

2012

Illinois State Bar Association

HIGH SCHOOL MOCK TRIAL RULES AND PROCEDURES HANDBOOK

Teachers - ALWAYS read the rules and make sure students know them.

A Project of the ISBA
Standing Committee on
Law-Related Education for the Public
And the Illinois LEARN Program

Co-Sponsored by the Constitutional Rights Foundation Chicago
And
The University of Illinois Springfield



ILLINOIS STATE
BAR ASSOCIATION

Illinois State Bar Association
424 South Second Street, Springfield, IL 62701
800-252-8908 217-525-1760 Fax: 217-525-9063

TABLE OF CONTENTS

A. Rules and Procedures – “The Nuts and Bolts”

I. Introduction 4

II. Goals of the High School Mock Trial Invitational..... 5

III. Registration Procedures 5

IV. Mock Trial Policy-Entry Criteria 6

V. Law Examination 6

VI. Scheduling..... 6

VII. Teams..... 6

 A. Student participation 6

 B. Affiliation with approved sponsor 6

 C. Adult coach or supervisor/sponsor 7

 D. Rules/Forms – please read/sign 7

 E. Failure to appear 7

 F. Present both sides/Seven team members/Alternates 7

VIII. Tournament Format..... 7

IX. Dress Code and Conduct..... 8

X. Overall Basic Tournament Rules 8

XI. Dispute Resolution and Rule Violations..... 9

 A. Rule Violations During Trial..... 9

 B. Concerns After Trial Concludes..... 10

XII. Rosters/Attendance Procedures During Trial..... 10

XIII. Videotaping Photography and Audio Recording..... 10

XIV. Space Limitations 10

XV. Observers 11

XVI. Viewing Other Trials 11

XVII. Publicity 11

XVIII. Guidelines for Attorney Advisors 12

XIX. Guidelines for Teachers..... 12

XX. Emergencies 13

XXI. Judging and Evaluation 14

XXII. Guidelines for Presiding Judges and Evaluators 15

B. Trial Format, Procedures and Rules – “A How-To Guide”

I. A Typical Courtroom Layout..... 17

II. Mock Trial Participants 17

III. Overview of the Program 18

IV. Pretrial Motions 18

V. Breaks and Trial Decorum 18

VI. Steps in a Mock Trial and Guide for Attorneys..... 19

 A. Call to Order..... 19

 B. Opening Statements 19

 C. Direct examination by plaintiff’s attorneys 19

 D. Cross-examination by defense’s attorneys..... 20

	E. Re-direct by plaintiff’s attorney of witness	21
	F. Re-cross by defense attorney of witness.....	21
	G. Defense attorneys’ case.....	21
	H. Closing arguments	21
	I. Plaintiff’s rebuttal	22
VII.	Guide for Witnesses	22
	1. Direct Examination	22
	2. Cross-Examination	22
	3. Other Tips.....	22
VIII.	Simplified Rules of Evidence.....	23
	A. Witness Examination	23
	1. Direct examination (attorneys call and question witnesses).....	23
	a. Scope of direct examination.....	23
	b. Form of questions	23
	c. Narration	23
	d. Refreshing recollection	24
	2. Cross-examination (attorneys question witnesses called by the..	
	other side).....	24
	a. Scope of cross-examination	24
	b. Form of questions	24
	c. Impeachment	24
	3. Re-direct and re-cross	24
	B. Additional Rules of Evidence	24
	1. Hearsay	24
	a. Former testimony	25
	b. Declarant’s mental, emotional or physical condition	25
	c. “Excited utterance”.....	25
	d. Statements made for the purpose of medical diagnosis	25
	e. The public records exception	25
	f. Secondhand testimony.....	25
	g. Admission by a party opponent	25
	2. Opinions of Witnesses	25
	3. Lack of Personal Knowledge	26
	4. Relevance of Evidence	26
	5. Character Evidence.....	26
	C. Introduction of Physical Evidence	26
	D. Objections	29
IX.	Guidelines for Students Acting as Timekeepers	32
X.	Summary.....	34
XI.	Sample Forms.....	37
	Evaluators Score Sheet	37
	Judge’s Score Sheet	38
	Explanation of the Performance Ratings Used on the Presiding Judge	
	Evaluator Score Sheet.....	39

A.

RULES & PROCEDURES – “THE NUTS & BOLTS”

I. INTRODUCTION

The Illinois State Bar Association Mock Trial program provides an opportunity for students to learn what it is like to prepare and present a legal case before the Illinois Courts. Through the mock trial experience, students learn to work as a team, develop oral presentation skills, set goals, plan effectively, think on their feet, and face challenging obstacles with enthusiasm and confidence.

To the teachers, lawyers and judges who participate in this program: thank you for contributing your talents and time. By doing so, you make an exceptional educational opportunity available to the youth of Illinois.

The mock trial presentations at the state level are only one component of this activity and are really a means to "showcase" team achievement. While "winners" are announced, the entire program provides an opportunity for students to learn about the legal system. If students meet the goals set forth below, they have achieved an extraordinary level of success in their high school careers.

While focusing on the educational nature of the program, we recognize that there is a competitive factor as well. In any trial, the judges and jurors may view the case differently than the parties and mock trial participants should understand that. Keeping this in mind, teachers and attorneys should prepare students to accept winning or losing at trial with dignity and restraint and participants should show respect for opposing teams, presiding judges and evaluators.

All participants must follow all official Tournament Rules. Schools, teams, or participants who violate the rules may be disqualified and may be eliminated from present and future participation in the program.

Finally, please remember that this is a voluntary, educational program offered 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.

If you have any questions, please fax your question to the mock trial office at 217.525.9063.

The Illinois State Bar Association thanks 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 Constitutional Rights Foundation Chicago
The Illinois LEARN Program
University of Illinois Springfield*



II. 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 objectives, and work toward a common goal.

Students who participate in the mock trial program increase their knowledge and skills, understand our system of justice better and are able to articulate in a reasoned, thoughtful manner.

III. REGISTRATION PROCEDURES

Non-Refundable Team Registration fee - \$100

DUE NO LATER THAN February 1, 2012

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 Will Be Accepted.

ALL REGISTRATION MATERIALS MUST BE SUBMITTED BY

February 1, 2012

Registration forms are available at

<http://www.isba.org/teachers/mocktrial>

State Trials, Springfield - Friday and Saturday, March 30 and 31, 2012

University of Illinois Springfield

Public Affairs Center - Lower Level

NOTE: 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.

- The mock trial registration packet includes registration forms and additional documents that **MUST** be completed and submitted by February 1, 2012.
- The Certificate of Participation Form is the **ONLY** form due by March 15, 2012.

