



**ILLINOIS STATE
BAR ASSOCIATION**

**ILLINOIS STATE BAR ASSOCIATION
High School Mock Trial Invitational**

March 3 and 4, 2006
University of Illinois at Springfield
Public Affairs Center

Rules and Procedures Handbook

*All teachers and students
Must be familiar
with the contents of this handbook*

A Project of the
Committee on Law-Related Education for the Public
and the
Illinois LEARN Program

State Mock Trial Office
424 South Second Street
Springfield, Illinois 62701

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INTRODUCTION

Mock trial provides an opportunity for students to learn what is it like to prepare and present a legal case before the Illinois Courts.

Students who have participated in the mock trial program in the past have said that they have benefited by learning how to work as a team, developing oral presentation skills, learning the value of setting a goals, learning the value of planning, learning how to think on your feet, and learning to face challenging obstacles with enthusiasm and confidence. Students who have become peer mediators in their schools have learned the same skills.

To the teachers, lawyers and judges of this program, thank you for contributing your talent and time. By doing so, you are making exceptional educational opportunities available to the youth of Illinois.

Remember, it is important to think of high school mock trials as a distinctive way to learn about the legal process used to remedy some disputes in Illinois. The actual mock trial presentations in Springfield are only one component of this activity and are really a means to "showcase" team achievement. While "winners" are announced, it is important that the goals of the program are to provide an opportunity for students to learn, and to meet with others to show what has been learned. One weekend's performance should not be the be-all and end-all of the mock trial experience. If students have achieved and met the goals set forth by their teachers, their parents and themselves, then they have achieved an extraordinary level of success in their high school careers.

There are other ways to resolve disputes and it is important that students be made aware of these. Mediation, for instance, provides an opportunity for disputing parties to meet with an independent, impartial party, to attempt to remedy the dispute in a way that satisfies both disputants. Because the majority of civil disputes are settled prior to trial, teaching conflict resolution skills as a part of the mock trial exercise makes students aware of the reality of how most disputes are settled, out-of-court rather than in.

It is **mandatory** that all participants follow the official Tournament Rules as outlined in these materials.

If you have any questions, please contact Donna Schechter via e-mail to dschecht@isba.org or toll-free, 800/252-8908 or 217/525-1760.

The Illinois State Bar Association would like to thank the following for their support and assistance with the Illinois State Bar Association High School Mock Trial Invitational:

*The ISBA Committee on Law-Related Education for the Public
The Illinois LEARN Program
University of Illinois at Springfield*



GOALS OF THE HIGH SCHOOL MOCK TRIAL INVITATIONAL

1. To increase student understanding of the American judicial system.
2. To familiarize students with the law, courtroom procedures, and the legal system.
3. To build bridges of cooperation, respect and support between the community and the legal profession.
4. To improve basic skills such as listening, speaking, writing, reading, analyzing, and working as a team.
5. To learn the meaning of good citizenship in a democracy through participation in our system of law and justice.
6. To develop team spirit, establish goals, and work toward a common goal. Students who participate in the mock trial program, if they increase their knowledge and their skills, if they understand our system of justice better and are able to articulate in a reasoned, thoughtful manner, are winners.

The majority of the educational component of the mock trial experience is in the hands of the teachers, lawyers and judges who assist in preparing the teams for the mock trial experience. It is up to these teachers and legal professionals to prepare the students for the mock trial experience, which includes taking the time to explain that in any dispute settled by trial, there will be a winner and there will be a loser and sometimes the results are difficult to understand and may seem unfair or arbitrary.

Teachers and attorneys should prepare students for both possibilities and stress that both winning and losing are learning experiences. Accepting defeat with dignity and restraint should be a component of all mock trial training. It is the policy of the Illinois State Bar Association and the Committee on Law-Related Education NOT to release rankings or scores for this event (other than announcing the top eight teams that will progress to the final round of trials and, thereafter, the top three ranked schools at the conclusion of the program).

Students, teachers and attorneys should have a good understanding of the mock trial rules prior to beginning work on the case materials. ISBA strives to conduct all mock trials fairly. Students, teachers, lawyers and parents should avoid tactics that they know are wrong or in violation of the rules.

It is impossible to predict how a team will perform or how the evaluators will perceive individual presentations. In real life, judges and jurors have no prior knowledge of the case; however, mock trial evaluators and trial judges are sent case materials prior to the mock trial event and are asked to become familiar with the materials. It is our hope that this will help the evaluators in making determinations. Please remember that this is a voluntary, educational program sponsored by the ISBA with the assistance of volunteer lawyers and judges who donate their time and expertise in an effort to provide an educationally stimulating exercise for the students.

It is important that all participants in the mock trial program understand that any evaluation of the student work and presentation skills at the state level is extremely subjective and that scores will not be released as they are only used as a guideline for the ISBA to select a team to attend the National High School Mock Trial Championships on the Friday and Saturday of Mother's Day Weekend in May (**Oklahoma City, Oklahoma 2006**). The National Mock Trial Championships are conducted on Friday and Saturday. Winning

team members should be prepared to arrive at the event no later than Thursday and depart on Sunday.

While the Illinois State Bar Association, the Law Related Education Committee members, and the volunteer lawyers and judges all strive to evaluate teams and individuals in a fair and equitable manner, as with any subjective rating system inconsistencies may occur. As in the Illinois courts, those who are disappointed with the results are expected to conduct themselves with appropriate decorum and respect. Thank you

Note: An excellent resource is "Fundamentals of Trial Techniques," by Thomas Mauet (Little Brown & Company).

**Non-Refundable Registration fee - \$75
DUE NO LATER THAN February 1, 2006**

**Payment must be by check or money orders only.
Please make checks and money orders payable to
Illinois LEARN Program/Mock Trials
No Purchase Orders.**

**REGISTRATION MATERIALS MUST BE SUBMITTED BY
February 1, 2006**

**State Trials, Springfield - Friday and Saturday, March 3 and 4, 2006
University of Illinois at Springfield
Public Affairs Center - Lower Level**

National Championship - Oklahoma City, Oklahoma Mother's Day Weekend, May 2006

In an effort to deter teams from dropping out of the tournament at the last minutes, registration fees are not refundable and teams that drop after the drop deadline (without good cause) will disqualify their school from participation in next year's mock trial tournament. Teams may drop one week prior to the mock trial event without penalty.

LAW EXAMINATION - A mandatory component of the mock trial experience.

As a component of the mock trial invitational, all teams will be expected to take a mock trial written examination. Teachers submit questions for the exam. The format is split between multiple choice and true/false questions. Individual awards will be given for achievement.

All scores together determine the final eight teams. Thus, scores from Friday and Saturday preliminary trials, as well as the law exam score will determine who proceeds to the final round of trials; however, the law exam score will not be included in team totals in the final eight trials.

All team members, including alternates, must take the exam and the team will be scored as an average of the individual team members' scores.

NEW INFORMATION:

We will be implementing a **no electronic device** rule in the courtrooms in Springfield, which will prohibit the use of laptop computers, cell phones, or any other electronic communication devices. Regional or invitational programs are encouraged to implement this rule as well.



MOCK TRIAL POLICY-ENTRY CRITERIA

In the spirit of enhancing the educational experience for all, and improving the basic skills and comprehension of the trial experience, "practice" or "regional" trials will be formally recognized as a *necessary and required* part of the Illinois State Bar Association High School Mock Trial Invitational program.

Effective as of the 2002 program, and continuing, **all teams must** undertake at least one practice/regional trial with another school, or with another team from their school, prior to officially attending a mock trial event in Springfield. These preliminary trials must be judged or evaluated by a judge or attorney volunteer. A letter/form signed by the teacher coach and the judge/attorney must be submitted prior to attending the State Championship trials.

The Committee supports the concept of more than one team per high school; however, due to space and time limitations, official registrations may only be submitted by one team per school. The requirement for practice or regional trial could serve as an elimination round for schools with more than one team interested in the mock trial experience.

CERTIFICATION

All teams must participate in a regional or practice trial before attending the state program in Springfield and forms must be completed and returned indicating such participation. Forms are contained in the forms packet that is sent with registration materials. In addition, all participants and guests are asked to sign a form indicating that they have read and understand the Code of Conduct and have also read and understand the Rules of the Mock Trials.

SPECIAL REQUESTS

If a team participating has special requests for times to go to trial on Friday or Saturday, please complete and return the form below. Every effort will be made to accommodate all requests; however, **there are no guarantees**. Teams should plan on being available for any mock trial time on either day. Please note, times are approximate, as we won't know when

trials will be scheduled until we know how many teams are formally registered.

