeeper cannot be a teacher or attorney coach. The timekeeper is considered part of your 12-member team.

Team timekeepers from each team will also be used during the mock trial semifinals.

All timekeepers must attend the timekeeper orientation that is held on the day of the semifinal tournament. Regional tournaments may vary, but if timekeeping orientation is provided, all timekeepers must attend.

### 1. Details:

- a. The timekeeper must use a stopwatch to enforce time. Stopwatches will be provided by tournament officials or students can bring one. Be familiar with their operation.
- b. Stopwatches must be returned to the tournament coordinator at the end of the morning and afternoon trials.
- c. Seating for the timekeeper is in the jury box.
- d. Please remember to maintain every appearance of impartiality; remain apart from, and do not socialize with your team until the last round is completed.  
**Remember:** the timekeeper's role is to record time, **not** to enforce time limits.

### 2. Each side is allowed forty (40) minutes total. What to time:

- a. Opening statements
- b. Introduction and presentation of exhibits
- c. Direct examination of witnesses and everything stated by witnesses
- d. Cross examinations
- e. Direct/re-direct and cross/re-cross (timed separately for each team)
- f. Closing statements
- g. Rebuttals (if used)

### 3. Do not time:

- a. Objections
- b. Rulings on objections
- c. Swearing-in of witnesses
- d. Bench conferences

4. The mechanics:

- a. Begin timing as soon as the speaker talks, stop immediately when he/she finishes
- b. Record times accurately, to the second
- c. Calculate and record *Sub-totals*, *Running Totals*, *Total Time Used* and *Time Over Allotment* at appropriate intervals.

5. Time check:

- a. The timekeeper may be asked to provide a team's remaining time by the team or the judge, before Closing Statements are heard: Be prepared.
- b. The timekeeper may also be asked to provide a warning that a team's time is about to expire; there is a "one-minute" and "five-minute" sign in the timekeeper folder if needed. Do not provide the warning unless requested to do so.

The Timekeeper Form on the next page will be used to track time during the trial. Timekeeper Forms will be given to timekeepers at both the regional and state tournaments.



## GUIDELINES FOR TEACHER COACHES

### A. ROLE OF THE TEACHER COACH

The teacher coach has various responsibilities in coaching a mock trial team. Among them, teachers are responsible for the following areas:

1. Rules of the Program. All teachers and teams are expected to adhere to the rules, facts, and materials provided in the 2014 Mock Trial Competition Case Materials. Please make sure all participants, including the attorney coach, are familiar with the tournament rules, as well as any clarifications or updates.
2. Role Assignments. Team members should be strongly encouraged to select roles based on their interests and abilities and not on the basis of any gender or cultural stereotypes which might be drawn from the characterizations in the fact pattern. Teachers should assist students in determining individual roles.
3. Team Preparation. Teachers and attorneys both help coach each team. Teams should prepare both sides of the case and are strongly urged to arrange and conduct preliminary mock trial scrimmages with other teams prior to competing in the regional tournament. In keeping with the spirit of the Mock Trial Program, students are strongly encouraged to do their own work. It is **not** the role of the teacher coach to prepare material for the student's use.
4. Courtroom use. The Mock Trial Program is privileged to have the use of most county courthouses in the state. Teachers are responsible for ensuring that students are not violating that privilege by leaving the facilities as they found them – all trash collected and deposited in appropriate receptacles, no smoking in any buildings, and no damage to any furniture or buildings. Any fees assessed by facilities for damage will be charged to the school whose team is in violation.
5. Education. Education of students is the primary goal of the Mock Trial Tournament. Healthy competition is part of achieving this goal, but teachers are reminded of their responsibility to keep the competitive spirit at a reasonable level. The reality of the adversarial system is that one party wins and the other loses. Teachers should prepare their teams to accept either outcome in a mature manner. Teachers can assist students by placing the value on preparation and presentation, rather than on winning or losing the trial.
6. Observers. Other classes, parents and friends of the participants are welcome to attend the trials. Teachers should make potential observers aware of time and location of tournaments.
7. Arrival Times. Teachers are responsible for getting their teams to the assigned courtroom 10 minutes prior to the starting time of each trial.

## **B. SUGGESTIONS FOR TEAM PREPARATION**

The following tips have been developed from past experience with students, and may be useful:

1. Have all team members read the entire set of materials. When finished, have them brainstorm the points for each side of the case.
2. The best teams generally have their students prepare their own questions, with the teacher and attorney coaches giving the team continual feedback and assistance.
3. As soon as possible, student attorneys should begin formulating questions for use in examination of witnesses, and student witnesses should rehearse their testimony. Student preparation will progress more rapidly by simulating actual conduct of the trial than by merely conducting general classroom discussion of the steps in the trial.
4. After the questions are prepared for witnesses, teams should hold practice sessions in which attorneys question individual witnesses, and the remainder of the team evaluates which questions are good and which might be dropped or added in order to bring out favorable evidence. These sessions will also help prepare the witnesses for the tournament.
5. Opening and closing statements should be written by students with editing assistance from the teacher and attorney coaches. Coaches should not tell students to incorporate language that the students do not understand or feel comfortable with. Students should be reminded that closing statements must remain flexible to respond to the evidence as it comes out in the trial.
6. Each attorney should practice handling interruptions from the judge on matters such as the relevance of questions or the rationale of the arguments during the closing statement.
7. The ability of a team to adapt to different situations is often a key part in a mock trial enactment since each judge, or person acting as a judge, has his or her own way of doing things. Since the proceedings of the trial often depend on the judge who presides, student attorneys and other team members should be prepared to adapt to judicial rulings and requests, even if they appear contrary to outlined tournament procedures and rules.
8. Courtroom etiquette and decorum should be stressed at practice and observed at trial (i.e., standing when the judge enters or leaves the courtroom, and calling the judge "Your Honor").

9. All participants should speak loudly and clearly. Microphones are not usually available. Practice this by having each student attorney stand at the far end of the room while interrogating the student witness.
10. Credibility of witnesses is very important, and students acting as witnesses should be encouraged to "get into" the roles and attempt to think like the person they are playing. Students should read over their statements (affidavits) many times and have other people ask them questions about the facts until they know them very well. Witnesses are not permitted to refer to their statements or other materials while testifying during the trial, unless requested by an attorney to refresh recollection, while being impeached or when identifying an exhibit.
11. Students need to understand and become familiar with legal terminology; i.e., plaintiff, defendant, overruled, sustained, etc.
12. Some of the things most difficult for team members to learn are:
  - a. Deciding which points are the most important in proving their side of the case and making sure such proof takes place;
  - b. Stating clearly what they intend to prove in an opening statement, and arguing effectively in their closing statement that the facts and evidence presented have proven their case;
  - c. Following the formality of court; i.e., standing when the judge enters and calling the judge "Your Honor;"
  - d. Phrasing questions on direct examination that are not leading; (Carefully review the rules of evidence and watch for this type of questioning in practice sessions.)
  - e. Refraining from asking so many questions on cross-examination that well-made points are lost. When a witness has been contradicted or otherwise discredited, student attorneys tend to ask additional questions that often lessen the impact of points previously made. Stop and recognize what questions are likely to require answers that will make good points for your side. Avoid pointless questions;
  - f. Thinking quickly on their feet when a witness gives an unexpected answer, an attorney asks an unexpected question, or a judge questions an attorney or witness; (Practice sessions will help prepare for this.)
  - g. Introducing exhibits into evidence.
13. In order for students to gain the most valuable tournament experience, it is crucial for teachers to discourage a "win-at-all-costs" attitude among their team members.





*Submit the following information to the State Bar of Wisconsin one week prior to the Regional Tournament.*

Team # \_\_\_\_\_ School Name \_\_\_\_\_

	Team Member Names (Maximum of 12 per team)
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	



STATE BAR OF WISCONSIN



Team rosters shall be completed (printed neatly or typed) and duplicated by each team prior to each round and presented to the Presiding Judge (1), Scoring Judges (2) and opposing counsel (1) before the round begins (4 per trial). *Your team must be identified only by your TEAM ID.*

**Team I.D.** \_\_\_\_\_ **Plaintiff** **Defense** *(circle appropriate side)*

**Round:** *(circle one):* **I** **II** **III** **IV**

<b>Student Attorney Names</b>	<b>Tasks</b>	<b>Witnesses Examined</b>
1.) _____	Opening/Dir/C-X	Direct: _____ Cross: _____
2.) _____	Closing/Dir/C-X	Direct: _____ Cross: _____
3.) _____	Dir/C-X	Direct: _____ Cross: _____

<b>Student Witness Names</b>	<b>Gender</b>	<b>Role Portrayed</b>
4.) _____	M    F	_____
5.) _____	M    F	_____
6.) _____	M    F	_____

**Timekeeper Name**

7.) \_\_\_\_\_ M    F

**Team Member(s) Not Participating in this Round:**

8.) _____	11.) _____
9.) _____	12.) _____
10.) _____	

**Note:** *Team members not participating must sit behind the bar and may NOT communicate with participating team members during the round.*



**STATE BAR OF WISCONSIN**

## **GUIDELINES FOR ATTORNEY COACHES**

### **A. ROLE OF THE ATTORNEY COACH**

The attorney coach is primarily responsible for teaching the students how to act in a courtroom. This role encompasses everything from courtroom decorum to asking proper questions to teaching students when and how to object. Attorney coaches should remember that for many students (especially those new to mock trial); the Mock Trial Tournament may be the first time a student ever enters a courtroom.