The National Championship will be in Albuquerque, New Mexico, Mother's Day Weekend, May 2012. Visit <http://www.nationalmocktrial.org/> for additional information on the National High School Mock Trial Championship event.

IV. MOCK TRIAL POLICY-ENTRY CRITERIA

All teams must undertake at least one practice/regional trial with another school, or with another team from their school, prior to 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 Illinois State Bar Association's (ISBA) High School Invitational.

The Standing Committee on Law-Related Education (LRE 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 or group approved by the LRE Committee.

V. LAW EXAMINATION

All members of each team, including alternates, must take the mock trial written examination. All students must take the Law Test either Friday or Saturday. The format is split between multiple choice and true/false questions. The team will be scored based on the average of the individual team members' scores. Individual awards will be given for achievement on the examination.

All scores added together will 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.

Teachers may submit questions for the exam but are not required to do so. If teachers would like to submit questions for the Law Test, either about the law in general or a question pertaining to this case, please submit them by February 1, 2012. We will try to incorporate as many questions into the test as we can. You can look on our website for a Mock Trial Pre-test for teacher use.

<http://www.isba.org/sites/default/files/teachers/mocktrial/mocktrialpretest.pdf>

VI. SCHEDULING

If a team participating in the Invitational has special requests for a trial time on either day, the team should return the appropriate special request form. Every effort will be made to accommodate all requests, however, **there are no guarantees**. Teams should plan to be available for any mock trial time on either day. Until teams arrive, all times are approximate due to last minute drops and other scheduling issues.

VII. TEAMS

A. Students participating in the ISBA's High School Mock Trial Invitational must be currently enrolled in grades 9-12 at the time of the competition. Each Illinois High School may enter one team consisting of seven student participants. Teams may also bring up to three alternates who may participate if one of the official team members is unable to do so.

B. Each team must be affiliated with a sponsoring school or a group such as a law explorer group, home school group, or other group approved by the LRE Committee. This

program is limited; teams will be invited on a first come/first serve basis as registrations are received.

C. Each team, no matter its affiliation, must have an adult coach or supervisor/sponsor. The ISBA does not permit "independent" ad hoc teams comprised of individuals not part of an officially sponsored group. **"All star" teams, ones pulled from various groups or schools, are not acceptable.**

D. All participants must read the rules and must indicate that they have read and understood them on the appropriate forms provided in the Registration packet.

E. If a team registers for the mock trial event but fails to appear for trial *without reasonable and proper notification*, the team will be prohibited from participating the following year. If a team experiences illness or other problems which render 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 the opportunity to proceed to the final eight trials but may continue participating so long as the reduced number does not infringe on the ability of the opposing team to perform.

F. 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 team members are used. Team members may not switch roles, as identified on the roster, during a trial. **Alternates may participate when needed but official team participants may not exceed seven.**

VIII. TOURNAMENT FORMAT

A. The State Championship Tournament is a two-day, weekend event (Friday and Saturday) with a limited number of officially registered teams presenting their trials during the event. Teams will be accepted on a first-come/first-serve basis based on the order of registration.

Trials will begin at or about 11:00 A.M. on Friday, depending on the number of teams participating.

Schools and approved groups must make all room reservations on their own, and are responsible for all hotel charges. Schools are responsible for all transportation costs. No meals will be provided by the ISBA for this event.

The ISBA and the other co-sponsors/hosts of the program assume no responsibility for the student participants. The responsibility for the safety and well-being of the students rests with the host schools, teacher coaches, and chaperones.

B. Teams will be paired for each trial by a random draw. Teams will participate in one trial on Friday (as prosecution/plaintiff or defense) and will argue the opposite side of the case on Saturday. The teams accumulating the highest number of points will be announced. This accumulation includes the results of both trials plus the written law exam team average. The ISBA and the LRE Committee may announce the top 8 scoring schools and may conduct a final trial. If a final trial is held, a random draw will be made as to which teams face each other and which side each team will represent. Following any such final

trials, the top three schools will be announced based on the highest overall final trial score not including the written law exam team average or prior rounds.

In the event the ISBA and the LRE Committee determine that a final trial round is not to be conducted, the top three schools will be announced following the official tournament. The team achieving the highest point total, whether by final trial or not, will advance as Illinois' representative to the National High School Mock Trial Championship.

C. Witnesses are bound by the facts in their affidavits as well as by the 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.

D. 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 may participate in their stead. The ISBA will grant **\$1000** to defray expenses for the National High School Mock Trial Championship. The ISBA will also pay National High School Mock Trial Championship registration fees (\$500). The state championship school is responsible for providing funding for any remaining expenses. Winning team members should be prepared to arrive at the event no later than Thursday afternoon and depart on Sunday of Mother's Day weekend in May for the National High School Mock Trial Championships. The location of the Championship varies.

E. All witnesses are written in a gender neutral format.

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

G. 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).

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

I. Trial proceedings are governed by the Mock Trial Simplified Rules of Evidence, ISBA Parent/Guardian, Teacher and Student Code of Conduct and Procedures found at <http://www.isba.org/teachers/mocktrial>. Other rules are not to be used at trial.

The 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.

IX. DRESS CODE AND CONDUCT

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

X. OVERALL BASIC TOURNAMENT RULES

A. The Rules of the ISBA High School Mock Trial Invitational, the ISBA Parent/Guardian, Teacher and Student Code of Conduct and the Simplified Rules of Evidence and Procedure govern this event. Other rules may not be used at trial.

B. The case materials may contain the following: a statement of facts, complaint, stipulations, witness statements/affidavits, jury instructions, exhibits, etc. The statement of facts is a synopsis of the case and should not be considered an official document for use in the trials. Witness statements and 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.

C. Participants must adhere to the time limits specified on the time sheets in this Handbook. Judges may allow teams to finish their presentations should they go over their time allowance; however, points can be deducted. Judges and evaluators will take into account a team's adherence to the time allowances in making their evaluations. Teams may not borrow time from one portion of a trial to use in another portion of a trial.

D. Each team must furnish an accurate time keeper. Stopwatches will be provided by the ISBA. See *Guide for Timekeepers* later in this Handbook in Part B., Section IX., Page 32.

E. Teams are expected to be in the assigned courtrooms ten minutes before the time trials are scheduled to begin. The start of trial will not be delayed any longer than fifteen (15) minutes beyond the scheduled start time. If a team fails to appear within the 15-minute time allotment, that team will forfeit the trial and the opposing team will receive a "bye." "Bye" teams are awarded the average number of points achieved by all teams participating in that particular trial time slot. If appropriate arrangements can be made, "bye" teams may go to trial at a later time instead. Extenuating circumstances may be taken into consideration by the judge. Advisors and observers should stay in the courtroom for the entire trial.