IMPORTANT NOTE TO ALL PARTICIPANTS:

All teams participating in the ISBA High School Invitational are **STRONGLY ENCOURAGED** to utilize an attorney advisor to assist them with preparations for the mock trial event. Local attorney advisors should be considered an integral part of the educational process and they help fulfill one of the stated goals of this program, i.e., to build bridges of mutual cooperation, respect and support between the community and the legal profession.

Attorney advisors may choose to participate fully in mock trial preparation or they may choose to serve as consultant only. It is strongly advised that teachers and students meet with the attorney advisor at least once during preparations for the mock trials.

Attorney advisors will be able to answer questions on aspects of the case that may be confusing to teachers and students and will also be able to guide students toward the important aspects of the problem.

Please note: No teacher or attorney advisor may coach more than one team.

Attorney advisors may be located in a number of ways. County and/or regional bar associations may have "speakers bureaus" that can assist in locating an attorney. Attorney parents of classmates can be solicited.



TOURNAMENT FORMAT

I. STATE FORMAT

A. The State Championship Tournament is a two-day event with no more than 60 officially registered teams presenting their trials during the event. Teams will be accepted on a first-come/first-served basis.

Trials will begin at or prior to Noon on Friday, depending on the number of teams participating. No meals will be provided by ISBA for this event.

To facilitate participation, ISBA has reserved blocks of rooms at local hotels. Schools must make all room reservations and are responsible for all hotel charges.

B. Teams will be paired for each trial by a random draw. Teams will participate in one trial on Friday (as prosecution or defense) and will argue the opposite side of the case on Saturday. The teams accumulating the highest number of points at trial will be announced (this accumulation will include the written law exam team average). The ISBA and the Committee on Law-Related Education may announce the top 8 scoring schools and may conduct a final trial (random draw as to side of case argued and against which team). Following the final trials, if held, the top three schools will be announced (based on highest overall trial score, but not including the written law exam team average). In the event the ISBA and the Committee on Law-Related Education determine that a final trial round is not going to be conducted, the top three schools will be announced following the official

tournament. Winners will be notified on the Monday following the trial event. The team achieving the highest point total (not including the written law exam team average) will advance as Illinois' representative to the National High School Mock Trial Championship.

C. The state champion is eligible to participate in the National High School Mock Trial Championship. If the first place team cannot participate, the second place team is eligible. Should neither team be available to participate, ISBA will determine a participant. Each state is allowed to send only eight students (six participating as witnesses and attorneys, and two alternates) to the national tournament. Other guests are welcome at the expense of the school.

SPECIAL NOTE: ISBA will grant the state championship school \$3000 to defray expenses for the National High School Mock Trial Championship. Championship school is responsible for fund-raising the remaining funds. ISBA will also pay National High School Mock Trial Championship registration fees (\$300).



TOURNAMENT RULES

ISBA reserves the right to cancel or revise the trial format at any time prior to or during the event, with appropriate notice to participants.

I. The Rules of the ISBA High School Mock Trial Invitational and the Simplified Rules of Evidence govern this event. Each Illinois High School may enter one team consisting of ten students (seven participants and three alternates). Teams comprised of members of a Law Explorers Group, Scouting Troop, YMCA Youth and Government, Boys/Girls Club, Home School Groups, or other sponsored group may also participate with prior approval from the State Coordinator. As with official high school teams, these groups must have an adult coach or supervisor/sponsor. "Independent" ad hoc teams comprised of individuals not part of an officially sponsored group are prohibited from participating. All participants must read the rules and indicate that they have read and understand them on the appropriate forms provided.

A. The case contains any or all of the following: statement of facts (this is a synopsis of the case and should not be considered an official document for use in the trials), complaint, stipulations, witness statements/affidavits, jury instructions, exhibits, etc. Stipulations provided may NOT be disputed at trial. No additional statements/affidavits, jury instructions, exhibits or stipulations may be created by participants. Witness statements may NOT be altered. Teams must be prepared to present both sides of the case, once as prosecution and once as defense.

B. Witnesses are bound by the facts in their affidavits as well as by facts in other affidavits if it is apparent that the witness must have known them. If a witness testifies in contradiction of a fact, the opposition may impeach the testimony, or point out the contradiction on cross-examination by introducing the witness's statement to the court. Students may no longer utilize the "creation of fact" or "beyond the scope of the materials" objections that have been used in previous years.

If a witness is asked a question *on cross-examination* about information that is not part of the case materials, he or she may invent an answer consistent with the facts in the materials. If the answer is likely to affect the outcome of the trial, the opposition may object and ask for a bench conference. The presiding judge will decide whether to allow the testimony. If the presiding judge rules that testimony is an unreasonable deviation from a witness affidavit and disallows the testimony, a subtraction of points from the total score will result. Each judge may subtract up to three points for each ruled deviation. Subtraction of points will only occur after such a ruling is made.

Information provided in the Statement of Facts should not be referred to during trial, unless it is confirmed in a witness statement.

All affidavits and exhibits are authentic and may not be disputed at trial, signed or unsigned, dated or undated.

C. All witnesses are gender neutral.

D. Voir dire examination of a witness is not permitted.

E. Each side is to call **two** witnesses. Each witness is bound by the facts in his/her witness statement. Teams must announce which witnesses they will be presenting upon entering the courtroom (approximately 10 minutes prior to trial time).

F. No team may call a "hostile witness."

G. No electronic devices may be used during the trials in the courtrooms. This prohibits the use of laptop computers, cell phones, or any other electronic communication devices while the trial is in session.

II. TRIALS

A. Trial proceedings are governed by the Mock Trial Simplified Rules of Evidence and Procedures found in this handbook. Other more complex rules are not to be raised at trial.

Each school, or approved group, must have present at all times during the trials its teacher coach, attorney advisor and/or other adult designated by the teacher or school to be responsible for the team. All teams must be affiliated with a sponsoring school, law explorer group, home school group, or other group approved by the Committee on Law-Related Education.

All participants are expected to display proper courtroom decorum, appropriate dress and collegial conduct. This conduct is expected to continue at the hotel and while waiting to go to trial.

An attorney with a child entered in the tournament may 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 advisors will be asked to judge or evaluate only in emergency situations.

B. Students participating in the Illinois State Bar Association's High School Mock Trial Invitational must be currently enrolled in grades 9-12 at the time of the competition. One team of ten (seven participating at trial at one time) from each Illinois high school may participate.

If a team registers for the mock trial event but fails to appear for trial *without notification*, an automatic forfeiture will be declared and the team will be prohibited from participating the following year. If a team experiences illness or other problems, which renders the majority of team members unable to participate, the team may continue in the mock trial program with a minimum of five participants (three acting as attorneys and two acting as witnesses); however, teams with fewer than five available participants will automatically forfeit, but may continue participating so long as the reduced number does not infringe on the ability of the opposing team to perform.

Teams are expected to be in the assigned courtrooms at the time trials are scheduled to begin. Trials will be held no longer than fifteen (15) minutes. If a team fails to appear within the 15-minute time allotment, that team will forfeit the trial and the opposing team will assume the role of a bye team.

C. Teams must be prepared to present both sides of the case. Teams may fill the two witness and the attorney positions from their team roster in any manner they choose for any single trial, so long as only seven of the ten-team members are used. Team members may not switch roles during a trial.

D. Attorney duties in each trial include: opening statements, direct examination of witness #1, direct examination of witness #2, cross examination of witness #1, cross examination of witness #2, and closing arguments. Each team must be prepared to argue both sides of the case. Each team must call two witnesses and may not call the opposing team's witnesses as part of its own case.

Objections during direct and cross-examination should be limited and should be made by the attorney responsible for that witness; e.g., the attorney who handled direct examination of the witness may object during cross; the attorney who will cross-examine the witness may object during direct examination. No objections will be permitted during opening statements and only very limited objections are allowed at the end of the closing arguments. No rebuttal closing allowed.

There will be no re-direct or re-cross of witnesses.

Witness statements and stipulations may not be disputed at the trial. The authenticity of the documents may not be questioned.

E. When specifically allowed, pre-trial motions are limited to two minutes. Pre-trial motions may include entering stipulations and any other appropriate motions listed for each year's case. No other pre-trial motions are allowed. Also, motions in limine are not allowed, nor are motions to exclude witnesses from the courtroom. A motion for directed verdict or dismissal of the case at the end of the prosecution's case may not be used.

A team may motion for a recess only in the event of an emergency, i.e., health emergency.

Should a recess be called, teams are not to communicate with any observers, coaches or instructors regarding the trial.

A pre-trial conference with the presiding judge may be granted if judge and parties agree. Student attorneys may request bench conferences during a trial to clear up any procedural or factual questions. One representative from each side must be present for all bench conferences. These conferences should be limited to no longer than one minute.