### **B. ATTENDANCE**

The amount of practices the attorney coach attends varies from school to school; some attorney coaches attend every practice, others attend on a bi-weekly or monthly basis. Work with your teacher coach, your students and your schedule to determine your level of involvement. Attorney coaches should plan on attending the regional tournament, state tournament, and any scrimmages, if applicable, as watching the students perform against other teams provides ample opportunities for constructive feedback. Scrimmages allow a coach to spot a team's weak spots prior to the regional tournament, and focus attention on areas that need improvement.

### **C. SUGGESTED AREAS OF ADVISEMENT**

The spirit of mock trial is to teach the students how to build a case for trial—not to try the case for the students. The students should be writing their own materials with the aid and assistance of the attorney coaches. Suggested areas of coaching include:

1. Rules of Evidence. The mock trial program uses a simplified version of the federal rules of evidence. Student attorneys are expected to understand and apply the rules of evidence at the tournament. Only the student attorney responsible for the questioning (whether on direct or cross examination) may make and answer objections. Students best learn how to make and respond to objections through practice, so it is suggested that the attorney coach encourage the students to make and respond to objections during run-throughs in practice. While some objections can be anticipated, others may come as a surprise to the students during the tournament. For this reason, the students should be able to think on their feet in responding to objections. Students who remain unable to think of a response may ask for a moment to confer with co-counsel, in order to ask whether their attorney-teammates have a response.

There are many different methods of teaching the rules of evidence. Some attorney coaches lecture; others quiz the student by giving hypothetical situations. Some will ask the students to object as the attorney discusses a mundane topic, such as daily

activities (i.e., “This morning’s newspaper said...” may draw a hearsay objection.) Yet another effective method is to have the student’s practice making and responding to objections, then stopping the run-through to provide feedback on the objection and response in the moment.

Students should also be advised on how to make timely objections, and to address the court in an objection and not turn to face opposing counsel. Students should also be taught to remain respectful in both making and responding to objections.

2. Formulating Questions. One important task of the attorney coach is to teach the students how to formulate direct and cross examination questions. Students should be taught the purpose behind a direct (i.e., have the witness do the talking, directing the witness’s attention to relevant and helpful facts, ignoring irrelevant information, deciding whether to address aggravating facts head-on in the direct, etc.). Students should also be taught the meaning of an open-ended question, while avoiding drawing a narrative objection. Direct examinations should be organized, whether chronologically or otherwise, and have an easy flow. Direct examinations can be somewhat conversational, to develop a rapport with the witness, but not too casual as to diminish the formality of the proceeding.

Students must also be taught the meaning and purpose behind a cross examination (i.e., establish helpful facts for your theory of the case, establish a bias or motivation to lie, impeach credibility, etc.). Attorneys should teach the students that a leading question is not simply a question to which the answer is “yes” or “no,” but a question that actually suggests the correct answer. An easy way to teach this to high school students is by pointing out that a question can be turned into a leading question by making it a statement. For instance, if you turn “Is the car red?” into a statement, “The car is red. Correct?” it becomes a leading question.

Recall that it is not the attorney coach’s job to write the students’ questions for them. Rather, the students should write questions as the coaches suggest ways to improve the questions.

3. Impeachment and Control on Cross-Exam. Impeachment is a complicated skill that takes some time to teach to students. It is an area that can set a good team apart from other teams, if taught properly. Students should be taught both *how* to impeach and *when* to impeach. Students should be taught the basics of building a foundation for a proper impeachment (confirming the answer, establishing that an affidavit was signed, approaching the witness with the affidavit, confirming that it was signed under oath and reviewed prior to the court hearing, reading the inconsistent statement). Students should also be taught when to stop an impeachment (after the

inconsistent statement is read into the record), without taking the bait of asking another question and giving the witness a chance to explain away the inconsistency.

Impeachment by omission is another important skill that requires only an extra question or two on top of the standard impeachment (“You included all important facts in your affidavit, correct?” and “Nowhere in your affidavit does it state \_\_\_\_”). Students should be familiar with this form of impeachment as well.

Students also must learn when it is appropriate to impeach. Coaches who have been coaching for some time will be familiar with the previous rule “Outside the Scope,” which required that the new fact or statement be material to the case in order to be an unfair extrapolation. Similarly, the student attorney who attempts to impeach on a fact that adds no relevance or credibility to the case whatsoever will wind up wasting time without any gain. For instance, if an affidavit references a spouse but doesn’t give that spouse a name and the witness states “My husband, Tom...” The student attorney who impeaches a witness on not having named a spouse in the affidavit will ultimately look worse than the witness being impeached.

4. Handling Exhibits and Protecting the Record. Another area where attorney-coaches can provide guidance is how to handle exhibits and protect the record. Students should be taught to always show an exhibit to opposing counsel (or provide a copy) before approaching a witness, and not to publish the exhibit to the jury without moving it into evidence or asking permission to publish the document. Students should also pay attention to whether a document has already been moved into evidence by the other team, and refer to the document that has already been moved in, rather than move in a new copy of the same document. Attorney-coaches should note that exhibits can be pre-marked for mock trial purposes (i.e., “Defense Exhibit 1,”) etc. Please note that while there are occasionally stipulations indicating that the *authenticity* of exhibits has been agreed upon, authenticity does not equate to *admissibility*. In that circumstance, a team may forgo proof that the exhibit is authentic, but must still hurdle hearsay, relevance, foundation, and other objections.

Part and parcel to handling exhibits is learning to protect the record. When an attorney approaches the witness with an exhibit, the attorney should note his or her actions for the record (i.e., “Let the record reflect I am handing the witness what has been pre-marked as Defense Exhibit 2.”) Similarly, if any marking is made on any exhibit, the student-attorney must take care to note it for the record (“Let the record reflect the witness has drawn a red circle around the portion of the document labeled ‘tree.’”) While there will not be a court reporter present for the mock trial scrimmage, the judges do notice when the student-attorneys can adequately protect the record as if in a real trial.

5. Courtroom Decorum. Perhaps the one item that can most negatively impact a team's score is disrespect for the Court. A team could be perfectly composed in every other manner, but if it appears as though a student rolls his/her eyes at a ruling, or sighs loudly after an overruled objection, a score may go from a 10 to a 5-6. Students must ask permission of the Court before approaching witnesses and the bench. Respect (or disrespect) may also be reflected in the clothing of the student attorneys (students should not dress as though soliciting prom dates), and the respect shown to opposing counsel. At all times in the course of the competition, the students must exhibit the same respect for the Court that is expected every day of attorneys in courtrooms.

Similarly, attorney-coaches should recall that for many students, mock trial may be the first time the students are in a courtroom. Students may need to practice speaking loudly enough to carry across a courtroom, and may need to be taught where to sit (if tables are not pre-marked for the students, mock trial typically follows the conventional rule that whoever has the burden of proof sits closer to the jury box).

6. Analyzing a Case. Early on in the year, the attorney coach can help students learn how to break down and put back together a mock trial case. Each program utilizes its own method for teaching the students how to analyze a case. Some coaches go through affidavits line by line, asking the students to analyze which facts are better for which side and why. These guides may ultimately help the students to formulate direct and cross examinations. Other coaches will start with the jury instructions and ask the students to list, for each side, the facts or opinions that prove or disprove each element, much like the students will ultimately have to do in closing arguments. The students should also put together themes (i.e. "If the glove doesn't fit, you must acquit"), and theories (i.e. "John Smith pulled the trigger, not the defendant"), and be taught to use the facts in the materials to support their own themes and theories and discredit the opposing team's.
7. Building Confidence. One of the most important benefits of the mock trial program is the confidence it instills in the students. To be able to work the entire season and ultimately try a case in the competition in front of attorneys and judges is a great accomplishment. Attorney coaches should remember in critiquing students that the goal of mock trial is to fuel this sense of accomplishment. An easy way to keep this in check is by making sure to compliment the student on one thing s/he has improved upon every time an area of improvement is offered.

## GUIDELINES FOR JUDGES

The educational value and hands-on experience for students participating in Mock Trial could not be achieved without the attorneys and judges who volunteer their time to serve as mock trial judges. These guidelines are intended to assist judges in carrying out the vital role they play in the Mock Trial Tournament.

### 1. General Considerations

Mock Trial vs. Real Trial. Judges should understand the differences between mock trial and actual contested legal proceedings. A Mock Trial team scores well if it presents an engaging and persuasive case using only the fact pattern and the rules contained in this handbook. The objective is not mastery of the legal cannon or the imitation of trial practice as it is conducted in Wisconsin.

Be Prepared. When you agree to judge a mock trial competition on any level, it is assumed that you will take the time to read the materials. It is extremely frustrating for mock trial participants to have spent countless hours preparing the case only to have judges ruling on evidentiary objections in a manner that discloses they are unfamiliar with the materials, or making comments on score sheets that show they have not reviewed the materials. Please review the case materials, the mock trial rules of evidence, and the scoring rules prior to judging.

A training video for judges is on the web site for review prior to the Mock Trial Tournament. It can be found at [www.wisbar.org/lre](http://www.wisbar.org/lre) , click on “Mock Trial” and then “For Judges.” The video can be viewed at any time prior to judging.