F. ISBA does not release scores.

G. There is a **no electronic device** rule in the courtroom, which will prohibit the use of iPads, tablet or laptop computers, cell phones, or any other electronic communication or storage devices. Regional or invitational programs are encouraged to implement this rule as well.

XI. DISPUTE RESOLUTION AND RULE VIOLATIONS

A. Rule Violations During Trial

If during the course of a trial a team has reason to believe that a significant violation of the rules has occurred and that the violation may be corrected during the course of the trial, a member of that team should request 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.

The presiding judge will be allowed to consider the dispute when marking his or her score sheet. The dispute may or may not affect the final decision. The matter will be left to the discretion of the presiding judge and his or her decision will be final.

If the judge is unable to make a determination on a possible rule infraction, a member of the LRE Committee may be consulted.

B. Concerns After Trial Concludes

If concerns remain or were not brought out during trial and a team has a serious reason to believe that a significant rules violation has occurred, **the teacher or attorney advisor** shall communicate the complaint to the presiding judge or to a member of the LRE Committee. The evaluators may continue to complete their score sheets and offer comments to the teams during this time. The LRE Committee may, at its discretion, call upon representatives from the teams to question about the allegations. All decisions of the LRE Committee are final. At **no** time should a parent, a non-participating student or an observer bring any allegation to the Committee or to the presiding judge.

XII. ROSTERS/ATTENDANCE PROCEDURES DURING TRIAL

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. Extra trial roster forms for distribution to the opposing teams will be in your school folder at the check-in desk.

B. Participants must complete a team roster on the form provided or on a similar form before trial and provide one copy to the opposing team, one copy to the presiding judge, and one copy to the scoring judges or evaluators. If possible, provide additional copies for each evaluator. The team roster forms must be ready at the start of the trial to ensure that trials remain on schedule.

XIII. VIDEOTAPING, PHOTOGRAPHY AND AUDIO TAPING

Video or audio taping 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. Teams videotaping the trial must submit a copy to the ISBA to be used for educational purposes. The audio tape recorder should be placed either at the counsel's table or in the audience. Photographs should be taken only before trial begins or after trial concludes. No photos may be taken during the trial proceedings except by the ISBA mock trial coordinator or ISBA designated photographers

XIV. SPACE LIMITATIONS

The ISBA reserves a block of rooms from the host and is restricted to use of those rooms. Some rooms are larger than others. Each school will be given priority seating for the team, teacher and attorney coach. Additionally, each school will be assigned a number of priority seats in the room for guests observing the trial. If there are empty seats available after those with priority are seated, others may be seated. Please cooperate with the ISBA to ensure that we do not violate the terms of our contract with the host.

REMEMBER: Space at this event is limited. The ISBA and the LRE Committee reserve the right to limit the number of guests viewing any trial. There is a maximum room capacity for each room which must not be exceeded. Consider these limitations when inviting guests. During the mock trial event teams may not change rooms without the express permission of the ISBA and the LRE Committee. ISBA and the Committee are bound by contracts and restricted to using only the space allotted in the contract. Teams breaching the contract and causing disruption, whether by the team's students, guests, advisor or teacher, may be immediately disqualified and may be barred from

future participation for a period of at least one year at the sole discretion of the ISBA LRE Section Council chairperson.

XV. OBSERVERS

Parents, family members, friends and classmates of team members are welcome to attend and observe the trials of their student's team provided space limitations permit. Observers should be quiet, courteous and cooperative during the trial event.

Observers may not take any photographs, video recordings or audio tapes of the trial proceedings once the presiding judge commences the trial proceedings nor at any point throughout the trial proceedings or post trial evaluation period. Observers not complying with this prohibition shall be asked to leave the courtroom at any time at the discretion of the presiding judge or an ISBA LRE Committee member.

Observers may not communicate with any team members once the presiding judge commences the trial proceedings nor at any point throughout the trial proceedings or post trial evaluation period.

If an observer believes there is a reason for a dispute, the observer should discuss any such problems with the advisor or the teacher. Only teachers and attorney advisors are permitted to discuss any dispute resolution matters with the ISBA LRE Committee.

XVI. VIEWING OTHER TRIALS

If space is available after those with seating priority have been seated, students, advisors and teachers may view another team's trial. Students, advisors and teachers of non-participating teams viewing a trial may be asked to leave the courtroom at any time at the discretion of the presiding judge or an ISBA LRE Committee member.

REMEMBER: Space at this event is limited. The ISBA and the LRE Committee reserve the right to limit the number of guests viewing any trial. There is a maximum room capacity for each room which must not be exceeded. Consider these limitations when inviting guests. During the mock trial event teams may not change rooms without the express permission of the ISBA and the LRE Committee. ISBA and the Committee are bound by contracts and restricted to using only the space allotted in the contract. Teams breaching the contract and causing disruption, whether by the team's students, guests, advisor or teacher, may be immediately disqualified and may be barred from future participation for a period of at least one year at the sole discretion of the ISBA LRE Section Council chairperson.

XVII. PUBLICITY

The ISBA prepares a press release and submits it to the newspapers in the areas where teams are located. The ISBA encourages teams to solicit local publicity. If a school needs assistance in preparing a press release, contact the ISBA at 217-525-1760. Additionally, some schools demonstrate their preparation before the school board, parents groups, or local civic organizations. Teams may also want to find a neighboring school and demonstrate the trial before these groups.

XVIII. GUIDELINES FOR ATTORNEY ADVISORS

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. 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.

All attorney advisors are expected to adhere to the rules, facts and all materials provided in the ISBA High School Mock Trial Rules and Procedures Handbook that is issued for the mock trial event. 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. This is intended as a learning experience, not a competition. 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.

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

If the attorney advisor believes there is a reason for a dispute, the advisor should consult and follow the dispute resolution steps outlined in Part A., Section XI., Pages 9-10.

Attorney advisors may be asked to judge or evaluate trials (other than a trial in which the attorney's child or school is a participant) but only if no other attorney or judge is available to judge or evaluate a trial and only if the trial would not be able to proceed as scheduled without the involvement of the attorney advisor.

XIX. GUIDELINES FOR TEACHERS

All teachers must be familiar with the ISBA High School Mock Trial Rules and Procedures Handbook that is issued for the mock trial event. They must also be familiar with the forms that must be submitted so that a school's team can participate in the mock trial event. This information is readily available at the ISBA's webpage at:

<http://www.isba.org/teachers/mocktrial>.