F. During the trial, including any recess or unplanned breaks, coaches and all other observers may not talk, signal, pass notes, or otherwise communicate with or coach their teams (this includes those team members who are alternates during a given trial). Team members not actively participating in the mock trial currently being conducted may not communicate with team members who are actively participating either during the trial or during any recess that may be called.

Student attorneys may use notes during the trial, but witnesses may not. Team members actively taking part in any given trial may, among themselves, communicate during the trial. However, no disruptive communication is allowed. Again, no communication is allowed between the participating team members and those serving as alternates.

Teams may not invoke the sequestration rule.

H. In the past, team members, alternates, attorney advisors, spectators and any other persons directly associated with a mock trial team have not been allowed to view other teams in competition. Teams are responsible for making sure that those associated with their teams (family, friends, spectators, etc.) understand and comply with this rule. ISBA has determined, after surveying teachers, that it may be useful for students to watch trials on SATURDAY only. If students and teachers wish to view a trial on Saturday, they must wait outside the courtroom until the participating teams are seated, and their families and guests are also accommodated. If space permits, students and teachers may view the trial, but must remain in the courtroom until the trial is completed. Viewing students may be expelled at any time at the discretion of the presiding judge or an ISBA LRE Committee member.

I. Students may read other materials in preparation for the mock trial; however, they may only cite materials included in the ISBA mock trial packet, and they may only introduce into evidence those exhibits given in the case materials. Teams may NOT cite as authority any material that may be cited or footnoted in the given materials. Props and enlargements are NOT permitted. Costumes, accents, use of dialect, etc. are considered props and are not allowed.

III. RULES OF PROCEDURE FOR MOCK TRIALS

A. Rosters - Each team is required to submit the names of its team members to the state mock trial coordinator with their registration materials. The names submitted are the only members that may participate at state should your team qualify. Trial rosters for distribution to opposing teams are found at the back of this booklet and must be completed and duplicated prior to trial.

disruption in the trial (such as speaking, ringing bells, etc.)

B. Interruptions in the presentations, such as objections, rulings on objections, bench conferences, do not count as part of a team's allotment.

No objections are allowed during opening statements and no objections will be permitted during closing arguments; however, at the conclusion of the trial, before critique begins, if a team has an objection to something stated by the opposition during their closing argument, one student may ask to be recognized and state, "If we could have objected during closing argument, we would have on..." and state the grounds for the objection. The judge needs to rule on this objection. Each scoring evaluator will take the statement into consideration on his or her own. No rebuttal closing allowed.

C. Judges will take into account a team's adherence to the time allowances in making their evaluations. Teams must have accurate timekeepers and keep presentations within specified time allotments. Judges may allow teams to finish their presentations should they go over their time allowance; however, points may be deducted.

D. Each team should furnish a timekeeper. Timekeepers will sit side-by-side and jointly time the trials. The timekeepers need not be a member of the official team but MAY NOT be a teacher or attorney advisor. Time cards and hand signals are appropriate ways to signal time limitations, as long as they are not disruptive in any way.

V. VIDEOTAPING, PHOTOGRAPHY AND AUDIO TAPING

Teams may audiotape their trials if allowed by the presiding judge. The tape recorder should be placed either at the counsel's table or in the audience. Taping should not in any way disrupt the trial. Photographs should be taken before trial begins or after trial concludes. No photos should be taken during the trial proceedings. The only exception to this rule is the mock trial coordinator or ISBA designated photographers. Videotaping of trials is allowed only if both teams agree, the presiding judge agrees, the camera is stationary and the taping does not in any way disrupt the trial. Schools are encouraged to provide copies of their taped trials to the ISBA Mock Trial Coordinator after the trials.

VI. JUDGING AND EVALUATION

The presiding judge, who may also score the trial, will run each trial. At least one presiding and one scoring judge will evaluate each trial. Scoring panels may include attorneys, judges, educators, community leaders, law students or other appropriate individuals.

The presiding judge has authority over matters concerning court procedure, and he or she may comment on or question the proceedings, the student attorneys or the witnesses at any time during the trial.

At the end of each trial, the presiding judge may render a decision based on the merits of the case; however, this does not determine whether the team "wins" or "loses" the trial. The presiding judge may also complete a score sheet awarding points to each team. The numerical scores are not announced at trial and are not released after the conclusion of the event.

Each performance judge and scoring evaluator also rates the teams by awarding team points in several categories.

Prior to each trial, we ask that all judges read the following statement:

While the Illinois State Bar Association, the Law Related Education Committee members, and the volunteer lawyers and judges all strive to evaluate teams and individuals in a fair and equitable manner, as with any subjective rating system there may be perceived inconsistencies. As in the Illinois courts, those who are disappointed with the results are expected to conduct themselves with appropriate decorum and respect. ___Thank you.

G. THE DECISIONS OF THE JUDGES ARE FINAL AND ARE NOT OPEN TO DISPUTE.

VII. DISPUTE RESOLUTION

If during the course of a trial a team has reason to believe that a significant rules violation has occurred, and that the violation may be corrected during the course of the trial, a member of that team shall call a bench conference and communicate the complaint to the presiding judge. To the extent possible, the judge will attempt to resolve the dispute during the course of the trial without disrupting the trial, and may consider the validity or invalidity of the complaint in his or her determination as to which team gave the better performance during the trial.

After a trial has been completed, if a team has serious reason to believe that a significant rules violation has occurred, the teacher or attorney advisor shall communicate the complaint to a member of the LRE Committee immediately after the trial is over. The judges may continue to complete their score sheets and offer comments to the teams during this time. The LRE Committee member will notify the other team of the complaint, and each team will then designate one team member to present its case to the LRE Committee member. The designated team members will each have three minutes for the presentation.

If it is determined that a possible rules violation exists or that there exists a legitimate dispute over the facts that constitute a possible rules violation, the presiding judge will be informed of the dispute and will be given a summary of each team's argument by the LRE Committee member.

The presiding judge will be allowed to consider the dispute before marking his or her scoresheet. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the presiding judge. The presiding judge's decision will be final.

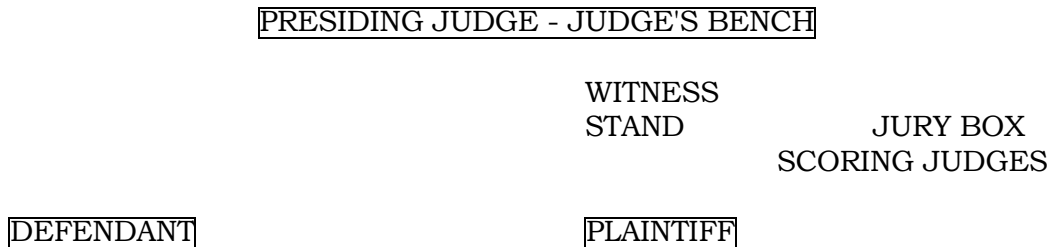
In the event that the presiding judge is not available to resolve a dispute, the dispute shall be resolved and any scoring adjustments made by the Committee on Law-Related Education.



TRIAL PROCEDURE

This section outlines the usual steps in a bench trial--that is, a trial without a jury. This year's mock trial case will be handled as a bench trial. You do not have to concern yourself with the additional steps involved in a jury trial: voir dire (jury selection) and jury instructions (when the judge explains the law to the jury). Please address the presiding judge when addressing remarks to the court.

I. A TYPICAL COURTROOM LAYOUT



This is the format to be used in the mock trial courtrooms.
Plaintiff's side should be seated nearest the witness stand.

II. PARTICIPANTS

The judge or judges
The attorneys
prosecution and defense (criminal case)
plaintiff and defendant (civil case)
The witnesses for each side
The clerk/bailiff (not necessary at mock trial)
Court reporter (not necessary at mock trial)

III. STEPS IN A MOCK TRIAL

A. The Opening of the Court - The bailiff will call the court to order by announcing: "All rise for the Honorable Judge _____. The Circuit Court of _____ County is now in session. The Honorable Judge _____ presiding." All participants should remain standing until the judge(s) are seated.

The case will be announced...i.e., The Court will now hear the case of *State of Illinois v. John Doe*," and the judge will ask the attorneys for each side if they are ready.

B. PRETRIAL MOTIONS and OPENING STATEMENTS

IN THE INTEREST OF TIME, ONLY VERY LIMITED PRE-TRIAL MOTIONS ARE ALLOWED IN THE MOCK TRIAL INVITATIONAL. Pre-trial motions, when allowed by the rules, may not take longer than two minutes and are restricted to those listed as being appropriate to each year's case materials.