Remember that the participants are high school students. Mock Trial participants are teenagers, some as young as 14 years old. Mock Trial is not a “lawyer in training program,” it is an extracurricular activity that draws students from a wide variety of backgrounds and aspirations. Comments and feedback given to students should be positive and constructive. Measure your words carefully!

### 2. Judging Panel

- a. Every mock trial is evaluated by three judges. Mock trial judging panels are comprised of lawyers, judges and/or third-year law students. Exceptions may be made in extreme cases.
- b. Two judges, the scoring judges, concentrate on, and evaluate, the performance of the teams. They each award the teams points based on their performances, and they each provide an overall judgment as to which side gave the better performance.
- c. The third judge, the presiding judge, provides an overall judgment as to which side gave the better performance. This judge presides over the trial - ruling on the

objections, etc. The attorney or judge who serves as the presiding judge should have a solid grasp of the Mock Trial Rules of Evidence.

- d. Each judge awards his/her performance decision to only one team. Within each trial, there can be no ties! Each team should be awarded a different number of points.
- e. The team receiving the majority of performance decisions from the three judges is declared the winner of the trial.
- f. **NEW AWARDS** Awards will be given to students for “Best Attorney” and “Best Witness” performances. At the conclusion of each trial, each judge will identify the student who, in their opinion, gave the “best witness” and “best attorney” performance. Each judge is asked to indicate on the score sheet, the student they are nominating by adding the students’ correct name (not the character they are playing) on the score sheet on the designated line.

Three “Best” awards in each category will be recognized at regional tournaments; and five “Best” awards will be recognized at the semifinals.

One additional award may be distributed each year, the “Spirit of Mock Trial” Award. Nominations will be made by team members and/coaches. Selection of the recipient will be determined by the Mock Trial Advisory Group. Criteria and information about this award will be disseminated to mock trial teams through the mock trial list serve. The deadline for nominations is February 1, each year.

### 3. Instructions for Scoring Judges

- a. Score Sheets. During each round, **scoring judges will each complete and turn in a score sheet to the presiding judge.** On the score sheet, each team's performance will be rated using a 10-point scale on a series of performance categories. Each judge will also record on the score sheet his/her decision as to which team exhibited the best overall performance. (Please see Sample Score Sheets and “**Standards for Scoring.**”) **Please follow these standards.** It will skew the results of the round and the entire competition if judges impose their own stricter or more lenient scoring criteria.
- b. Performance Points. The points play a very important role in the competition. Your scores should reflect how well each competitor stayed in character as an attorney or a witness; the ability of the team to present credible evidence to support their side; and how closely to an actual jury trial each team treated the proceedings. Do not reward tactical plays by attorneys or witnesses or other tactical presentations that detract from the case materials and presentation.
- c. Overall Presentation. When deciding which team made the better overall team presentation, the judges should consider the performances of all attorneys and all witnesses for both sides. Although one team may have an outstanding attorney or



witness, higher points should be given to the team having a well-balanced presentation.

- d. Point Deductions. At the close of the round, the presiding judge will instruct you as to whether any points should be deducted for time or rules violations.
- e. Special Considerations. Section 901.03(1) (a) of the Wisconsin Statutes governs evidentiary objections in Wisconsin. It provides for a "timely objection" which states "the specific ground." It does not provide that attorneys may argue their objections and, in fact, most judges discourage argument over evidentiary objections. Mock trial is just the opposite. One of the primary ways teams can distinguish themselves in mock trial is by displaying knowledge of the rules of evidence and the ability to properly apply these rules to the facts of the case. Conversely, the failure to make appropriate objections or the inability to argue them should be reflected in a lower score.

A related, but subtler problem has to do with time limits and timekeeping. Under Rule 4.5, each side is given a total of 40 minutes to present the case. Part of the 40 minutes consists of cross-examination of the opponent's witnesses. Because of the time limit, witnesses have a built-in incentive to be loquacious in order to use up the other side's time. If a team goes over on time, a point deduction is mandatory. This inevitably results in attorneys attempting to control adverse witnesses by demanding that they answer "yes" or "no" or by cutting them off with objections that their answers are "unresponsive." This, in turn, leads to attorneys on the adverse side demanding that the witness be given "the right to explain" his/her answer.

Ordinarily, judges tend to resist attorneys interrupting witnesses and there is more latitude given witnesses to "explain their answers." In mock trial, a witness has no "right to explain his/her own answer" when the explanation may be calculated to consume limited time belonging to the opponent.

The witnesses are confined to the facts in their statement and any reasonable inferences from those facts. Opposing counsel may impeach them for going outside these facts. Scoring judges should take into account in their scoring of a witness whether the witness went outside the scope of the facts in the witness' statement, and deduct points for any facts outside the witness' statement.

#### 4. **Instructions for Presiding Judge**

- a. Score Sheet. During each round, the presiding judge determines on his/her score sheet, which team exhibited the best performance. The presiding judge does not award points to the teams. The legal merit of the case has no bearing on whether a team wins the round.

**The presiding judge is responsible for collecting the score sheets from the two scoring judges and checking to see that a score has been entered on each scoring**

**criteria and that the “Best” categories have been completed.** A score sheet runner will come to the presiding judge to pick up all three score sheets immediately after each round. **After the score sheets have been submitted**, all three judges will proceed with giving feedback to each team.

- b. Overall Presentation. When deciding which team made the better overall team presentation, the judge should consider the performances of all attorneys and all witnesses for both sides. Although one team may have an outstanding attorney or witness, the team having a well-balanced presentation should be awarded the decision.
- c. Ruling on Objections. All trials are governed by the 2014 Tournament Rules and the Federal Rules of Evidence (mock trial version) which are intended to be as close as possible to standard rules, but which may differ for purposes of simplification or educational value. **Please study the rules, case materials, and score sheets carefully before judging the competition.**

**Please note that there is a rule on objections referred to as ORRR — Object, Respond, Reply and Rule. See Rule 4.19.** This rule is designed to help keep the trials moving along and to prevent teams from using non-substantive objections as a strategy. Under ORRR, allow the objecting attorney to state the grounds for his/her objection; hear the opposing attorney’s argument; allow a response; and then make a ruling. Do not cut off arguments because the answer is obvious, doing so denies participants the opportunity to demonstrate their knowledge, or lack thereof.

When ruling on objections, the presiding judge should provide as legally accurate a ruling as possible under the mock trial modified Rules of Evidence.

- d. Time Management. The presiding judge should attempt to move the trial along; it should last approximately 90 minutes. It is important to keep the trials moving on time, so as not to disrupt the starting time of later trials. Consistent use of timesheets to report time violations will encourage teams to stay within their time limits.

Under **Rule 4.5**, each side is given a total of 40 minutes to present its case. Part of those 40 minutes consists of cross-examination of the opponent's witnesses. Thus, witnesses have a built-in incentive to use up the other side's time. If a team goes over the allotted time, a point deduction is mandatory.

- e. Time Keeping. Teams are given a total time allotment of 40 minutes each. Teams may determine how to allocate time to each segment of the trial. Each team is responsible for providing a timekeeper.
  - (1) Please complete a timesheet for each team at the end of each trial. The timesheets will be handed out with score sheets, and will ask whether or not each team went over their time limit and by how much. The person tabulating the scoring will then be responsible for deducting points for teams going over the allotted time.

The following point deductions will be used by the scoring tabulator upon receipt of timesheets:

TIME VIOLATION	POINT DEDUCTION
less than one minute over	one point
one - two minutes over	two points
two - three minutes over	three points
three - four minutes over	four points
four - five minutes over	five points
over five minutes over	10 points

When considering time violations, please remember that the following **do not count** in the 40-minute allotment:

- objections
- bench conferences
- swearing in of witnesses

*Please consider each team's adherence to their time limit separately.*

- (2) You may allow a team to finish their presentation if they go over their time allowance. However, you must report the overtime on that team's timesheet.
- (3) If a team determines that an opposing team has overrun a designated time limitation, the team may bring the discrepancy to the judges' attention. Judges should sustain objections to time violations if valid. The judges may permit the team to conclude its' presentation or may halt the presentation accordingly.

## 5. After the Trial

- a. After the trial is over, all three judges should **first** fill out the score sheets and timesheets. The scoring judges will give their score sheets to the presiding judge. **The presiding judge will verify that all scores have been entered and signed by the scoring judges.** The presiding judge will turn in the score sheets and the timesheets to the score sheet runner.
- b. The judges are not to announce performance decisions to the teams. Those decisions will be provided at the end of the day by the tournament coordinator.
- c. Do not ask teams to identify their school(s). Teams have been instructed to use **ONLY** their team number for identification. Judges can ask the tournament coordinator at the end of the day which schools they judged if they would like to know. Teams are instructed not to wear items identifying their schools; if any team member or parents of team members wear identifying items, please notify the tournament coordinator as soon as possible.
- d. Teams have been told that they are **NOT** to discuss their performance or any other team's performance with any of the judges during the competition. This includes breaks and

recesses. It is also not permissible to contact a judge after the tournament at his/her home or place of business. Please do not violate this rule.

- e. If time is available, the rules permit **up to nine minutes** at the end of a trial for judges' comments to the teams. Timekeepers have been directed to time the comments and to advise the presiding judge when the nine-minute limit has been reached. No comments shall be given after the fourth round. **Comments should be:**


- Appropriate to high school students;
- Supportive to acknowledge good work;
- Reinforcing the value of participation in Mock Trial; and
- Helpful in identifying specific ways to improve presentation technique and decorum are particularly helpful.