This website contains valuable training information for teachers about participation in the mock trial event. Periodic changes may be made to the rules and mock trial information. Teachers should frequently check this mock trial information webpage for updates to the mock trial materials and forms. Teachers are responsible for checking update memoranda placed on the ISBA Mock Trial webpage.

In order to ensure effective communication between teachers and the ISBA LRE Committee, teachers are responsible for providing accurate e-mail address information to the ISBA LRE Committee.

Teachers are expected to adhere to the rules, facts and all materials provided in the ISBA High School Mock Trial Rules and Procedures Handbook that is issued for the mock trial event.

If a team does not have an attorney-advisor and a teacher acts as the advisor for the team, the teacher must adhere to the guidelines for attorney advisors set forth above.

Practice sessions are invaluable. Teachers MUST contact other teams in their area to arrange for practice trials.

At the mock trial event, teachers are responsible to ensure that their school teams act in a courteous, safe and cooperative manner; respect the rights and property of others at the event; and respect the property and premises of the University of Illinois at Springfield, including all public areas.

Teachers are also responsible to ensure the same conduct of their school team at any hotel which houses the school team during the mock trial event.

Teachers are responsible for having their school teams timely participate in the Law Examination and to timely arrive at their assigned courtrooms for the mock trials in which they are participating.

If the teacher believes there is a reason for a dispute, the teacher should consult and follow the dispute resolution steps outlined in Part A., Section XI., Pages 9-10.

Perhaps the most important consideration for teachers is to understand and to instill in their school team members that education of students is the goal of the Mock Trial Invitational and the event is intended as a learning experience, not a competition. It is the firm belief of the ISBA and its LRE Committee that any student who successfully completes the rigorous learning program afforded by participation in the mock trial program will experience an opportunity for personal growth as a result of the experience and will, therefore, have fully achieved the goals set forth by the ISBA and the mock trial program.

XX. EMERGENCIES

Each team shall designate one person who will be the point of contact for the ISBA and the LRE Committee in the event of an emergency. That designated person must be a person who accompanies the team to the competition. It is preferred that this designated person be the teacher or attorney advisor for the team.

A. 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.

B. An emergency caused by inclement weather or other unexpected or unforeseen occurrence may come up that in the opinion of the ISBA and LRE Committee prevents one or more schools from attending the competition. In such cases, a decision will be made by the ISBA and the LRE Committee regarding the rescheduling of the entire competition or the rescheduling of individually scheduled team mock trial events. All efforts will be made to give as much advance notice as possible to teams affected by the emergency situation. Each team is responsible for monitoring State and local weather conditions that may prevent or hinder the team from attending the competition and each team should keep the

ISBA and the LRE Committee informed regarding any such adverse weather conditions.

C. If during a mock trial event a team member is unable to participate in a mock trial event due to illness, injury or other health reason that occurs before a mock trial event commences, the team is responsible for either having a substitute member available or proceeding without that team member.

D. If after a mock trial has begun, a team member is unable to continue to participate due to illness, injury or other health reason, a brief continuance of the event will be allowed in order to determine if the team member will be able to resume his or her participation in the event. If the team member is unable to continue with his or her participation, the team will be allowed without undue delay to immediately substitute a new team member and the mock trial event shall continue.

E. The ISBA and the LRE Committee shall, in their sole discretion, be responsible for any and all final determinations of whether there is an emergency, how any mock trial event will be handled in view of any such emergency and whether there shall be any team forfeiture, reduction of points, or team advancement by reason of the emergency. In exercising that discretion, the ISBA and the LRE Committee may direct that a team take certain appropriate measures which would allow a team to continue with the mock trial.

XXI. JUDGING AND EVALUATION

The presiding judge, who may also score the trial, will conduct each trial. 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.

In addition to the presiding judge, at least one scoring evaluator will evaluate each trial. Evaluators may include attorneys, judges, educators, community leaders, law students and other appropriate individuals approved by the LRE Committee.

At the end of each trial, the presiding judge may render a decision based on the merits of the case. This does not determine whether the team "wins" or "loses" the round for the purposes of determining the finalists or other winners. Each presiding judge and scoring evaluator also rates the teams by awarding team points in several categories.

Numerical scores will not be announced at trial and will not be released after the conclusion of the event. It is the policy of the ISBA and the LRE Committee 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. Thereafter, the top three ranked schools will be announced at the conclusion of the program.

THE DECISIONS OF THE JUDGES AND EVALUATORS ARE FINAL AND ARE NOT OPEN TO DISPUTE AND SHALL BE CONSIDERED FINAL.

XXII. GUIDELINES FOR PRESIDING JUDGES AND EVALUATORS

Every mock trial has a presiding judge who will rule on the merits of the case, respond to objections and direct the overall trial. In addition to the judge, each mock trial may have evaluators who may be attorneys, judges, paralegals, educators, city officials or others involved in the educational process with some knowledge of the trial process. Trial evaluators will play the role of jurors.

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

While the ISBA, the LRE 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 and/or pleased with the results are expected to conduct themselves with appropriate decorum and respect. Parents/Guardians, teachers and students have all signed a Code of Conduct and we expect all to follow it.

*In the Mock Trial Handbook, there was a section about Objections that I trust was read and reviewed by both teams prior to today. I want to re-emphasize to you that while you, the attorneys in this case, are permitted to make such objections to questions asked or evidence offered, that you should consider whether the objection **should** be made.*

It is not my purpose to either encourage or discourage objections, but to remind you that when I, as the presiding judge, and the evaluators score this trial, the nature, manner and frequency of objections will likely be considered and can thus enhance or detract from the evaluation given to an individual attorney or to the team.

Thank you.

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

The presiding judge should attempt to move the trial along. Each trial should last approximately one hour. Teams are given specified time limits for each portion of the trial. There will be at least one timekeeper at each trial. The judge may allow a team to finish their presentation if they exceed their allotted time. However, the judge must report the over-time to the performance evaluators. In addition to the presiding judge, at least one scoring evaluator will evaluate each trial. The presiding judge may also complete a score sheet awarding points to each team. Scoring panels may include attorneys, judges, educators, community leaders, law students or other appropriate individuals.

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 permit Team B to conclude its presentation quickly or may halt Team B's presentation accordingly. If time limitations are exceeded during opening or closing, during which objections are not allowed, at the conclusion of the opening/closing, the opposing team may call the time infraction to the judge's attention. Remember, when considering time violations the following are not timed: objections, 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 are expected to address any "creation" through the use of other more realistic objections or through impeaching the witness on cross-examination.