Opening Statements - During trials, students should stand to make their presentations for

opening, closing, direct and cross-examinations. Student attorneys must ask the presiding judge for permission to approach the witness or the bench. Student attorneys may move about to facilitate expression.

Plaintiff - standing, the attorney introduces him or herself and colleagues to the judge (and jury, if applicable) and summarizes the evidence that will be presented to support the case.

Defense - standing, the attorney introduces him or herself and colleagues to the judge (and jury, if applicable) and summarizes the evidence that will be presented to rebut the case made by the plaintiff.

NO OBJECTIONS MAY BE MADE DURING OPENING STATEMENTS.

C. Direct examination by plaintiff's attorneys - 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 - After the attorney for the plaintiff has completed questioning the 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. Direct examination by plaintiff's attorneys - After both sides have examined all the plaintiff's witnesses, the defense's witnesses are called for questioning.

F. Cross-examination by plaintiff's attorneys - Cross-examination of each of the defense's witnesses follows the same pattern as cross-examination of the plaintiff's witnesses.

G. Closing arguments - Plaintiff - the plaintiff's 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.

Defense - 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.

H. Deliberations - The presiding judge may confer with the performance evaluators before scoring begins. These deliberations should be done quietly or in private so the teams do not overhear the discussions.

SIMPLIFIED RULES OF EVIDENCE

Rules of evidence are used to regulate the admission of proof (i.e., testimonial or physical evidence). These rules ensure that parties receive a fair hearing and exclude any evidence deemed irrelevant, incompetent, untrustworthy or unduly prejudicial. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the presiding judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded.

For the mock trial program, the rules and evidence have been modified and simplified as set forth below. NOTE: not every judge will interpret the rules of evidence in the same way, so students should be prepared to point out specific rules to which they may be referring and argue for the interpretation and application of the rule they think proper. Regardless of how the judge rules, accept his or her ruling with grace and courtesy.

A. WITNESS EXAMINATION

1. Direct examination (attorneys call and question witnesses)

a. Form of questions: the attorney who calls them may not ask Witnesses leading questions. A leading question is one that suggests to the witness the answer desired by the examiner, often suggesting a "yes" or "no" answer. Direct questions generally are phrased to evoke a set of facts from the witness.

Example of a leading question: "Were you trying to commit suicide when you had your accident?" or, on cross-examination, "You don't really like dogs, do you?"

Example of a direct (non-leading) question: "What happened after you left the store?"

b. Narration: While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information and must not be so broad that the witness is allowed to wander or "narrate" a whole story. Narrative questions often begin with "how," "why," or "explain" and may be objected to if the opposing attorney feels that the testimony should be more focused.

Example of a narrative question: "What happened on the date in question?"

Narrative answers: At times, a narrative question may be appropriate, but the witness's answer may go beyond the facts for which the question asked. Such answers are subject to objection on the grounds of narration.

c. Scope of direct examination: Direct examination may cover all facts relevant to the case for which the witness has firsthand knowledge. Any factual areas examined on direct examination may be subject to cross-examination.

d. Refreshing recollection: If a witness is unable to recall a statement made in his or her affidavit, or if the witness contradicts his or her affidavit, the attorney on direct may seek to introduce into evidence that portion of the affidavit that will help the witness to remember.

2. Cross-examination (attorneys question witnesses called by the other side).

a. Form of questions: An attorney may ask leading questions when cross-examining the opponent's witnesses. Questions tending to evoke a narrative answer should be avoided.

b. Scope of cross-examination: For mock trial purposes, attorneys may, in a limited sense, ask questions on matters not brought out during direct examination; however, generally questions should be limited to facts brought out on direct. Grounds for an exception to this Rule are caused by inadequate conduct of direct examination. If a team asks limited questions on direct as a strategy to undermine the opposing team, they may hurt themselves by not exhibiting sufficient expertise for the evaluators to score AND they may be penalized when the expanded cross-examination brings out necessary information of value to the opposing team.

c. Impeachment: On cross-examination, the attorney may want to show the court that the witness should not be believed. This is called impeaching the witness. It may be done by asking questions about prior conduct that makes the witness's credibility doubtful, by showing that the witness is biased for or against one of the parties, by showing that the witness could not have seen or heard what he or she is testifying to, or by asking about evidence of certain types of criminal convictions. These types of questions should only be asked if the attorney has information indicating that the conduct actually happened.

Example (Prior conduct): "Is it true you were kicked out of college because they discovered you had falsified your application?"

Example (Past conviction): "Isn't it true that you've been convicted of a criminal offense?"

Example (Bias): "You do a lot of business with the defendant, don't you?"

Example (Perception): "Isn't it true that you couldn't hear what she said with fifty people shouting around you?"

If the witness's testimony warrants, impeachment may also be done by introducing the witness's affidavit and asking the witness whether he or she has contradicted something, which was stated in the affidavit.

B. ADDITIONAL RULES OF EVIDENCE

1. 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." In other words, hearsay is any testimony about what someone else has said it used for its "meaning" (more about that in paragraph f below). Generally, hearsay is inadmissible, because second or third-hand information about what someone else said is inherently unreliable and is not subject to meaningful cross-examination. If followed strictly, the rule would restrict the judge or jury to deciding a case based only on first-hand testimony heard in court.

Courts have, however, recognized certain general categories of hearsay, which may be

admissible. The exceptions have been made for numerous reasons, including the practical necessity of not excluding valuable information and the somewhat greater reliability associated with certain types of statements.

a. One exception is for former testimony: if a witness testifies about his or her firsthand observations in another hearing or a deposition, and is subject to cross examination, and if that witness subsequently becomes unavailable, the earlier testimony is admissible in the form of a transcript, although by definition it is hearsay at the trial. This is necessary to prevent cases from being lost by the mere passage of time or the disappearance of witnesses, and it is permissible because the testimony is relatively reliable.

b. Another exception is made for statements that show the declarant's mental, emotional or physical condition (the "state of mind" exception). For example, "He told me he felt sick to his stomach about the beating he had just witnessed," offered to show mental or physical state of mind at the time.

c. Another exception is for the "excited utterance," a statement made shortly after an event, while the declarant is still excited. The reason usually given for permitting such statements is that a higher degree of reliability is associated with them.

d. Statements made for the purpose of medical diagnosis, describing past or present symptoms, are considered inherently reliable because of the declarant's desire to receive proper treatment.

e. The public records exception allows the records of a public agency because they describe matters the agency is legally charged to record.

f. Another exception is not really an exception at all, because the definition of hearsay already excludes it--secondhand testimony that is not offered to prove the truth of the matter asserted, or is not offered for its "meaning." For example, a statement offered to show that the declarant could speak English, or to show the statement's effect on the listener (i.e., "the police officer told me the bridge was out," to explain why the speaker took a back road, but not to prove that the bridge really was out).

g. Another type of statement that is simply defined by the rules of evidence as not hearsay is the admission by a party opponent. Any statement made by an opposing party is not excluded as hearsay.

2. Opinions of Witnesses - As a general rule, witnesses may not give opinions on questions that require special knowledge unless they are qualified as experts. An expert may be called as a witness to render an opinion based on professional experience, and an expert may be asked a hypothetical question. However, the attorney for the party for whom the expert is testifying must qualify an expert. This means that before an expert may be asked for an expert opinion, the questioning attorney must bring out the expert's qualifications and experience.

Witnesses who are not testifying as experts may give opinions, which are based on what they saw or heard. Any witness may offer an opinion based on the common experience of laypersons in the community if based on events of which the witness has firsthand

knowledge.

Expert witnesses must rely on their own witness affidavits and may not refer to any accompanying case law and/or statutes provided in the materials.

3. Lack of Personal Knowledge - A witness may not testify about any matter of which he or she has no personal knowledge.

4. Relevance of Evidence - Generally, only relevant testimony and evidence may be presented. Relevant evidence that which tends to make a fact that is important to the case more probable than the fact would be without the evidence. However, if the relevant evidence is unfairly prejudicial, may confuse the issues or is a waste of time, the court may disallow it. This includes testimony, pieces of evidence and demonstrations that either have no direct bearing on issues of the case or have nothing to do with making these issues clearer.

5. Introduction of Physical Evidence: There is a special procedure for introducing physical evidence during a trial. The physical evidence must be relevant to the case, and the attorney must be prepared to defend its use on that basis. In addition, for mock trial purposes, it must be a part of the case materials. Below are the basic steps for an attorney to use when introducing a physical object or document into evidence in court.