While you might like to advise students about how to handle the case, most teams have been preparing for the competition for months and their trial strategy has been well analyzed. Giving students advice about different strategies often becomes very confusing (especially with four different panels judging them). In addition, it is almost impossible for participants to act on advice during the 15 minutes of free time that are available between rounds. In consideration of that, please try to keep your comments to the above framework.

## Presiding Judge Checklist


- ✓ Welcome the students, teachers, attorney coaches, and parents and friends.
- ✓ Introduce yourself and ask Scoring Judges to introduce themselves.
- ✓ Verify this is Team \_\_\_\_ as Plaintiff and Team \_\_\_\_ as Defendant.
- ✓ USE NUMBERS ONLY! Never ask team to identify its school.
- ✓ Verify timers for each team.
- ✓ Ask each side to present a team roster to you and a copy to each scoring judge.
- ✓ Complete Presiding Judge Score Sheet and Judge Timesheet.
- ✓ At the conclusion of the trial, collect score sheets from the scoring judges. **Review carefully to see that all scores and “Best” categories are entered, that the “Tiebreaker” box has been completed and that the score sheets are signed.**
- ✓ Turn in completed score sheets to the score sheet runner before giving any feedback to students.
- ✓ Provide up to **3 minutes per judge** student feedback after first three rounds. There is no feedback after the fourth round.





Wisconsin High School

# MOCK TRIAL TOURNAMENT



## PRESIDING JUDGE SCORE SHEET

Prosecution/Plaintiff: \_\_\_\_\_ Defense/Respondent: \_\_\_\_\_  
(Team I.D. #) (Team I.D. #)

DATE: \_\_\_\_\_ ROUND: (CIRCLE ONE)    1    2    3    4

**PERFORMANCE DECISION:** In my opinion, the better mock trial performance was shown by (circle one):

Prosecution/Plaintiff

Defense/Respondent

**COMMENTS:**

Judge's Signature: \_\_\_\_\_

**Please deliver to the Score Sheet Runner before debriefing.**

**DO NOT SEPARATE COPIES!!!!**

**WHITE** - Coordinator Copy

**YELLOW** - Defense/Defendant Copy

**PINK** - Prosecution/Petitioner Copy



**STATE BAR OF WISCONSIN**  
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## JUDGE TIMESHEET

Prosecution/Plaintiff: \_\_\_\_\_ Defense/Respondent: \_\_\_\_\_  
(Team I.D. #) (Team I.D. #)

DATE: \_\_\_\_\_

ROUND: (CIRCLE ONE)    1    2    3    4

**PROSECUTION/PLAINTIFF**

Did this team go over their 40-minute time limit? (Circle one) YES / NO

If yes, by how much?

- ☐ less than one minute
- ☐ one - two minutes
- ☐ two - three minutes
- ☐ three - four minutes
- ☐ four - five minutes
- ☐ over five minutes

**DEFENSE/RESPONDENT**

Did this team go over their 40-minute time limit? (Circle one) YES / NO

If yes, by how much?

- ☐ less than one minute
- ☐ one - two minutes
- ☐ two - three minutes
- ☐ three - four minutes
- ☐ four - five minutes
- ☐ over five minutes

Judge's Signature: \_\_\_\_\_



STATE BAR OF WISCONSIN

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## STANDARDS FOR SCORING

### SUGGESTED CRITERIA FOR SCORING JUDGES

Individual participants will be rated on a scale of 1-10 speaker points, according to their roles in the trial. The Scoring Judge is scoring individual performance in each speaker category and TEAM PERFORMANCE in the Total Points and Tiebreaker boxes. The Presiding Judge is scoring the overall performance of the team. Please do not award fractional points, a range of points, or a score of "0."

Scoring Judges may individually consider penalties for violation of the Rules of the Competition or the Code of Ethical Conduct. Penalties would reduce point awards in the appropriate performance categories below. Penalties will not be indicated separately on the score sheet, but rather, should be reflected in a lower score in the appropriate category.

The team with the higher number of total points on the score sheet shall win the judge's ballot and shall be entered in the "Tiebreaker Box" on the ballot. The team winning the majority of the ballots shall win the round.

Scoring judges are reminded to check that points have been awarded in each category on the score sheet; that they cannot award two teams a tie; and that score sheets must be signed before giving the score sheet to the presiding judge.

POINTS	CRITERIA FOR EVALUATING STUDENT PRESENTATIONS
1-2	Unsure, illogical, uninformed, unprepared, speaks incoherently, definitely ineffective in communication, total reliance upon notes, easily distracted.
3-4	Minimally informed and prepared. Performance is passable but lacks depth in terms of knowledge of tasks and materials. Communication lacks clarity and conviction. Relies heavily on notes (if attorney); somewhat distracted.
5-6	Average presentation. Can perform outside the script but less confidently than when using the script. Grasps major aspects of the case, but does not convey mastery of it. Communication is clear and understandable, but could be stronger in fluency and persuasiveness.
7-8	Fluent, persuasive, clear and understandable. Organizes materials and thoughts well, and exhibits mastery of the case and materials. Seldom refers to notes (if attorney); responds to occurrences during trial.
9-10	Superior in qualities listed for 7-8 points. Thinks well on feet, is logical, and keeps poise under duress. Can sort out essential from the nonessential and use time effectively to accomplish major objectives. Demonstrates the unique ability to utilize all resources in order to emphasize vital points of the trial. Attorneys are completely off notes.



## CRITERIA FOR SCORING A TRIAL PRESENTATION

The following criteria should be considered during the course of a team's trial presentation. Consider "5" as average. This is designed to serve as a guideline. During the competition rounds, Scoring Judges may award points at their own discretion. All points assessed in a round are subjective. (See **Rules of Competition, Rule 6**, for treatment of rule infractions.)

### Opening Statement

- ☐ Provided a case overview
- ☐ The theme/theory of the case was identified
- ☐ Mentioned the key witnesses
- ☐ Provided a clear and concise description of their team's side of the case
- ☐ Stated the relief requested
- ☐ Discussed the burden of proof
- ☐ Presentation was non-argumentative
- ☐ Did not rely on notes for presentation

### Direct Examination

- ☐ Properly phrased questions
- ☐ Used proper courtroom procedure
- ☐ Handled objections appropriately and effectively and did not overuse objections
- ☐ Did not ask questions that were beyond the scope of the materials from the witness
- ☐ Demonstrated an understanding of the Modified Federal Rules of Evidence
- ☐ Handled physical evidence appropriately and effectively (**Rule 4.21**)

### Cross Examination

- ☐ Properly phrased questions
- ☐ Effective Questioning
- ☐ Properly impeached witnesses (bring out contradictions in testimony)
- ☐ Handled objections appropriately and effectively
- ☐ Did not overuse objections
- ☐ Used various techniques, as necessary, to handle a non-responsive witness
- ☐ Demonstrated an understanding of the Modified Federal Rules of Evidence
- ☐ Handled physical evidence appropriately and effectively (**Rule 4.21**)

### Witness Performance

- ☐ Did not use notes (as required)
- ☐ Credible portrayal of character and convincing testimony
- ☐ Showed understanding of the facts
- ☐ Sounded spontaneous, not memorized
- ☐ Demonstrated appropriate courtroom decorum
- ☐ Avoided unnecessarily long and/or non-responsive answers on cross-examination
- ☐ Did not use facts outside the witness' statement

### Closing Statement

- ☐ Theme/theory continued in closing argument
- ☐ Summarized the evidence
- ☐ Emphasized the supporting points of their own case and damaged the opponent's case
- ☐ Concentrated on the important facts, not the trivial
- ☐ Applied the applicable law

- ☐ Discussed Burden of Proof
- ☐ Overall, closing statement was persuasive
- ☐ Minimal or no reliance on notes during the closing statement
- ☐ Did not exceed time limit

**Other Factors to Consider in Scoring**

- ☐ PENALTY DEDUCTION should be used under the direction of the Presiding Judge to deduct points from a team's score if any member(s) of their team fail(s) to adhere to appropriate courtroom decorum (i.e., abuse of procedural rules, inappropriate use of objections, improper participation by coach or gallery, creation of material facts, or other rules infractions as observed or reported and verified).
- ☐ The team's presentation should have a balance of six strong participants, strong style (did they use notes or not), present closing statements that reflect what actually happened during the trial.