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. Evaluators need not render verdicts.

After the trial, judges and evaluators are encouraged to make oral comments which are informational and constructive to the students on their trial presentations. These comments should be BRIEF as there may be limited time between trials.

After judges and evaluators have finished their oral comments, they should complete the attached score sheets (sample sheets are at the back of the Handbook on pages 37-38). Performance evaluators must award points based on performance and skills presented at trial. When deciding which team made the better overall team presentation, the judge and evaluators should consider the performances of all attorneys and all witnesses for both sides.

Participants are rated according to a numerical scale. The 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 including any time limit violations. Penalties would reduce point awards in the appropriate categories. Penalties should not be indicated separately on the score sheet.

After EACH trial, the completed and signed score sheets should be turned in to the tournament coordinator.

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

B.

**TRIAL FORMAT, PROCEDURES AND RULES
“A How-To Guide”**

This guide contains an overview of the trial process, basic rules of evidence, rules for the competition, tips for attorneys and witnesses and rules for timekeepers. Student participants will be scored, using the Performance Rating sheet that appears in the back of the Handbook on page 39. Students should be familiar with the Rating sheet as well as the time constraints and the rules.

All ISBA High School Mock Trials will be conducted as jury trials; however, you do not have to concern yourself with the additional steps involved in a jury trial such as *voir dire* (jury selection) and jury instructions (when the judge explains the law to the jury). Jury instructions may be provided in the mock trial case materials as a guideline on what needs to be proven, but they should not be referred to during trial. For purposes of these trials, please address the evaluators as the jury. Please address the presiding judge when addressing remarks to the court.

I. A TYPICAL COURTROOM LAYOUT

PRESIDING JUDGE - JUDGE'S BENCH

WITNESS
STAND

JURY BOX/
SCORING EVALUATORS

DEFENDANT

PLAINTIFF

OBSERVERS

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

II. MOCK TRIAL PARTICIPANTS

Judge and scoring/performance evaluators

Attorneys

prosecution and defense (criminal case)

plaintiff and defendant (civil case)

Witnesses for each side

Student time keeper(s)

III. OVERVIEW OF THE PROGRAM

The ISBA sponsors the Mock Trial Invitational as a means of helping students learn about the legal system. Additionally, students will learn to work as a team, develop oral presentation skills, set goals, plan effectively, think on their feet, and face challenging obstacles with enthusiasm and confidence. In preparing for the program, students should keep this purpose in mind.

IV. PRETRIAL MOTIONS

When specifically allowed by the judge, pre-trial motions are limited to two minutes. Pre-trial motions may include entering stipulations and any other appropriate motions listed for the 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 pre-trial conference with the presiding judge may be granted if the judge and parties agree. Student attorneys may request bench conferences during a trial to clear up any procedural or factual questions. Only one representative from each side may be present for all bench conferences. These conferences should be limited to no longer than one minute.

V. BREAKS AND TRIAL DECORUM

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. 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. Student attorneys may use notes during the trial, but not on an electronic device (Part A., Section X, Page 7). Witnesses may not use notes. If a witness is using cards this is a breach of the rules. As restricting their use of the cards may harm the opposing team's presentation, the student may continue to use the cards but the judge and evaluators should view this as a rule infraction and may penalize with a point reduction.

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. **Absolutely no communication is allowed between team members and the attorney or teacher coaches, or parents while the trial is in progress. This includes verbal communications, signals and notes.**

Teams may not request sequestration.

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, and don't make objections unless you have a sound basis and are relatively sure the judge will agree.

The judge is in control of the courtroom, just as in real life. And just as in real life, each judge will preside over the courtroom a bit differently than the next judge. Participants must be prepared to adjust to the rulings and preferences of the judge.

VI. STEPS IN A MOCK TRIAL and GUIDE FOR ATTORNEYS

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;
- 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.

A. Call to Order

The judge will call the court to order and make any necessary announcements. 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. Opening Statements

The objective of the opening statement is to acquaint the judge and the jury with the case and to outline what you are going to prove through witness testimony and other evidence.

NO OBJECTIONS MAY BE MADE DURING OPENING STATEMENTS.

ONLY ONE ATTORNEY FOR EACH SIDE SHOULD PRESENT THE OPENING STATEMENT.

Include a short summary of the facts; mention the burden of proof (the amount of evidence needed to prove the case) 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. Stand before the jury and use eye contact. Students may move about to facilitate expression.

Each attorney should introduce him or herself and colleagues to the judge and jury. Plaintiff's attorney should summarize the evidence that will be presented to support the case. Defense's attorney should summarize the evidence that will be presented to rebut the case made by the plaintiff.

C. Direct examination by plaintiff's attorneys

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

The objective of direct examination is to obtain information from favorable witnesses called by the plaintiff to prove the facts of your case, to present the witnesses to the greatest advantage, to establish the witness's credibility and to present enough evidence to warrant a

favorable verdict.

Teams are presented with information about three witnesses but are permitted to call only two. This requires teams to determine which witnesses are most essential to proving their theory of the case. Teams may not call the witnesses assigned to the other side.

Determine 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 needed to prove your case will be presented through your witnesses. Use clear and simple questions. Ask questions that will require more than a “yes” or “no” answer. 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 by the witnesses. 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?"

Please remember that time will not be stopped when you take time to consult your notes, consult with your teammates or collect yourself.

The attorney who conducts the direct of a witness will also respond to objections made to the direct examination and will be the one to make objections, if any, during the cross examination of that witness.

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 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 the witness is not competent or qualified due to lack of training or experience to render the opinion.

Adapt your prepared questions to the actual testimony given during the direct examination. Always listen to the witness' answers. Try to avoid giving the witness an opportunity to re-emphasize the points made against your case during direct examination. However, don't harass or attempt to intimidate the witness.

The attorney who conducts the cross-examination of a witness will also respond to objections made to the cross examination and will be the one to make objections, if any, during the direct examination of that witness.

E. *Re-direct by plaintiff's attorney of witness*

After cross examination, additional questions may be asked by the direct examining attorney. Such questions must be limited to matters raised by the attorney on cross examination. Re-direct is at the discretion of the judge.

F. *Re-cross by defense attorney of witness*

Likewise, additional questions may be asked by the cross examining attorney on re-cross provided such questions are limited to matters raised on re-direct examination. Re-cross should avoid repetition. Re-cross is at the discretion of the judge.

G. *Defense attorneys' case*

Attorneys should follow the same format and rules for direct examination, cross examination, re-direct and re-cross as above with the parties reversed.