First, have the clerk or bailiff mark the exhibit for identification. Then show the exhibit to opposing counsel, who may later make an objection if the document is offered into evidence. Then show the exhibit to the witness. Address the witness who will identify the exhibit, "_____, do you recognize this document which is marked for identification is Exhibit # _____?" Assuming the witness recognizes the document, "Tell the Court what Exhibit # _____ is." The witness then describes the exhibit. If you are using a document to refresh recollection, you may direct the witness's attention to the portion of the document and ask him or her to read the section. If you wish to place the exhibit into evidence, address the judge, "You Honor, I offer this document into evidence as State's Exhibit # _____."

Opposing counsel may then object to the exhibit's admission (if there is some basis for objection), and the judge will decide whether the exhibit will be admitted. If it is admitted, it should be given to the judge who will give directions for its disposition.

6. Character Evidence: Character evidence (such as bad temper, stinginess, etc.) is generally not admissible if offered to prove that a witness or a defendant acted that way on the occasion in question. The main exception is evidence of a truthful or untruthful character, which is admissible (though evidence to bolster a witness's truthfulness is allowed only after the witness's truthfulness has been attacked). This evidence may be presented in the form of another witness's opinion, testimony regarding a "reputation" that the person has in some community or evidence of specific conduct that demonstrates truthfulness or untruthfulness.

Another exception has arisen regarding "specific instances of conduct" of a defendant in a criminal case (especially actions that seem to establish a characteristic pattern of repeated offenses or a "signature" crime). Even though the rule in the first paragraph of this section still applies, the evidence may be admissible for some other purpose, and the list of

recognized other purposes had very nearly swallowed up the general prohibition: "proof of motive, opportunity, intent, preparation, plan, knowledge, identify, or absence of mistake or accident."

C. OBJECTIONS

Objections to inadmissible evidence are fundamental to the judicial process. An objection should be used to keep improper evidence out of the trial.

An attorney may object any time the opposing attorney has violated the rules of evidence. (Note: Only the attorney who questions a witness should object to the questions posed to that witness by the opposing counsel.) The attorney wishing to object should also stand at the time of the violation. When an objection is made, the judge may ask the reason. Then the judge will turn to the attorney who asked the question and that attorney usually will have a chance to explain why the judge should not sustain the objection. The judge will then decide to either sustain the objection, thereby disallowing the question or discarding the answer, or to overrule the objection, thereby allowing the question to be answered or the answer to remain on the trial record.

Following are examples of standard forms of objections:

Irrelevant evidence: "I object, Your Honor. This testimony is irrelevant to the issues of this case," or "Irrelevant."

Leading questions: "Objection. Counsel is leading the witness." (This is only objectionable when done on direct examination.)

Improper character testimony: "Objection. The witness's character (or reputation) has not been put in issue."

Beyond the Scope of Direct Examination: "Objection, Your Honor. Counsel is asking about matters that did not come up in the direct exam." (Or, matters that are "beyond the scope of the direct examination").

Hearsay: "Objection, Your Honor. Counsel's question/the witness's answer is based on hearsay." If the witness has already given a hearsay answer, the attorney should also say, "and I ask that the statement be stricken from the record."

Opinion: "Objection, Your Honor. Counsel is asking the witness to give an opinion."

Lack of Personal Knowledge: "Objection, Your Honor. The witness has no personal knowledge to answer the question."

Argumentative Question: "Objection, The question is argumentative," or "Your Honor, Counsel is arguing with the witness."

Speculation: "Objection. Counsel is asking the witness to speculate in order to answer the question."

NOTE: The "creation of material fact" objection has been eliminated and may not be utilized in the mock trial program. If an opposing team attempts to enter evidence, through questions on direct examination, teams are encouraged to object or discredit the witness on cross-examination. Elimination of this objection DOES NOT permit teams to create facts. Creation of material facts that are revealed/exposed on cross-examination may cause point deductions for the creating team. Attempts to manipulate a trial by entering false testimony as a "time consumption" tactic will be penalized by severe point deductions. In order to allow students the opportunity to utilize proper objections the time frame for cross-examination has been extended from 4 to 5 minutes for each cross.

Narrative: "Your Honor, the witness is testifying in the narrative."

Asked and answered: "Objection, Your Honor, the question has already been asked and answered."

Non-responsive: "Objection, Your Honor, the witness's answer is non-responsive. Would you please direct the witness to answer the question as asked?"

Lack of Foundation: "Objection. No foundation has been laid to show that this witness is qualified to respond to that question." (This might arise if a witness is asked to testify to a fact, such as the color of a car, without first showing that the witness saw the car at some point, or if an expert is asked to give an opinion before his or her qualifications are established.)

Objections should be limited to those listed above or those mentioned in "Additional Rules of Evidence." Teams should NOT go beyond these materials to master the Illinois Evidence Statutes. If an opposing team goes against 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 what is as important as how knowledgeable the team is about the rules and how each team reacts to the decision of the Presiding Judge.

GUIDELINES FOR STUDENTS

A. GENERAL SUGGESTIONS: Be courteous to witnesses, other attorneys and to the judges. Carry your professional attitudes with you during the trial, and during the entire mock trial process. During trial, rise when addressing the judge; direct all remarks to the judge or witnesses, not to opposing counsel; don't make objections unless you are relatively sure the judge will agree.

B. Attorneys

1. OPENING STATEMENTS: The objective of the opening statement is to acquaint the judge with the case and to outline what you are going to prove through witness testimony and the admission of evidence. Include a short summary of the facts; mention of the burden of proof (the amount of evidence needed to prove a fact) and who has the burden in this case; the applicable law; a clear and concise overview of the witnesses and physical evidence that you will present and how each will contribute to proving your case. Remember, it is essential that you appear confident in your case. Use eye contact.

2. DIRECT EXAMINATION: The objective of direct examination is to obtain information from favorable witnesses you call in order to prove the facts of your case, to present your witnesses to the greatest advantage, to establish your witness's credibility and to present enough evidence to warrant a favorable verdict.

Isolate the information each witness can contribute to proving your case and prepare a series of questions designed to obtain that information. Be sure that all items you need to prove your case will be presented through your witnesses. Use clear and simple questions. Don't ask a question to which you don't know the answer.

Be relaxed and clear in the presentation of your questions. Listen to all answers given. If you need a moment to think, don't be afraid to ask for a moment to collect your thoughts, or to discuss a point with your co-counsel. Simply ask the Presiding Judge, "Your Honor, may I take a moment?"

Be sure to have all documents marked for identification before you refer to them at trial, then refer to them as Exhibit 1, or Exhibit A, etc. After you have finished using the exhibit, if it helps your case, ask the judge to admit it as evidence.

3. CROSS-EXAMINATION: The objective of cross-examination is 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. This is when you may challenge any creation of material fact that the opposing team may have attempted to enter into evidence through impeachment techniques. Ask questions that reflect on the witness's credibility by showing that he or she has given a contrary statement at another time, or that the witness may be prejudiced or biased in his or her opinion. Ask questions that weaken the testimony of the witness by showing that his or her opinion is questionable or 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.

Be relaxed and ready to adapt your prepared questions to the actual testimony given during

the direct examination and always listed to the witness's answer. Try to avoid giving the witness an opportunity to re-emphasize the points made against your case during direct examination. Don't harass or attempt to intimidate the witness.

4. CLOSING ARGUMENTS: The objective of the closing argument is to provide a clear and persuasive summary of the evidence you presented to prove the case, along with the weaknesses of the other side's case, and to argue for your position. Be an advocate--forcefully urge your point of view but avoid a boring review of the facts. Remember to be careful to adapt your statement at the end of the trial to reflect what the witnesses actually said and what the physical evidence showed. It is not appropriate to cite case law or statutes provided in the mock trial material. These materials are provided as background information to facilitate development of case strategy, etc. No rebuttal closing is allowed.

C. WITNESSES

1. GENERAL SUGGESTIONS: If you are going to testify about records or documents, familiarize yourself with them before coming to trial. When answering questions, speak clearly so that you will be heard. Listen carefully to the questions. Before you answer, make sure you understand what has been asked. If you do not understand, ask that the question be repeated or clarified. 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.

2. DIRECT EXAMINATION: Learn the case thoroughly, especially your witness statement. Review your testimony with your attorney. Know the questions that your attorney will ask you and prepare clear and convincing responses that contain the information the attorney is trying to get you to say. Try to be as relaxed and in control as possible. An appearance of confidence and truthfulness is important. Don't recite your witness statement verbatim. You should know its content beforehand so you can paraphrase 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 your affidavit.