Wisconsin High School  
**MOCK TRIAL  
TOURNAMENT**



**SCORE SHEET**

Prosecution/Plaintiff: \_\_\_\_\_ Defense/Respondent: \_\_\_\_\_  
(Team I.D. #) (Team I.D. #)

DATE: \_\_\_\_\_ ROUND: (CIRCLE ONE) 1 2 3 4

**Using a scale of 1 to 10, rate the P and D in the categories below.  
Do NOT use fractional points nor award zero points.**

Not Effective 1-2 Fair 3-4 Good 5-6 Excellent 7-8 Outstanding 9-10

		PROSECUTION	DEFENSE
<b>OPENING STATEMENTS</b>			
<b>Prosecution/Plaintiff</b>	Direct Examination		
First Witness:	Cross-Examination		
	Witness Presentation		
<b>Prosecution/Plaintiff</b>	Direct Examination		
Second Witness:	Cross-Examination		
	Witness Presentation		
<b>Prosecution/Plaintiff</b>	Direct Examination		
Third Witness:	Cross-Examination		
	Witness Presentation		
<b>Defense/Defendant</b>	Direct Examination		
First Witness:	Cross-Examination		
	Witness Presentation		
<b>Defense/Defendant</b>	Direct Examination		
Second Witness:	Cross-Examination		
	Witness Presentation		
<b>Defense/Defendant</b>	Direct Examination		
Third Witness:	Cross-Examination		
	Witness Presentation		
<b>CLOSING ARGUMENTS</b>			
DEDUCTIONS: Subtract Points for rules violations.			
TOTAL SCORE: Add scores in each column.			
TIEBREAKER: (circle one)		<b>P or D</b>	

**Please deliver ballot to runner before debriefing.**

**NOTE: SCORES FINAL PENDING VERIFICATION.**

**DO NOT SEPARATE COPIES!!!!**

**WHITE** - Coordinator Copy

**YELLOW** - Defense/Defendant Copy

**PINK** - Prosecution/Petitioner Copy

Judge's Signature: \_\_\_\_\_



**STATE BAR OF WISCONSIN**

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## GUIDELINES FOR REGIONAL COORDINATORS

The regional tournament coordinator is responsible for organizing and hosting the regional tournament in cooperation with the State Coordinator. Each region will send the team winning the regional tournament to compete in the state semifinal tournament in Madison.

The following is information to assist you as you prepare for the regional tournament:

### A. BEFORE THE TOURNAMENT

1. Facilities: As early as possible, contact the local courthouse to request permission to use courtrooms for the regional tournament on Saturday, February 8, 2014. Reserve between four and eight rooms in order to have space available for the trials as well as scoring, etc. If more space is required than the courthouse can comfortably provide, it may be necessary to hold the tournament in a public facility. You will receive a list of the schools and number of teams in your region after the final entry date of December 13, 2013. Milwaukee and Madison facilities are arranged by the State Coordinator.
2. Judges: **At least two months in advance of the tournament**, contact judges and attorneys to request their participation as mock trial judges. The State Bar of Wisconsin will send you a list of judges and attorneys who have volunteered to participate, but it is generally not possible to rely solely on this list as a means of soliciting judges. It will likely be necessary for you to contact additional attorneys and/or judges to locate sufficient volunteers for the event. The State Coordinator may assist with this process. It is strongly recommended to recruit one set of judges for the morning and one set for the afternoon. This minimizes the difficulty of teams not presenting in front of the same panel of judges multiple times.
3. Size of Regions: In an attempt to even out the number of regions in the state and to provide the best tournament experience, the minimum number of teams registered in a region will be six teams and the maximum number will be fourteen. If there are fewer than six teams registered in one particular region by the final entry date or more than fourteen, teams may be moved to balance out the regions. Every consideration will be given keeping regions as balanced as possible and to minimizing the distance each team must travel.

If a region falls under six teams **after** the drop deadline, every attempt will be made to make an adjustment if possible.

4. Odd Number of teams in Regions: Every attempt will be made to avoid having an odd number of teams in any region to eliminate the need for “bye” rounds during the tournament. There may be juggling of teams from region to region in order to accomplish this. Every effort will be made to minimize team travel.

In the event that it is not possible to even out the regions, the regional tournament will be compelled to utilize a bye round situation. [See Rule 5.8]

5. Teams should not play each other more than once during regional competitions. When teams are power-matched, they should never have to compete against a team they have already opposed. Do not hesitate to contact the State Coordinator with any questions.
6. **Notify the State Bar of Wisconsin with the names of judges and attorneys** who will be participating in the regional tournament so that the State Coordinator can provide judges with information to access the Mock Trial Handbook and case materials. It is essential that the State Bar receive the names **no later than January 10**, to allow judges adequate time to review mock trial rules and case materials.

As you recruit judges, keep in mind that it is best to recruit a different panel of judges for the morning and afternoon rounds of competition. This helps ensure that teams are judged by different judging panels and keeps the judges from getting fatigued since it is a long day.

7. Contact teacher coaches in your region **at least 3 weeks before the tournament to notify them of the location and times of the competition**, so they can make bussing arrangements and get permission slips signed by parents. It is helpful to include any information about courthouse rules or availability of food for student lunches. The final date for dropping a team from the regional tournament is **January 10, 2014**.
8. **The list of all judges and team information must be submitted to the State Bar no less than two weeks prior to the regional competition in order for the State Bar to set up the tournament information in the scoring application.** All data for the regional tournament will be entered into the scoring application by State Bar staff and each coordinator will be able to access it online for the competition.
9. The State Bar will send out a statewide press release one week prior to the regional tournament. You will be notified when that occurs and will receive a copy of the press release. We would encourage you to also contact your local media to request press coverage.

## **B. ON THE DAY OF THE TRIALS**

1. **Things to bring:**
  - Score sheets
  - Timesheets – for presiding and scoring judges, timekeepers score sheets
  - Laptop computer
  - Stopwatches
  - Mock Trial Handbook and Case Materials
  - Large paper/poster board to assign teams to courtrooms (See Competition Schedules)

- Paper, paper clips, stapler, pens, tape, calculator
2. Try to arrive at least one hour before the trials are scheduled to begin.
    - **Because of the power-matching system, no effort will be made to guarantee that schools with two teams do not meet each other in the first round. Random match means exactly that - random!** After all the information has been input into the scoring application by the State Bar staff, you will be notified. You can then push “set-up complete” and the random matches for the first round will be assigned. You may choose to do this the evening before the tournament to minimize set-up time in the morning. Once you have pushed the “set-up complete” DO NOT push it again. It will randomly reassign all teams each time it is pushed. Signs can be made ahead of time and merely posted in the morning prior to the first round.
    - Remind teachers to ask students to pick up after themselves before they leave. Please discourage all participants from eating and drinking except in the designated areas. In order to ensure our future use of the facilities, it is necessary to leave things in the order we found them.
    - Place a copy of the “Presiding Judge Checklist” on the bench in front of each Presiding Judge.
  3. **Provide training to judges: (Allow a minimum of 30 minutes.)**
    - Discuss “Standards for Scoring”
    - Distribute score sheets, timesheets – explain scoring
    - Explain procedure for receiving completed score sheets
    - Explain presiding judge role to collect score sheets, check for completion  
Explain timesheet violations, how to record violations (each score sheet)
    - Emphasize that every box on score sheet must be completed and score sheet signed
    - Emphasize running trials on time
    - Emphasize positive, constructive feedback to students
    - Go over any last minute changes/issues

The following information is on the “Presiding Judge Checklist,” but if time permits, please review with the judges:

- Instruct judges to ask for a team's I.D. number (and not their school name) for identification.
- Request that judges not give out any decisions to the teams.
- At the end of each trial, **after score sheets have been completed and turned in to the presiding judge, reviewed, and turned in to the score sheet runner; judges are encouraged to comment positively** on the teams' performances.
- The trials are on a very tight time schedule, and it is important that they keep their comments brief. There is a **nine minute limit per panel** and only if the trials are running on schedule. There should be no comments after the fourth round.

4. If a team drops out the morning of the competition, notify the State Bar either on the morning of the tournament or on Monday, February 10, and the circumstances surrounding it.
5. After each round, ensure that all the score sheets and timesheets are collected - either by the tournament coordinator or a designated score sheet runner. Ensure that all scores are tabulated (the total judges' decisions and points for each team). All scores should then be entered into the scoring application provided by the State Bar. The scoring application will calculate matches for the subsequent round.

Set aside a separate room for scoring. No one should be admitted into this area except for persons assisting with the regional tournament and assisting with scoring.

An attorney and a teacher coach from different schools in your region may be selected to assist in checking the score sheets or to assist in in-putting scores. Please instruct them not to give any indication of ranking until the regional winner has been determined. If possible, it is best to select teachers and attorneys who are familiar with the scoring process.

6. If the two top teams have a tied record and they have previously competed, the team that won the earlier round will be declared the regional champion.
7. If a protest is filed by a team after a trial, follow the steps outlined in the section on Dispute Resolution in the Tournament Rules (**Rule 6.2**). You are the authority for your regional tournament. If there is absolutely no way to resolve a dispute in your region, please see **Rule 6.5**, Appeals Process and contact the State Coordinator, if possible.
8. Upon completion of all four trials, the scoring application will rank order all teams. Teams are ranked according to overall win/loss records; total number of ballots received; and finally performance points. The top ranked team will proceed on to the semifinal tournament to be held in Madison on March 9, 2014.
9. It is suggested that a brief ceremony be held to recognize all teams that have participated in the tournament. What/how that is arranged is at the discretion of the regional coordinator.
10. Before teams leave the regional tournament, give each team a copy of their score sheets. All disputes must be dealt with prior to departure. If they cannot be resolved, regional coordinators should instruct teams to follow the Appeals Process (**Rule 6.5**).
14. Tied teams play-off on the following Saturday, February 15, if necessary, to determine the regional winner. Side presentation is determined by a draw. (Please see "Tournament Format" for an explanation regarding how to match more than two tied teams.)

Pairings among the tied teams are determined before the teams depart from the regional tournament. The tournament coordinator is responsible for informing the state coordinator of those pairings on Monday, February 10.

**PLEASE NOTE:** The play-offs are scheduled for Saturday, February 15. There are no exceptions. The regional tournament coordinator determines the time and location. Any team not able to play-off on that date forfeits. Results should be called into the state coordinator on Monday, February 17. **All judges for the play-off round are chosen by the regional coordinator.** The state coordinator is not involved in scheduling the play-off rounds.