H. *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, how that evidence proves your argument and what the weaknesses of the other side's case are.

NO OBJECTIONS ARE PERMITTED DURING CLOSING ARGUMENT.

ONLY ONE PARTICIPANT WILL MAKE THE CLOSING ARGUMENT FOR EACH SIDE.

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. Prosecution/Plaintiff may reserve a portion of its closing time for rebuttal. Rebuttal is limited to the scope of the defense's closing argument.

The plaintiff's attorney should stand, address the jury and review the evidence. 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.

The defense's attorney should stand, address the jury and also review the evidence, stressing the evidence and the law favorable to the defense's case, showing how the plaintiff failed to prove their case and asking for a verdict favorable to the defense.

If a participant would have objected during closing arguments had he or she been permitted to under the rules, after the end of closing arguments, that participant may address the court and advise that "If permitted to do so, I would have objected to (state the objectionable behavior) because (state reason)." The trial judge may comment on the objection. The evaluators may take the objection into consideration in their evaluation.

I. *Plaintiff's rebuttal*

If the plaintiff's attorney reserves time for rebuttal, the attorney may rebut only what has been brought out in defense's closing. The time for the closing and the rebuttal combined may not exceed the time allowed for closing.

VII. GUIDE FOR WITNESSES

1. *Direct Examination*

Learn the case thoroughly, especially your witness statement. Know the questions that your attorney will ask you and prepare clear and convincing responses that contain the information the attorney is asking about. Try to be as relaxed but in control as possible. Convey confidence and truthfulness. Do not recite your witness statement verbatim. Know the content of your witness statement prior to trial 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.

2. *Cross-Examination*

Anticipate the types of questions or areas of questioning that you will be asked on cross-examination and prepare answers accordingly. Consider the 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.

At the hearing, don't be afraid to buy time by saying something like, "Excuse me just a moment while I try to remember," or "let me take another look at that exhibit, please." 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. You may also 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?"

3. *Other Tips*

If you are going to testify about records or documents, familiarize yourself with them thoroughly 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.

Witnesses may not use costumes, accents, dialect, etc., but should dress appropriately for the courtroom.

VIII. SIMPLIFIED RULES OF EVIDENCE

Rules of evidence 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 addressed to the presiding judge. The judge then decides whether the rule has been violated and whether the evidence (testimony or document) 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. Students should be prepared to point out specific rules to which they may be referring or relying upon and argue for the interpretation and application of the rule they think proper. Regardless of how the judge rules, participants must accept his or her ruling with grace and courtesy.

A. WITNESS EXAMINATION

1. Direct examination (attorneys call and question witnesses)

a. Scope of direct examination: Direct examination may cover all facts relevant to the case for which the witness has firsthand knowledge.

b. Form of questions: the attorney who calls witnesses 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?"

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

c. Narration: While the purpose of direct examination is to let 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.

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. Scope of cross-examination: Generally cross examination questions should be limited to facts brought out on direct. However, for mock trial purposes, attorneys may, in a limited manner, ask questions on matters not brought out during direct examination. The reason for this exception to the general rule occurs when the direct examination was inadequate. If a team asks limited questions on direct as a strategy to undermine the opposing team, they may be penalized by receiving a lower score on the evaluation by not exhibiting sufficient expertise for the evaluators to score. Further they may hurt their side of the case presentation when the expanded cross-examination brings out necessary information of value to the opposing team.

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

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 prior 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 a specific question as to whether he or she has contradicted something that was specifically stated in the affidavit. It is not effective cross-examination to try to impeach a witness on an entire affidavit.

3. *Re-direct and re-cross* should be used primarily to rehabilitate your witness if they misstated or erred during their direct or cross examinations. Re-direct and re-cross may also be used to clarify or strengthen a particular point for emphasis. Rehashing of arguments should be avoided. Also, no "new" information may be brought out on re-direct or re-cross.

B. ADDITIONAL RULES OF EVIDENCE

1. *Hearsay*

Hearsay is a statement other than one made by the declarant (person speaking) 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 if used for its "meaning." Generally, hearsay is inadmissible because second or third-hand information about what someone else said is inherently unreliable and cannot be subject to meaningful cross-examination.

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. Former testimony. If a witness testified about his or her firsthand observations in another hearing or a deposition, and was subject to cross examination, and if that witness subsequently becomes unavailable, the earlier testimony is admissible in the form of a transcript despite being hearsay at the trial. This is necessary to prevent cases from being unprovable or not defensible by the mere passage of time or the disappearance or death of witnesses.
- b. 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," being offered to show the mental or physical state at the time.
- c. "Excited utterance." A statement made shortly after an event while the declarant is still excited is usually permitted as such statements have a higher degree of reliability associated with them.
- d. Statements made for the purpose of medical diagnosis. Statements describing past or present symptoms are considered inherently reliable because of the declarant's desire to receive proper treatment.
- e. The public records exception. This exception allows the records of a public agency to be admitted, or used in court, because they describe matters the agency is legally charged to record.
- f. 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 (e.g., "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. 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 hypothetical questions. However, the attorney for the party for whom the expert is testifying must qualify the witness as 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.

For Mock Trial purposes, 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.

Witnesses who are not testifying as experts may give “lay” opinions which are based on the common experience of laypersons in the community provided the opinions are based on firsthand knowledge of the witness.

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 is that which tends to make a fact that is important to the case more probable than the fact would be without the evidence. Non-relevant evidence 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. Note, that if relevant evidence is unfairly prejudicial, may confuse the issues or is a waste of time, the court may still disallow it.

5. *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 an untruthful character. 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 untruthfulness. Once evidence is presented about a witness' untruthfulness, evidence may then be presented to bolster a witness's truthfulness by the same means.

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 purposes such as proof of motive, opportunity, intent, preparation, plan, knowledge, identify, or absence of mistake or accident.

C. INTRODUCTION OF PHYSICAL EVIDENCE & PRESENTATION STYLE PROHIBITIONS

Students may read materials other than those provided 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 referred to in citations or footnotes in the materials. Props and enlargements are NOT permitted.

As far as presentation style, teams are prohibited from using costumes, accents, use of dialect, etc. or other props. **Exhibits may not be enlarged, laminated or otherwise enhanced.**

During the mock trial, a team's attorney may want to introduce and use as evidence a document (*e.g.* a statement, a letter or a map) or a physical item (*e.g.* a photograph). This may happen during direct examination or it may happen during cross examination. Exhibits when used correctly make the trial more efficient for both a judge and jury. But you must be careful to use your exhibits in a way that does not detract from your presentation of your case.