3. CROSS-EXAMINATION: Anticipate what you will be asked on cross-examination and prepare answers accordingly. Try to isolate possible weaknesses, inconsistencies or problems in your testimony and be prepared to explain them. Practice with your attorney, asking him or her to act as opposing counsel. Don't panic if the attorney or judge asks you a question that you haven't rehearsed. Don't be afraid to buy time by saying something like, "Excuse me just a moment while I try to remember." Be sure that your testimony is consistent with the facts set forth in your witness statement. Testimony is acceptable so long as it can be reasonably inferred from your 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 which 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.

Remember that reasonable inference answers can be disruptive when the other side objects, and may even open the door to the judge issuing an adverse special ruling against you. You may choose, if asked a question to which your statement gives no answer, to respond 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 information is not included in these case materials."

STUDENTS ACTING AS TIMEKEEPERS

SCHOOLS ARE RESPONSIBLE FOR KEEPING TIME DURING TRIALS. ONE STUDENT FROM EACH TEAM WILL BE ASSIGNED THIS DUTY. TEAMS SHOULD COME PREPARED, WITH A STOPWATCH AND A STUDENT WHO IS PREPARED TO PERFORM THIS DUTY.

The student timekeepers may be your alternate team members. Timers will be seated next to each other and should agree, within reason, to the times entered on the time sheet. If two different timepieces are used, some minor discrepancies are expected. The presiding judge will be the final arbiter if time disputes arise.

One timekeeper may be used, if both sides agree prior to trial. Please remember, the timekeeper cannot be a teacher or attorney advisor.

Interruptions during the trial, such as objections, rulings on objections, exhibits being introduced, witnesses being sworn in or bench conferences do not count against a team's time limit.

The time sheet on the following page outlines the specified time limits for each segment of the trial.

SAMPLE
MOCK TRIAL TIME SHEET

Each trial must be limited to one hour. We have listed below a breakdown of how the trial should proceed. Violations of these time limitations may cause a deduction in scoring.

EVALUATOR: _____

SCHOOL NAMES: _____ Plaintiff

_____ Defendant

PLAINTIFF = P DEFENDANT = D

Pretrial Motions (If specifically allowed in materials)

(2 minutes) _____

P Opening Statement (3 minutes) _____

D Opening Statement (3 minutes) _____

P Case in Chief

P Direct Examination of **First Witness** (7 mins) _____

D Cross Examination of **First Witness** (5 mins) _____

P Direct Examination of **Second Witness** (7 mins) _____

D Cross Examination of **Second Witness** (5 mins) _____

D Case in Chief

D Direct Examination of **First Witness** (7 mins) _____

P Cross Examination of **First Witness** (5 mins) _____

D Direct Examination of **Second Witness** (7 mins) _____

P Cross Examination of **Second Witness** (5 mins) _____

P Closing Arguments (4 minutes) _____

D Closing Arguments (4 minutes) _____

Round off times to the nearest one half minute:

Examples: 3 minutes, 10 seconds = 3 minutes

4 minutes, 15 seconds = 4 1/2 minutes

2 minutes, 45 seconds = 3 minutes

Stop timing for judge's rulings, objections, exhibits being introduced, witnesses being sworn, or bench conferences.

GUIDELINES FOR TEACHER AND ATTORNEY ADVISORS

Advisors help the team members decide which students will play which parts in the mock trial and assist the students in developing those roles. All teachers, volunteer attorneys and judges, and team members are expected to adhere to the rules, facts and all materials provided in the ISBA High School Mock Trial Invitational. Please be aware that periodic changes are made to the rules. Please read all materials carefully.

Education of students is the goal of the Mock Trial Invitational. Advisors are reminded to keep the competitive spirit at a reasonable level. The reality of the adversarial system is that one party wins and the other loses, and coaches should prepare their teams to be ready to accept either outcome in a mature manner. Advisors prepare students for either outcome by placing the highest value on excellent preparation and presentation, rather than on winning or losing the trial.

It is imperative that all participants understand that any evaluation of student work and presentation skills is subjective and scores at the state level will not be released as they are only used as a guideline to select a team to attend the National High School Mock Trial Championships. It is the Committee's firm belief that any student who successfully completes the rigorous learning program and grows as a result of the experience has fully achieved the goals set forth by the ISBA and the mock trial program.

Observers - Other classes, parents and friends of the participants are welcome to attend the trials and observe their own team. Observers are asked to please be courteous and cooperative during the event. Some courtrooms are smaller than others and space may be an issue. In order to assure fairness, we ask that guests observing the plaintiff/prosecution team please take seats behind their team, and guests observing the defendant/defense team please take seats behind their team. Guests should wait to be seated until all members of the team have entered the room.

Students MUST formulate their own openings, closings and questions. While the teachers and attorney advisors may assist and direct, the work product must be that of the student participants.

Practice sessions are invaluable. Contact other teams in your area and have practice trials. The ability of a team to adapt to different situations is often a key part in a mock trial enactment since each judge or evaluator has his or her own way of doing things and their own perceptions of how they would present the trial material. 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. This is part of the learning experience.

Courtroom etiquette and decorum should be stressed at practice and observed at trial (i.e., standing when the judge enters or leaves the room, and calling the judge "Your Honor"). This conduct should be continued in all public areas during the trials and at the hotels.

GUIDELINES FOR PRESIDING AND SCORING JUDGES

Every mock trial has a presiding judge who will rule on the merits of the case, respond to objections and direct the overall trial. At the conclusion of the trial, the judge may offer a ruling as to which side has won on the merits of the case (this will have no bearing on whether a team actually wins the trial.) Presiding judge's scoresheets are a short form on which the judge declares which team, in his or her opinion, has exhibited the best performance based on legal skills and knowledge, presentation skills, etc.

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. The judge should not announce whom he or she has selected as the best overall team.

Each mock trial may have performance evaluators who may be attorneys, judges, educators, city officials or others involved in the education process with some knowledge of the trial process. Performance evaluators must complete the attached scoresheet, awarding points based on performance and skills presented at trial.

The performance evaluators should not announce point scores to the students, teachers, attorney advisors or others in attendance. Performance evaluators should make oral comments to the students on their trial presentations.

Please review the sample scoresheets provided and the Tournament Rules for criteria on judging and evaluating the students.

The Tournament Rules and the Simplified Rules of Evidence govern all trials. Please study these rules, case materials and scoresheets before judging the trials.

The presiding judge should attempt to move the trial along: it should last approximately one hour. Teams are given specified time limits for each portion of the trial. There will be a timekeeper at each trial. You may allow a team to finish their presentation if they go over their time allowance; however, you must report the over-time to the performance evaluators.

If Team A determines that Team B has overrun a designated time limitation, Team A may bring the discrepancy to the judge's attention by objecting to the opposing attorney's remarks if the allotted time is exceeded. Judges may sustain these objections if valid. The judge may permit Team B to conclude its presentation quickly or may halt Team B's presentation accordingly. Remember, when considering time violations, objections are not timed, nor are bench conferences, or swearing in of witnesses.

If a witness invents an answer that is very likely to affect the outcome of the trial, the opposition should object immediately and ask for a bench conference. The presiding judge will decide whether to allow the testimony. There is no longer an objection "creation of material fact" or "beyond the scope of the mock trial materials." Mock trial participants have been told and are expected to address any "creation" through the use of other more realistic objections or through impeaching the witness on cross-examination.

After the trial, judges may make comments about the performance of each team. Time may be limited between trials, but we hope you will be able to BRIEFLY say things to the students, which are constructive.

After judges have finished their oral comments, they should complete the scoresheets. After EACH trial, the completed and signed scoresheets should be turned in to the tournament coordinator.

STANDARDS FOR SCORING
SUGGESTED CRITERIA FOR PERFORMANCE EVALUATORS

Participants are rated according to a numerical scale. The performance evaluators are scoring STUDENT ACHIEVEMENT in each category. You are not scoring on the merits of the case. You may consider penalties for violations of the Tournament Rules. Penalties would reduce point awards in the appropriate categories below. Penalties should not be indicated separately on the scoresheet.

DO NOT SHOW THE SCORESHEET OR DISCUSS NUMERICAL SCORES WITH THE STUDENTS, TEACHERS OR ATTORNEY ADVISORS.

Score sheets this year are based on a rubric prepared by teachers who have been involved in high school mock trials for a number of years.

A sample score sheet is attached.

Illinois State Bar Association High School Mock Trial Score Sheet
 JUDGES AND EVALUATORS PLEASE NOTE: NO re-direct or re-cross are allowed in this program

Plaintiff _____ Defense _____

On a scale of 1-5 please rate the teams for all categories below, recording a score in each box provided.
 No fractions please.