### C. AFTER THE TRIALS

On Monday, February 10, send the original score sheets and timesheets to the State Bar.

Please submit a record of your expenses to the State Bar for reimbursement. We will reimburse for postage, telephone, fax, copying, and supplies. If you have any questions regarding reimbursement, please contact Marsha Varvil-Weld at 608-250-6191 for details.

For results of the regional tournaments held across the state, go to the Law-related Education website at [www.wisbar.org](http://www.wisbar.org).



## **COMPETITION SCHEDULE**

8:00 - 9:30     Round 1  
10:00 - 11:30   Round 2  
12:00 - 12:45   Lunch Break  
1:00 - 2:30     Round 3  
3:00 - 5:00     Round 4

Times are approximate, but all regions are encouraged to stay as close as possible to the above times in order to ensure that all teams begin and end the competition in a timely manner.

### **PAIRINGS FOR SIX TEAMS**

You will need a panel of 9 morning judges and 9 afternoon judges. You should receive 12 presiding judge score sheets and 24 scoring judge score sheets.

### **PAIRINGS FOR EIGHT TEAMS**

You will need a panel of 12 morning judges and 12 afternoon judges. You should receive 16 presiding judge score sheets and 32 scoring judge score sheets.

### **PAIRINGS FOR TEN TEAMS**

You will need a panel of 15 morning judges and 15 afternoon judges. You should receive 20 presiding judge score sheets and 40 scoring judge score sheets.

### **PAIRINGS FOR TWELVE TEAMS**

You will need a panel of 18 morning judges and 18 afternoon judges. You should receive 24 presiding judge score sheets and 48 scoring judge score sheets.

### **PAIRINGS FOR FOURTEEN TEAMS**

You will need a panel of 21 morning judges and 21 afternoon judges. You should receive 28 presiding judge score sheets and 56 scoring judge score sheets.

### **PAIRINGS FOR SIXTEEN TEAMS**

You will need a panel of 24 morning judges and 24 afternoon judges. You should receive 32 presiding judge score sheets and 64 scoring judge score sheets.

## **SCHEDULES FOR TOURNAMENTS WITH AN ODD NUMBER OF TEAMS.**

### **PAIRINGS FOR FIVE TEAMS**

You will need a panel of 6 morning judges and 6 afternoon judges. You should receive 8 presiding judge score sheets and 16 scoring judge score sheets.

### **PAIRINGS FOR SEVEN TEAMS**

You will need a panel of 9 morning judges and 9 afternoon judges. You should receive 12 presiding judge score sheets and 24 scoring judge score sheets.

### **PAIRINGS FOR NINE TEAMS**

You will need a panel of 12 morning judges and 12 afternoon judges. You should receive 16 presiding judge score sheets and 32 scoring judge score sheets.

### **PAIRINGS FOR ELEVEN TEAMS**

You will need a panel of 15 morning judges and 15 afternoon judges. You should receive 20 presiding judge score sheets and 40 scoring judge score sheets.

### **PAIRINGS FOR THIRTEEN TEAMS**

You will need a panel of 18 morning judges and 18 afternoon judges. You should receive 24 presiding judge score sheets and 48 scoring judge score sheets.

## **2014 Wisconsin Mock Trial Tournament Power-matching Explanation**

Power-matching is used at all levels of the tournament including the National Championship. You should be aware that power-matching favors bracket integrity over side presentation. This means that your team should be prepared for the probability of having to play one side of the case more times than the other. However, your team will play each side of the case at least once.

There are three things to keep in mind regarding power-matching:

1. Teams should NEVER play against the same team more than once.
2. The scoring application will power match (not ALWAYS possible) to allow that teams don't face the same panel of judges more than once.
3. Teams alternate sides (prosecution/defense) of the case at least once. Side presentation, however, is not as important as bracket integrity.

### **POWER-MATCHING ODD NUMBERS OF TEAMS**

A "bye" becomes necessary when an odd number of teams are present for any given round of the tournament. It is the intent of the Wisconsin High School Mock Trial Tournament to avoid byes whenever possible. In the event of a circumstance resulting in an odd number of competing teams, the following procedure will apply: [See Rule 5.8.]

The team drawing the "bye" (no opponent for a single trial round) in rounds two through four will, by default, receive a win and the average number of ballots and points earned in its preceding trials. For the purpose of power-matching, the team will temporarily be given points and ballots equal to the average of its own points and ballots earned in its preceding trials. At the end of the fourth round, the average from all three actual trial rounds participated in by the team will be used for the final points given for that team's bye round.

For example, a team receiving a bye in round three would receive an average of its ballots from rounds one and two. At the end of the fourth round, however, the ballots and points actually awarded to the team for the bye round will be adjusted to take into consideration the fourth round performance of the team.

A team receiving a bye in round one will be awarded a win, three ballots and the average number of points for all round one winners, which total will be adjusted at the end of each round to reflect the actual average earned by that team.

For power-matching purposes, the bye in each round will be given to the team that is at the bottom of the lowest bracket and has not previously been given a bye. A team may have no more than one bye round.

(SAMPLE FORM FOR COORDINATOR'S USE)

**TEACHERS' INSTRUCTIONS**

---

*Coordinators should mail or email information regarding the regional tournament to teacher coaches at least three weeks prior to the competition to allow teachers enough time to arrange for transportation and permission slips. Please modify this sample to fit your needs; you may also want to include a map.*

---

To: Mock Trial Teacher Coaches - [list schools in your region]  
Re: Region [number] Information  
From: [coordinator name(s)]

Welcome to mock trial! We have [number] schools competing in the [name] regional scheduled for Saturday, February 8, 2014.

Location: Our regional tournament will take place at the [name of building], [address, special entrance, directional and parking instructions]

Times: Teams should plan to arrive at [time]. **Team rosters** (pg. 46) should be submitted to the State Bar by January 31, 2014. Each team is responsible also for providing official rosters (pg. 47) to the presiding judge and opposing team in each trial round.

Round One starts at [time]. Teams must be in their assigned courtrooms no later than 15 minutes prior to the start of the round.

Schedule: The first round will be randomly assigned and all subsequent rounds will be power-matched using the Wisconsin Mock Trial Scoring Application. The approximate schedule for the day will be:

Please report to room [number] following the last round of the day. After final scores have been tabulated, the regional winner will be announced. In the case of a tie, the play-off round(s) will be held on Saturday, February 15, at a place to be determined.

Lunch: Please bring sack lunches. There are vending machines in the courthouse and [specify nearby fast food restaurants and availability of vending machines].

Coordinators: Your coordinator(s) is/are [name(s) and phone number(s)].

## (SAMPLE FORM FOR COORDINATOR'S USE) JUDGES' INSTRUCTION

---

*Coordinators should email or mail information regarding the regional tournament to judges at least three weeks prior to the competition. Please modify this sample letter to fit your needs; you may also want to include a map.*

---

To: Mock Trial Judges  
Re: Regional Tournament Information  
From: [coordinator name(s) and telephone numbers]

Thank you for agreeing to participate in mock trial! If you have an emergency conflict and are unable to find a replacement, please notify [name and phone number].

Date: Saturday, February 8, 2014

Location: [name of building]

Enter at: [entrance]

Report to: [room # and time] There will be a judges orientation which will begin promptly at (time) in Room ( ). All judges are asked to attend this orientation.

Food: [mention when and where food will be available – judges really appreciate having coffee available]

Schedule: See attached sheet. [List courtrooms, mock trial judges and time schedule.] Please bring a robe if you are a presiding judge.

Please review the “Judges Guidelines” in the Mock Trial Handbook prior to the day of the tournament. The Handbook can be found on the web site at [www.wisbar.org/lre](http://www.wisbar.org/lre) or contact Marsha Varvil-Weld at (608)250-6191, if you have difficulty locating or downloading it. The case materials and “Judge’s Training” video can also be found on the web site. Please familiarize yourself with these materials prior to the tournament.

An orientation will be provided for all judges on the morning of the tournament (coffee and rolls will be provided). Plan to arrive in time for the orientation which will provide additional information about the day as well as information about any changes that might have occurred. We will be asking every judge to check in for the orientation and provide contact information should there be a scoring issue that would require follow-up.

Before leaving at the end of your scheduled time, please check with the tournament coordinator, to ensure that all score sheets have been completely and accurately recorded. Thank you!

## MOCK TRIAL REGIONAL TOURNAMENT SITE REPORT FORM

REGION # \_\_\_\_\_

COORDINATOR \_\_\_\_\_

To help us keep accurate records of the mock trial tournament, please fill out and return this form as soon as you have determined where your regional tournament will be held on **February 8, 2014**.

1. **TOURNAMENT LOCATION**

Address \_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_

Contact at site: \_\_\_\_\_ Phone: \_\_\_\_\_

2. **STARTING TIME:** \_\_\_\_\_

3. Cell Phone (number you can be reached at during the event) \_\_\_\_\_

**Please return this form as soon as possible to:**  
State Bar of Wisconsin, Mock Trial Tournament, P.O. Box 7158,  
Madison, WI 53707-7158.

or

Fax to 608-257-5502 – Attention: Marsha Varvil-Weld  
or email [mvarvil-weld@wisbar.org](mailto:mvarvil-weld@wisbar.org)



STATE BAR OF WISCONSIN

## JUDGE REPORT FORM

**COORDINATOR:** \_\_\_\_\_ **REGION #** \_\_\_\_\_

The following judges and attorneys have agreed to participate as Mock Trial Judges for the regional tournament: (Please type or print names)

Include City or Firm Name	
Name	Name
1.	24.
2.	25.
3.	26.
4.	27.
5.	28.
6.	29.
7.	30.
8.	31.
9.	32.
10.	33.
11.	34.
12.	35.
13.	36.
14.	37.
15.	38.
16.	39.
17.	40.
18.	41.
19.	42.
20.	43.
21.	44.
22.	45.
23.	46.