There are necessary steps that the attorney must take in order to properly introduce the document or item as evidence. These steps must be followed. Adherence to these steps will be considered in the evaluation of an attorney's performance.

It is strongly encouraged that before you arrive for the mock trial competition that your trial team should take the following steps for this will save time for everyone at the mock trial and you will not be unnecessarily distracted by these tasks during the time you are trying your case:

i. Since you may not know whether or not you will use the mock trial materials as evidence either in direct or cross-examination, better practice is to plan on using every document and physical item in the mock trial materials as possible evidence exhibits.

ii. Mark the copy of each document or physical item with an exhibit number. If you are a plaintiff, you would mark your document/item as "Plaintiff's Exhibit [insert number]". If you are a defendant, you would mark your document/item as "Defendant's Exhibit [insert number]". You can use any numbering scheme you want, however it is suggested that you use sequential Arabic numerals. It does not matter what order you number your exhibits as there is no requirement that the exhibits you introduce must be in numerical order. You may, however, want to number your exhibits based upon how you intend to produce the evidence in your case. It may be easier for the judge and evaluators to track the exhibits if they are numbered in the order used.

iii. Make at least three (3) copies per trial of each marked exhibit: one to give as a courtesy to the judge, one to give/show to the opposing team, and one for the attorney to use who is offering the exhibit. The original marked exhibit will be used during the examination of the witness. Keep the original and all copies of the exhibit either clipped together or in a single folder so that you can easily access the exhibit at trial.

During the trial, you should take the following steps if you want to introduce a document or physical item into evidence:

1. When you are ready to introduce the exhibit, first state that you now intend to show the witness "what I have previously marked **for identification** as [Plaintiff's/Defendant's] Exhibit number ____".

2. State next that you are handing the judge and opposing counsel a "courtesy copy of that exhibit". Hand a copy of the marked exhibit to the judge and if necessary to opposing counsel.

3. Pause to allow the judge and opposing counsel to view the exhibit, and then ask the judge for permission to proceed.

If the judge or opposing counsel indicates an objection to your use of the exhibit, be prepared to defend your right to show the exhibit to the witness and to examine the witness about the exhibit.

4. If you are allowed to proceed, for **direct examination**, show the exhibit to the witness stating: “I show you an exhibit that I have marked as [Plaintiff’s/Defendant’s] Exhibit number ____.” Do you recognize this [document/item]?”

At this point, if the witness states he/she recognizes the exhibit, you would continue questioning the witness about the exhibit **solely for the purpose of laying a sufficient foundation to allow you to offer the exhibit into evidence (see below about foundation)**. You are permitted to ask leading questions to lay a foundation for the introduction of an exhibit. For example, after the witness testifies that he/she recognizes the exhibit as a letter he/she wrote, you may ask: “Is that your signature on the second page of the letter”. **You may not at this point have the witness read from or discuss the substance of the exhibit, nor may you ask any substantive questions about the exhibit.**

If you are conducting cross examination, you do not have to ask the witness if he/she recognizes the exhibit. Rather, you can directly ask the witness to identify the exhibit. For example: “Ms. Smith, Defendant’s Exhibit 3 is a letter which you wrote to the Plaintiff, is it not?” As with direct you can ask leading questions to establish the foundation about the exhibit.

5. **Laying a Foundation For An Exhibit:** When you first show an exhibit to a witness, you must have the witness testify to sufficient facts that establish: (a) that the exhibit is what the witness claims the exhibit to be; (b) that the exhibit is authentic; and (c) that the exhibit is relevant evidence. To establish these facts, you must first establish that the witness has a foundation to answer questions about the exhibit. You must ask the witness a series of questions to establish that the witness has personal knowledge about the exhibit to which he/she will be testifying about.

As an example of how to establish that an exhibit is authentic: the witness identifies a letter he/she wrote because the document bears the witness’ printed stationary letterhead and bears the witnesses signature and the person to whom the letter is addressed is the witness’ mother; that he/she wrote the letter on or about the date stated at the beginning of the letter; and that the witness recalls that he/she mailed the letter to the witness’ mother.

If the exhibit sought to be introduced is a business record, you should establish the necessary evidentiary basis to have the exhibit admitted as a business record.

6. Assuming you establish the proper foundation, authenticity and relevance of the exhibit, you would then offer the exhibit into evidence by stating: “I offer [Plaintiff’s/Defendant’s] Exhibit number ____ **into evidence.**” Again, be prepared to defend the basis for entering the exhibit into evidence.

7. If the judge admits the exhibit into evidence, you are then free to have the witness read from the exhibit and you are also then free to ask substantive questions about what is stated in the exhibit.

You are also allowed, if you want, to show any admitted exhibit to the evaluators/jury. To do this, you must ask the judge permission “to publish [Plaintiff’s/Defendant’s] Exhibit number ____ to the jury.”

Any admitted exhibit may be referred to during your closing argument.

8. **Using an exhibit to refresh recollection:** If you are using a document or physical item **solely** for the purpose of refreshing a witness’ recollection, then you **do not** have to follow the steps set forth above. The judge may, however, ask you to mark the document or physical item as a numbered exhibit for identification. A document or physical item used to refresh a witnesses’ recollection is not introduced into evidence and it is not evidence that can be referred to during examination of a witness or in closing argument to the jury. Such a document or physical item is used solely to aid the witness’ recollection so that the witness can then continue to give testimony about the matter. See the discussion on refreshing recollection set forth previously.

9. **Using an exhibit to establish past recollection recorded:** If in the course of examining a witness you establish: (a) that the witness has no present and independent recollection of the occurrence or event or matter that is recorded in the exhibit; (b) that the witnesses’ recollection cannot be refreshed by use of any document or physical item; and (c) that the witness created, prepared or wrote a document or physical item at or about the time of the events or matters of which you are asking questions and the document or physical item is an accurate recording of those events. You may then offer the document or physical item into evidence by following the foundational steps above and then offering the exhibit as the past recollection recorded of the witness. If the exhibit is admitted, you may not ask any further questions of the witness about the events or matter which are recorded or depicted in the exhibit, however, you may otherwise use the admitted exhibit just as you use any other admitted exhibit.

10. All exhibits that are marked for identification and shown to a witness, whether admitted or not, should be left on the corner of the judge’s table after the attorney finishes examining the witness.

D. OBJECTIONS

One of the obligations of an attorney at trial is to make objections when the attorney believes that the question asked of a witness, or an item being offered into evidence is improper. One makes objections to bring the impropriety to the court’s attention and to secure the court’s agreement that the objection is well taken.