1-Not effective 2-Fair 3-Good 4-Excellent 5-Outstanding

SCORING CHART		PLAINTIFF/PROSECUTION	DEFENSE/DEFENDANT
Opening Statement			
Plaintiff's 1st Witness	Direct Exam by Atty (P)		
	Cross Exam by Atty (D)		
	Witness Performance (P)		
Plaintiff's 2nd Witness	Direct Exam by Atty (P)		
	Cross Exam by Atty (D)		
	Witness Performance (P)		
Defendant's 1st Witness	Direct Exam by Atty (D)		
	Cross Exam by Atty (P)		
	Witness Performance (D)		
Defendant's 2nd Witness	Direct Exam by Atty (D)		
	Cross Exam by Atty (P)		
	Witness Performance (D)		
Closing Arguments			
General Team Presentation			
TOTAL POINTS			

In case of a tie, please give one extra point to: _____ Prosecution _____ Defense

Nomination for Outstanding Attorney _____

Nomination for Outstanding Witness _____

Evaluator's signature: _____

Explanation of the Performance Ratings Used on the Mock Trial Score sheet

Participants should be rated on a scale of 1-5, with five being the highest level of achievement. Remember, you are NOT scoring on the merits of the case; rather, you are scoring on student achievement, understanding, presentation, conduct, etc. Evaluators may individually consider penalties for violations of the mock trial rules. Penalties may reduce point awards in appropriate categories. Do not indicate separately any penalties you may give.

1 Not Effective/Poor

Attorney: Unsure of self, illogical, uninformed, not prepared, speaks incoherently, ineffective presentation of case materials, no strategy evident. Poor speaking voice, no eye contact, excessive use of notes. Questions irrelevant, leading or repetitive.

Witness: Witness presentation inadequate; reliance on reminders from lawyers. Witness uncooperative.

2 Fair/Needs Improvement

Attorney: Minimally informed and prepared. Performance is passable but lacks depth in terms of knowledge of appropriate tasks and materials. Communications lack clarity and conviction. Exhibits some case strategy. Questions somewhat irrelevant and often misleading. Minimal use of objections. Only fair response to objections from opposing counsel.

Witness: Witness exhibits fair understanding of affidavit and responds appropriately but needs assistance or seems to falter.

3 Good

Attorney: Good, solid, but less than spectacular performance. Logic and organization are adequate but could have been better. Grasps major aspects of the case, but does not convey mastery. Communications are clear and understandable, but could be more fluent and persuasive. Deals with objections adequately. Good control of witness. Questions not leading.

Witness: Witness exhibits good knowledge of role and tells story in coherent manner. Needs few reminders from lawyers. Good eye contact.

4 Very Good/Excellent

Attorney: Fluent, persuasive, clear and understandable. Organizes materials and thoughts well and exhibits mastery of case and materials. Asks suitable questions and follows through with appropriate questions on cross. Evidences a clear case strategy and controls the witnesses very well.

Witness: Excellent knowledge of role and good speaking voice. Answers responsively. Answers questions from both sides appropriately. Believable; does not appear to be too staged.

5 Outstanding

Attorney: Superior in qualities listed for Excellent performance. Thinks well on feet, is logical, 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 to emphasize vital points of the trial.

Witness: Exceptional knowledge of role. Persuasive and believable. Responds effectively to questions from lawyers on both sides. Eye contact. Absolutely believable in role.

General Team Presentation (new category)

Should exhibit appropriate courtroom decorum--respectful, team does not address opposing counsel directly, follows court orders and rulings. Following mock trial rules, including time restraints. Articulate, well thought out, clear strategy followed by all team members. Teams works well together in division of duties and presentation of case.

**ISBA HIGH SCHOOL
MOCK TRIAL PROGRAM
JUDGE'S SCORESHEET**

Please indicate the school/team name for the:

Petitioner/Plaintiff/Prosecution: _____

Respondent/Defendant/Defense: _____

Please rate the teams using the following scale for overall achievement. Please do NOT use fractional points.

Points awarded may not exceed 45 for each team.

I AWARD THE PETITIONER TEAM _____ OVERALL ACHIEVEMENT POINTS.

I AWARD THE RESPONDENT TEAM _____ OVERALL ACHIEVEMENT POINTS.

1-9	Not effective
10-19	Fair
20-29	Good
30-39	Excellent
40-45	Outstanding

In the event of a tie, I would award one extra point to

_____ **Plaintiff Team**

_____ **Defense Team**

Nomination for OUTSTANDING ATTORNEY _____

Nomination for OUTSTANDING WITNESS _____

Judge's Signature _____

Thank you.

Explanation of the Performance Ratings Used on the Mock Trial Score sheet

Participants should be rated on a scale of 1-5, with five being the highest level of achievement. Remember, you are NOT scoring on the merits of the case; rather, you are scoring on student achievement, understanding, presentation, conduct, etc. Evaluators may individually consider penalties for violations of the mock trial rules. Penalties may reduce point awards in appropriate categories. Do not indicate separately any penalties you may give.

1-9 Not Effective/Poor

Attorneys: Unsure of self, illogical, uninformed, not prepared, speaks incoherently, ineffective presentation of case materials, no strategy evident. Poor speaking voice, no eye contact, excessive use of notes. Questions irrelevant, leading or repetitive.

Witnesses: Witness presentations inadequate; reliance on reminders from lawyers. Witness uncooperative.

10-19 Fair/Needs Improvement

Attorneys: Minimally informed and prepared. Performance is passable but lacks depth in terms of knowledge of appropriate tasks and materials. Communications lack clarity and conviction. Exhibits some case strategy. Questions somewhat irrelevant and often misleading. Minimal use of objections. Only fair response to objections from opposing counsel.

Witnesses: Witnesses exhibit fair understanding of affidavit and responds appropriately but needs assistance or seems to falter.

20-29 Good

Attorneys: Good, solid, but less than spectacular performance. Logic and organization are adequate but could have been better. Grasps major aspects of the case, but does not convey mastery. Communications are clear and understandable, but could be more fluent and persuasive. Deals with objections adequately. Good control of witness. Questions not leading.

Witnesses: Witnesses exhibit good knowledge of role and tells story in coherent manner. Needs few reminders from lawyers. Good eye contact.

30-39 Very Good/Excellent

Attorneys: Fluent, persuasive, clear and understandable. Organizes materials and thoughts well and exhibits mastery of case and materials. Asks suitable questions and follows through with appropriate questions on cross. Evidences a clear case strategy and controls the witnesses very well.

Witnesses: Excellent knowledge of role and good speaking voices. Answers were responsive. Answers questions from both sides appropriately. Believable; does not appear to be too staged.

40-45 Outstanding

Attorneys: Superior in qualities listed for Excellent performance. Thinks well on feet, is logical, 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 to emphasize vital points of the trial.

Witnesses: Exceptional knowledge of roles. Persuasive and believable. Responds effectively to questions from lawyers on both sides. Eye contact. Absolutely believable in role.

Teachers may also use the teaching RUBRIC, which was created by teachers familiar with the ISBA High School Mock Trial experience:

<p>Opening Statement 5 4 3 2 1 0 Relevant, appropriate comments 5 4 3 2 1 0 Delivery Style</p>		<p>Opening Statement 5 4 3 2 1 0 Relevant, appropriate comments 5 4 3 2 1 0 Delivery Style</p>	
<p>Plaintiff Witness ONE <u>Lawyer Evaluation</u> 5 4 3 2 1 0 <u>Questions</u>: Well-written (non-leading) 5 4 3 2 1 0 <u>FOCUS</u> of questions was obvious. Goals of questioning were clear. 3 2 1 0 <u>RELEVANCE</u> of questions towards goals. Questions were focused. 3 2 1 0 <u>POISE</u> of lawyer. Overall composure, handling of objections, preparation, etc....</p>		<p>Plaintiff Witness ONE <u>Lawyer Evaluation on Cross Examination</u> 5 4 3 2 1 0 <u>Questions</u>: Well-written (leading) 5 4 3 2 1 0 <u>FOCUS</u> of questions was obvious. Goals of questioning were clear. 3 2 1 0 <u>POISE</u> of lawyer. Overall composure, handling of objections, preparation, etc....</p>	
<p>WITNESS ONE 5 4 3 2 1 0 <u>KNOWLEDGE</u> of affidavit 3 2 1 0 <u>POISE</u> on cross especially 3 2 1 0 <u>OVERALL</u> character believable? Comfort level of witness, was it too staged?</p>			
<p>Plaintiff Witness TWO <u>Lawyer Evaluation</u> 5 4 3 2 1 0 <u>Questions</u>: Well-written (non-leading) 5 4 3 2 1 0 <u>FOCUS</u> of questions was obvious. Goals of questioning were clear. 3 2 1 0 <u>RELEVANCE</u> of questions towards goals. Questions were focused. 3 2 1 0 <u>POISE</u> of lawyer. Overall composure, handling of objections, preparation, etc....</p>		<p>Plaintiff Witness TWO <u>Lawyer Evaluation on Cross Examination</u> 5 4 3 2 1 0 <u>Questions</u>: Well-written (leading) 5 4 3 2 1 0 <u>FOCUS</u> of questions was obvious. Goals of questioning were clear. 3 2 1 0 <u>POISE</u> of lawyer. Overall composure, handling of objections, preparation, etc....</p>	
<p>WITNESS TWO 5 4 3 2 1 0 <u>KNOWLEDGE</u> of affidavit 3 2 1 0 <u>POISE</u> on cross especially 3 2 1 0 <u>OVERALL</u> character believable? Comfort level of witness, was it too staged?</p>			