# WISCONSIN MOCK TRIAL SCORING WORKSHEET

<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <b>Round</b> </div>	<i><b>1</b></i>		<i><b>2</b></i>		<i><b>3</b></i>		<i><b>4</b></i>	
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <b>Room</b> </div>	Presiding Judge:		Presiding Judge:		Presiding Judge:		Presiding Judge:	
		<b>P:</b>		<b>P:</b>		<b>P:</b>		<b>P:</b>
		<b>D:</b>		<b>D:</b>		<b>D:</b>		<b>D:</b>
		<b>P:</b>		<b>P:</b>		<b>P:</b>		<b>P:</b>
		<b>D:</b>		<b>D:</b>		<b>D:</b>		<b>D:</b>
		<b>P:</b>		<b>P:</b>		<b>P:</b>		<b>P:</b>
		<b>D:</b>		<b>D:</b>		<b>D:</b>		<b>D:</b>
		<b>P:</b>		<b>P:</b>		<b>P:</b>		<b>P:</b>
		<b>D:</b>		<b>D:</b>		<b>D:</b>		<b>D:</b>
		<b>P:</b>		<b>P:</b>		<b>P:</b>		<b>P:</b>
		<b>D:</b>		<b>D:</b>		<b>D:</b>		<b>D:</b>
		<b>P:</b>		<b>P:</b>		<b>P:</b>		<b>P:</b>
		<b>D:</b>		<b>D:</b>		<b>D:</b>		<b>D:</b>



Wisconsin High School  
**MOCK TRIAL  
TOURNAMENT**



**TEAM SCORE  
SUMMARY SHEET**

Fill out for each team and hand out with score sheets.

Team # \_\_\_\_\_

Team Name: \_\_\_\_\_

Round	Opponent	Win/Loss	Ballots	Points	Side	Room
1	_____	<u>W / L</u>	_____	_____	<u>P / D</u>	_____
2	_____	<u>W / L</u>	_____	_____	<u>P / D</u>	_____
3	_____	<u>W / L</u>	_____	_____	<u>P / D</u>	_____
4	_____	<u>W / L</u>	_____	_____	<u>P / D</u>	_____

TOTALS      Win/Loss Record \_\_\_\_\_      Ballots \_\_\_\_\_      Points \_\_\_\_\_



STATE BAR OF WISCONSIN

## COORDINATOR

**Attorney Coach**



STATE BAR OF WISCONSIN

## Rule 6.5

Fill out and fax/email to the State Bar of Wisconsin — 608-257-5502 or [www.mvarvil-weld@wisbar.org](mailto:www.mvarvil-weld@wisbar.org).

### Appellant

Name: \_\_\_\_\_ School: \_\_\_\_\_

Email: \_\_\_\_\_ FAX: \_\_\_\_\_

Dispute Issue: \_\_\_\_\_

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### Respondent

Name: \_\_\_\_\_ School: \_\_\_\_\_

Email: \_\_\_\_\_ FAX: \_\_\_\_\_

Dispute Issue: \_\_\_\_\_

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STATE BAR OF WISCONSIN

## Mock Trial Scoring Application

In an attempt to standardize scoring across the state, all Mock Trial Tournaments will be scored and teams will be power-matched using the Wisconsin Mock Trial Scoring Application. The First Round of the tournament will randomly match teams. Each round thereafter will be power-matched using the scoring application regardless of the number of teams in the regional tournament. The scoring application follows the rules outlined in the **Tournament Format** (page 1), and **2014 Wisconsin Mock Trial Tournament Power-matching Explanation**, page 80, of the Mock Trial Handbook. The initial set-up data on teams, judges and location will be input by State Bar staff.

Regional tournament coordinators will have access to the data the week prior to the competition. Tournament coordinators will initiate the matches by clicking the “set-up complete” button the Friday prior to the competition. This will generate the First Round Random Matches. Pairings can then be posted immediately on the morning of the competition.

See the “**Mock Trial Scoring Application User Guide**” following for specific instructions on inputting data to complete the power matches.

## Load an Existing Competition

- 1.) Select the Competition in the Competition Drop Down.

Home	Mock Trial	We The People	Judicial Teaching Institute	Courts with Class	Project Citizen
Participate	Case Materials	Region	For Coordinators	For Judges	For Coaches
Competition	<input type="text"/>	Load New	Setup	Scoring	Reports

- 2.) Click Load.

## Create a New Competition

- 1.) Click New.

Home	Mock Trial	We The People	Judicial Teaching Institute	Courts with Class	Project Citizen
Participate	Case Materials	Region	For Coordinators	For Judges	For Coaches
Competition	<input type="text"/>	Load New	Setup	Scoring	Reports

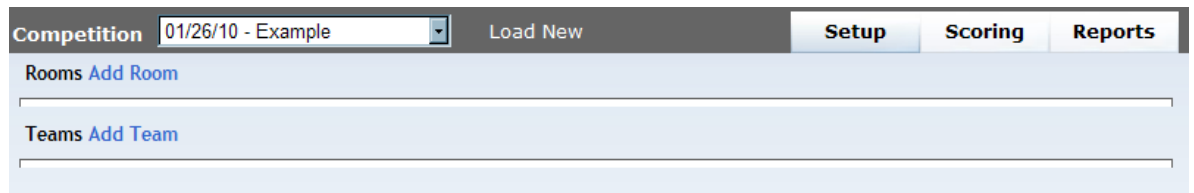
- 2.) In the Add Competition screen, put in a Name, Date & Type.

**Add Competition**  
  
Name   
Date   
Type

- 3.) Click Save.

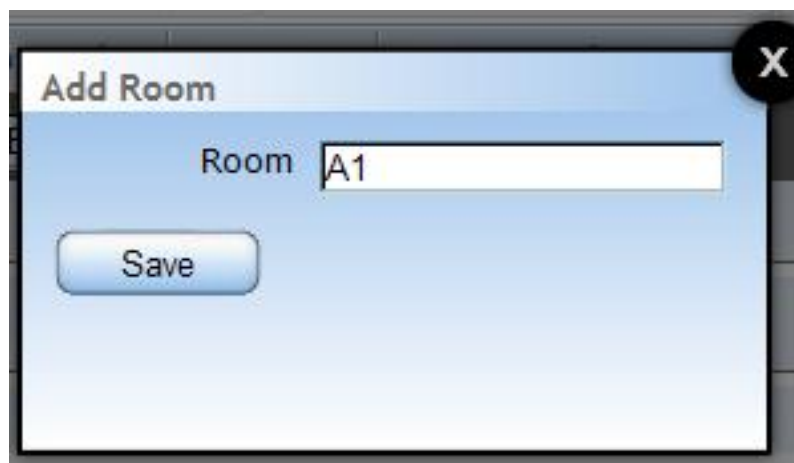
# Add Rooms and Judges

- 1.) From the Setup screen, **click Add Room.**



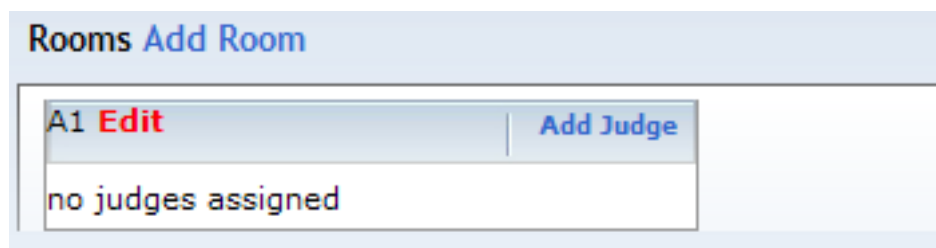
The screenshot shows the 'Setup' tab selected in a navigation bar. Below the navigation bar, there are two sections: 'Rooms' with a blue 'Add Room' link, and 'Teams' with a blue 'Add Team' link. The 'Competition' dropdown menu is set to '01/26/10 - Example'.

- 2.) Enter a Room Number or Title.



The 'Add Room' dialog box is shown. It has a title bar with 'Add Room' and a close button (X). Inside, there is a label 'Room' followed by a text input field containing 'A1'. Below the input field is a blue 'Save' button.

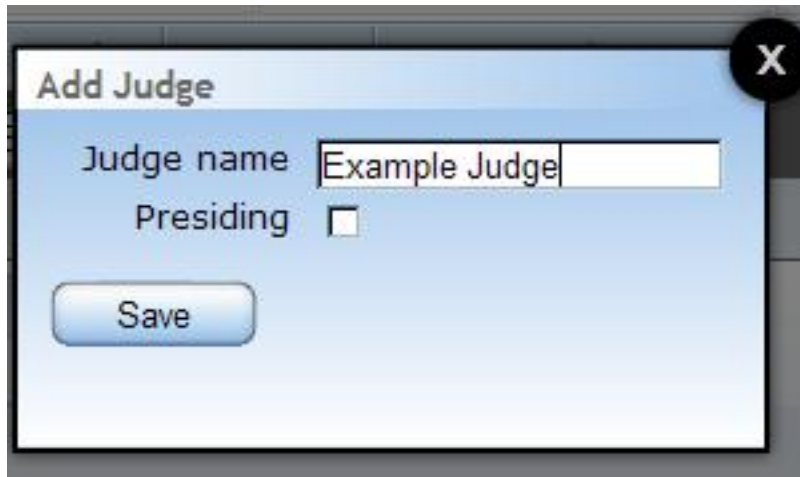
- 3.) **Click Save.**
- 4.) You will see the Room listed under Rooms.



The screenshot shows the 'Rooms' section with a blue 'Add Room' link. Below it, a table lists the rooms. The first row shows 'A1' with a red 'Edit' link and a blue 'Add Judge' link. Below the table, it says 'no judges assigned'.

- 5.) **Clicking Edit** will allow you to Rename or Delete the room.

- 6.) **Clicking Add Judge** will allow you to add Judges to the room.

A screenshot of a software dialog box titled "Add Judge". It has a light blue background and a dark grey border. In the top right corner, there is a black circular button with a white "X". The dialog contains a text input field labeled "Judge name" with the text "Example Judge" inside. Below this is a checkbox labeled "Presiding" which is currently unchecked. At the bottom left of the dialog is a blue button with the word "Save" in white text.

- 7.) Enter in a Judge Name. When using different judges for morning and afternoon, add the name as James/Thomas to denote morning and afternoon judges. **Check Presiding** if the Judge will be the Presiding Judge.
- 8.) **Click Save.**
- 9.) A Final Room will look like the following. **Click Edit** to Rename or Delete a Judge. **A Presiding Judge is signified with the Gavel Icon.**

A screenshot of a software window titled "A1 Edit". It has a light blue header bar with the text "A1 Edit" in red. Below the header is a white area containing a list of judges. Each judge's name is followed by a red "Edit" button. The judge "Rob" is also followed by a gavel icon, indicating he is the presiding judge.

A1 Edit	
James	Edit
Dan	Edit
Rob 	Edit

- 10.) Perform this step for each individual room.

## Add Teams

- 1.) From the Setup screen, **click Add Team.**

Competition	01/26/10 - Example	Load New	Setup	Scoring	Reports
Rooms <a href="#">Add Room</a>					
Teams <a href="#">Add Team</a>					

- 2.) Select either an Existing Team from the Dropdown or enter in an entirely new team.

Add Team

Existing team

or

New team

Save

- 3.) Click Save.
- 4.) Perform this step for each individual room.

## Scoring

- 1.) Once the Setup is finished. Click on “Setup Complete” at the bottom.
- 2.) The first round random matches will appear.

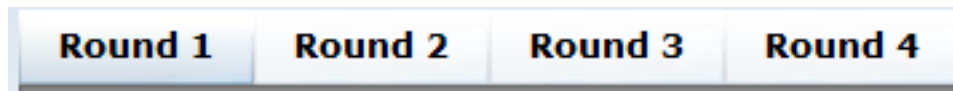
## Scoring Each Round

- 1.) Once the first round is complete, click on “Scoring.”
- 2.) Click on Round

Home	Mock Trial	We The People	Judicial Teaching Institute	Courts with Class	Project Citizen
Participate	Case Materials	Region	For Coordinators	For Judges	For Coaches
Competition	01/26/10 - Example	Load New	Setup	Scoring	Reports



- 3.) The Scoring Area is divided into Rounds and Rooms. **Click on the Round** for which you want to input Scores.



- 4.) All of the Rooms created in the Setup will be listed. **Click the Room** for which you want to input Scores...

Bye Round	Prosecution / Plaintiff: Team 88	Defense / Respondent: Team 0
Room 1	Prosecution / Plaintiff: Team 17	Defense / Respondent: Team 18
Room 2	Prosecution / Plaintiff: Team 96	Defense / Respondent: Team 95
Room 4	Prosecution / Plaintiff: Team 71	Defense / Respondent: Team 89

- 5.) The three Judges for that particular room will show up, along with a Score Card.




6.) **Click on the Judge** whose scores you want to input and enter the scores on the Score Card.

Room 1
Prosecution / Plaintiff: Team 17
Defense / Respondent: Team 18

Christina

Bill

Dan



Score Card	Prosecution / Plaintiff	Defense / Respondent
Opening Argument	a. 1	b. 2
Direct Examination	c. 3	
Cross-Examination		d. 4
Witness Presentation	e. 5	
Direct Examination	f. 6	
Cross-Examination		g. 7
Witness Presentation	h. 8	
Direct Examination	i. 9	
Cross-Examination		j. 10
Witness Presentation	k. 1	
Direct Examination		l. 2
Cross-Examination	m. 3	
Witness Presentation		n. 4
Direct Examination		o. 5
Cross-Examination	p. 6	
Witness Presentation		q. 7
Direct Examination		r. 8
Cross-Examination	s. 9	
Witness Presentation		t. 10
Closing Argument	u. 1	v. 2
Rules Violation Deductions	w. 3	x. 4

Team 17

49

Total Score

Team 18

57

Which side do you feel presented a better case for their side of the case?

☐ Team 17  
Prosecution / Plaintiff
 ☒ Team 18  
Defense / Respondent

Save

7.) **Click Save.**

8.) The question "Which side presented the better case..." will not appear unless there is a numerical tie in the two scoring columns.

9.) Do this for the other two Judges.

10.) Follow the above steps for each Room.

# Reports

- 1.) Click on the Reports Tab.

Home	Mock Trial	We The People	Judicial Teaching Institute	Courts with Class	Project Citizen
Participate	Case Materials	Region	For Coordinators	For Judges	For Coaches
Competition	01/26/10 - Example	Load New		Setup	Scoring
				Reports	

- 2.) Click on the Report you would like to see.

Power Matches	Scoring Summary	Team Scoring
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## Power Matches

- 1.) Click on Power Matches.
- 2.) This will generate a report of the Mock Trial Power Matching.

Mock Trial Room Assignments Report			
James Test - 1/22/2010			
		Prosecution / Plaintiff	Defense / Respondent
Round 1	Bye	Team 88	
	Room 1	Team 17	Team 18
	Room 2	Team 96	Team 95
	Room 4	Team 71	Team 89
Round 2	Bye	Team 17	
	Room 1	Team 89	Team 96
	Room 2	Team 18	Team 71
	Room 4	Team 95	Team 88
Round 3	Bye	Team 96	
	Room 1	Team 71	Team 95
	Room 2	Team 88	Team 18
	Room 4	Team 17	Team 89
Round 4	Bye	Team 89	
	Room 2	Team 96	Team 17
	Room 3	Team 95	Team 18
	Room 4	Team 88	Team 71

3.) **Click Print** to Print the Report.

4.) You can view this report for Round 1 after the "Setup" step is complete and for all subsequent rounds after all scores for the round have been added.

## Scoring Summary

1.) **Click on Scoring Summary.**

2.) This will generate a report of the Mock Trial Scoring Summary.

Mock Trial Scoring Summary								
James Test - 1/22/2010								
Rank		Round 1	Round 2	Round 3	Round 4	Win-Loss	Ballots	Points
1	Team 89	W / 3 / 130	W / 2 / 110	W / 2 / 1	Bye / 2 / 80	4 - 0	9	321.00
2	Team 95	W / 3 / 130	W / 2 / 48	L / 1 / 89	W / 3 / 11	3 - 1	9	278.00
3	Team 88	Bye / 1 / 19	L / 1 / 53	W / 2 / 5	W / 2 / 0	3 - 1	6	77.00
4	Team 71	L / 0 / 110	W / 2 / 28	W / 2 / 92	L / 1 / 0	2 - 2	5	230.00
5	Team 17	L / 1 / 110	Bye / 1 / 39	L / 1 / 2	W / 2 / 5	2 - 2	5	156.00
6	Team 18	W / 2 / 130	L / 1 / 17	L / 1 / 4	L / 0 / 0	1 - 3	4	151.00
7	Team 96	L / 0 / 110	L / 1 / 110	Bye / 0 / 74	L / 1 / 1	1 - 3	2	295.00

*Points awarded to a Bye round are subject to change.*

3.) **Click Print** to Print the Report.

4.) You can view this report after the Scoring step is complete.

## Team Scoring

1.) **Click on Team Scoring.**

2.) This will generate a report of the Team Scoring, with each Team Listed.

Team Scoring Report						
James Test - 1/22/2010						
Team 18	Team 17	Team 96	Team 95	Team 89	Team 88	Team 71

- 3.) **Click on the Team** that you wish to generate a Team Scoring Report. **The Team's Scoring Report you are viewing will be marked by the blue underline.**

### Team Scoring Report

James Test - 1/22/2010

Team 18   Team 17   Team 96   Team 95   Team 89   Team 88   Team 71

	Judge 1	Judge 2	Presiding Judge	Position
Round 1	55	55	*	Prosecution
Round 2				Bye
Round 3	2*	2*		Prosecution
Round 4	0	5*	*	Defense
Total	Current Rank = 5, Win/Loss = 2 - 2, Total Ballots = 5, Total Points = 156			

\* Judge marked as round winner.

- 4.) **Click Print** to Print the Report.
- 5.) You can view this report after the Scoring step is complete.