Team/School _____

Team/School _____

<i>PLAINTIFF</i>	<i>DEFENSE</i>
<p style="text-align: center;">Defense Witness ONE</p> <p><u>Lawyer Evaluation on Cross Examination</u></p> <p>5 4 3 2 1 0 <u>Questions:</u> Well-written (leading)</p> <p>5 4 3 2 1 0 <u>FOCUS</u> of questions was obvious. Goals of questioning were clear.</p> <p>3 2 1 0 <u>POISE</u> of lawyer. Overall composure, handling of objections, preparation, etc....</p>	<p style="text-align: center;">Defense Witness ONE</p> <p><u>Lawyer Evaluation</u></p> <p>5 4 3 2 1 0 <u>Questions:</u> Well-written (non-leading)</p> <p>5 4 3 2 1 0 <u>FOCUS</u> of questions was obvious. Goals of questioning were clear.</p> <p>3 2 1 0 <u>RELEVANCE</u> of questions towards goals. Questions were focused.</p> <p>3 2 1 0 <u>POISE</u> of lawyer. Overall composure, handling of objections, preparation, etc....</p>
	<p style="text-align: center;">WITNESS ONE</p> <p>5 4 3 2 1 0 <u>KNOWLEDGE</u> of affidavit</p> <p>3 2 1 0 <u>POISE</u> on cross especially</p> <p>3 2 1 0 <u>OVERALL</u> character believable? Comfort level of witness, was it too staged?</p>
<p style="text-align: center;">Defense Witness TWO</p> <p><u>Lawyer Evaluation on Cross Examination</u></p> <p>5 4 3 2 1 0 <u>Questions:</u> Well-written (leading)</p> <p>5 4 3 2 1 0 <u>FOCUS</u> of questions was obvious. Goals of questioning were clear.</p> <p>3 2 1 0 <u>POISE</u> of lawyer. Overall composure, handling of objections, preparation, etc....</p>	<p style="text-align: center;">Defense Witness TWO</p> <p><u>Lawyer Evaluation</u></p> <p>5 4 3 2 1 0 <u>Questions:</u> Well-written (non-leading)</p> <p>5 4 3 2 1 0 <u>FOCUS</u> of questions was obvious. Goals of questioning were clear.</p> <p>3 2 1 0 <u>RELEVANCE</u> of questions towards goals. Questions were focused.</p> <p>3 2 1 0 <u>POISE</u> of lawyer. Overall composure, handling of objections, preparation, etc....</p>
	<p style="text-align: center;">WITNESS TWO</p> <p>5 4 3 2 1 0 <u>KNOWLEDGE</u> of affidavit</p> <p>3 2 1 0 <u>POISE</u> on cross especially</p> <p>3 2 1 0 <u>OVERALL</u> character believable? Comfort level of witness, was it too staged?</p>
<p style="text-align: center;">CLOSING Argument</p> <p>5 4 3 2 1 0 Relevant, appropriate comments, use of testimony</p> <p>5 4 3 2 1 0 Delivery Style, poise</p>	<p style="text-align: center;">CLOSING Argument</p> <p>5 4 3 2 1 0 Relevant, appropriate comments, use of testimony</p> <p>5 4 3 2 1 0 Delivery Style, poise</p>

TOTAL FOR PLAINTIFF: _____

TOTAL FOR DEFENSE: _____

MEDIATION

Mock trial programs are intentionally and necessarily not intended to expose students to pre- and post-trial practice, or to touch, except in passing, on the social issues and problems involved in dealing with issues that inevitably end up in our legal system.

Alternatives to traditional litigation are gaining acceptance in all areas of the law, from the familiar and long-standing use of arbitration in labor-management relations and commercial disputes to newer, ever more innovative and tailored processes designed for use in disputes varying from environmental rulemaking to criminal cases. Mini-trials, ombudsmen, summary jury trials, and mediation, as well as hybrid forms of these and other forms of ADR, are increasingly being applied where appropriate. Private litigants are choosing ADR voluntarily, and the judicial system is implementing an increasing number of mandatory, court-annexed programs in an attempt to conserve scarce judicial resources. In Illinois, at least two-thirds of the state's population now lives in counties in which non-binding arbitration of at least some civil cases is mandatory.

Mediation can be a logical alternative to litigation if the parties cannot negotiate a settlement on their own or with the help of their attorneys. A mediator is a neutral, impartial third party who will assist the disputants in reaching a voluntary, mutually satisfactory settlement of their dispute. With the help of the mediator the parties will work to reach a resolution to the issues in dispute that will account for and satisfy their **needs** rather than their **positions**. Studies show that parties who experience mediation express a high degree of satisfaction with the process, even when a settlement is not reached.

One of the strengths of mediation is that the direct communication between the parties, with the assistance of a trained mediator, often results in the development of alternative solutions which would never occur to judges or attorneys, or which would be beyond the limits of the court system to order. Alternative forms of dispute resolution are gaining wider acceptance because, as a general proposition, they achieve superior results in a substantial percentage of conflicts that otherwise would have to be resolved through traditional litigation.

Negotiated settlements occur each day between our peers, parents, employers and in business resolutions. Examples include conflicts with parents, teachers and friends and the resolution or lack of resolution over those issues. Parties using this model may achieve a result where both parties win or achieve some of that which they wanted.

Mediation employs a third party who aids in the resolution of a conflict and incorporates the skills of active listening, respect for need of resolution and acknowledgement of an ongoing relationship between the parties. In mediation, a third person becomes a sounding board for the other two individuals who have the conflict. The third party may or may not come up with a solution that the parties will adopt. Both parties using this model may achieve or win some of their goals.

Arbitration may be appropriately taught as the logical escalation of mediation. It may be binding arbitration in which the decision of the arbitrator carries the weight of law. In arbitration the parties go through a process to pick the arbitrator. Arbitration is becoming the commonly used process to resolve consumer disputes between buyer and seller. Both parties using this model may achieve some of their goals. The arbitration process is more akin to the

judicial trial where generally one party wins.

Litigation is employed when a court of law is chosen to resolve a dispute. It is certainly the most formal process of those mentioned here. Litigation employs procedures including how and when parties may present their side of the issue. It is the most pervasive formal structure of our judicial system and is adversarial in nature. Litigation often breaks down the ability to give and take on an issue and generally separates parties from having a positive future relationship. Court proceedings generally result in winners and losers.

SAMPLE PRESS RELEASE

Students from _____ High School in _____, will take their case to the Illinois State Bar Association's High School Mock Trial Program on _____(date). Students will act as attorneys and witnesses in this program, which teaches about the American justice system. The Illinois State Bar Association has sponsored the mock trial program for high school students annually since 1984. This year's mock trial is based on the facts in a hypothetical case, _____ v. _____, a criminal/civil trial.

Team members include: list student names.

"I think the community can be very proud of these students, they are remarkably dedicated and hard-working," said _____, teacher and coach for the mock trial team. "These students are learning about the law and how to take the time to prepare to present a case. They are gaining self-confidence and poise every day they practice. And, despite the long hours of preparation, the students all agree that the work is worthwhile."

Teams from across the state were invited to participate in this annual event.

There's a fine line between preparing to go to trial and simply performing. Students need to listen and react to what the opposing team might say or do, or how the presiding judge may rule. This is an excellent opportunity for students to come together as a team and improve their critical thinking skills," said _____ (attorney advisor or teacher). "Mock Trials area great way to teach effective communication, which is one of the most important things any student can learn in high school."

The mock trial experience includes presenting both sides of the legal question. Judges and attorneys evaluate students on their arguments and students must also take a written test about the issues of the case.

Include comments from students.

Include photos, if possible.

For additional information, please contact one of the following:

Local contact (teacher name, address and telephone)

or

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THANK YOU.