Technically an objection can be made whenever the question asked or the item offered into evidence is not proper under the Mock Trial Simplified Rules of Evidence. But just as in the real courtroom, an attorney should give serious consideration before making the objection. A judge and/or jury (in this case the evaluators) may have a negative reaction to an attorney who makes objections when the question asked or the evidence offered is not of any significant consequence. A similar negative view can arise where an attorney makes numerous objections for this may unduly lengthen the trial or may be viewed as an unnecessary disruption to the other side’s evidence presentation.

Of course, the opposite is also true. An attorney must be prepared to object in order to prevent improper evidence from being received to protect the interest of the attorney’s

client. Well taken objections may, thus, enhance the attorney's presentation in the view of the judge and/or jury.

A good rule of thumb to follow is that an attorney should make objections when needed, not simply because there is a basis to object.

It is important that teams consider the fact that when the presiding judge and evaluators score a mock trial they will likely take the objections into consideration in making their evaluations. The nature, manner and frequency of objections can enhance or detract from the evaluation given to an individual attorney or to the team.

To make an objection, the following steps should be used:

a. The attorney wishing to object should stand and state simply "Objection" or "Objection" with a short statement of the nature of the objection as demonstrated below.

Note : Only the attorney who questions a witness on direct or cross examination may object to questions posed to that witness or to evidence offered by the opposing counsel.

b. If the attorney does not state the basis for the objection or does not state the basis clearly, the judge may ask the reason for the objection. The attorney who made the objection must be prepared to clearly, succinctly and briefly state the reason for the objection.

c. The presiding judge may then ask the other attorney to respond to the objection. The attorney whose question or proffered evidence is objected to must be prepared to clearly, succinctly and briefly defend their question or offered evidence.

As examples: "The party admission exception permits the question" or "This is not hearsay because I am offering the testimony for the purpose of what the witness heard and not for the truth of what was said" or "The question is relevant because it seeks information about the witness' bias."

d. The presiding judge will then decide to either sustain or overrule the objection. If the objection is overruled, the attorney asking the question or proffering the exhibit may continue. If the answer to a question was given before the objection, the presiding judge will allow the answer to remain on the record. If the objection is sustained, the question or proffered exhibit will be disallowed. If the answer to the question had already been given, the presiding judge will strike the answer. The judge may direct the "jury" to disregard the overruled information.

Below are examples of standard forms of objections. Objections should be limited to those listed above in the evidence sections of this Handbook. Teams should NOT go beyond these materials. If an opposing team violates these rules, this paragraph should be brought to the attention of the presiding judge. Judges and evaluators may deduct points for inappropriate objections.

Irrelevant evidence: "Objection. 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. 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").

Keep in mind that a witness may always be questioned about the witness' possible bias, memory, motive or lack of personal knowledge even if questions on these points are not put to the witness during direct examination, for these are matters that are implicit in the answers which the witness gives on direct examination.

Hearsay: "Objection. Counsel's question/the witness's answer is based on hearsay."

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

Keep in mind that witnesses may give opinions provided they have the personal knowledge and level of expertise to give such an opinion.

Lack of Personal Knowledge: "Objection. 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."

Narrative: "Objection. The question asks for a narrative response." or "Objection. The witness is testifying in the narrative."

Asked and answered: "Objection. The question has already been asked and answered."

Non-responsive: "Objection. 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." or "Objection. No foundation has been laid for this exhibit."

This might arise, for example, 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.

NOTE: There is no "creation of material fact" objection. 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. This does not permit teams to

create facts. Creation of material facts may cause point deductions for the creating team.

IX. GUIDELINES FOR STUDENTS ACTING AS TIMEKEEPERS

One student from each team will be assigned the duty of keeping time during the trial. **No outside electronics will be allowed.** Stopwatches will be provided by the ISBA. The stopwatches will be collected at the end of the each session. Time keeping forms will be provided at the trial location.

The student timekeepers may be alternate team members. Timers will be seated next to each other and should agree, within reason, to the times entered on the time sheet. 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. **At the end of the trial, the timekeepers must submit their time keeping record to the presiding judge who will share it with the evaluators.**

Timekeepers should only stop timing for the swearing in of a witness, attorney objections, a judge's ruling on objections, bench conferences if any, or if instructed to do so by the judge.

Timekeepers may use appropriate time props to indicate to team members how much time remains for presentations. Appropriate time props include cards that could be raised as unobtrusive notification, but do not include any method that creates a disruption in the trial (such as speaking, ringing bells, etc).

Judges may allow teams to finish their presentations should they go over their time allowance. However, judges and evaluators will take into account a team's adherence to the time allowances in making their evaluations and points may be deducted.

ISBA MOCK TRIAL TIME SHEET – REVISED TO REFLECT TIME BLOCKS

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.

STOP TIMING ONLY FOR: WITNESSES BEING SWORN, OBJECTION S, JUDGE’S RULINGS ON OBJECTION S, BENCH CONFERENCES, IF ANY, OR IF TOLD TO STOP BY THE JUDGE.

EVALUATOR: _____

SCHOOL NAMES: _____ Plaintiff

_____ Defendant

P Opening Statement (3 minutes) _____

D Opening Statement (3 minutes) _____

P Case in Chief

P Direct Examination of both witnesses (including optional re-direct) – 15 mins _____

D Cross Examination of both witnesses (including optional re-cross) - 11 mins _____

D Case in Chief

D Direct Examination of both witnesses (including optional re-direct) - 15 mins _____

P Cross Examination of both witness (including optional re-cross) - 11 mins _____

Closings

P Closing Arguments (including optional rebuttal) - 5 minutes _____

D Closing Arguments - 4 minutes _____

Prosecution/Plaintiff gives opening statement first. Prosecution/Plaintiff gives closing argument first; the Prosecution/Plaintiff may reserve a portion of its closing for a rebuttal. The Prosecution/Plaintiff’s rebuttal is limited to the scope of the Defense’s closing argument. Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial may not be transferred to another part of the trial.

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

AT THE CLOSE OF THE TRIAL, TIMEKEEPERS WILL SUBMIT THE TIME SHEET TO THE PRESIDING JUDGE WHO WILL SHARE IT WITH THE EVALUATORS.

X. Summary

SUMMARY OF RULES APPLICABLE TO ATTORNEYS AND WITNESSES DURING THE TRIAL

IMPORTANT NOTE & DISCLAIMER:

All persons involved with the mock trial teams are expected to read the entire handbook. This is a summary for the convenience of student participants. This Summary is NOT an official part of the Handbook and may NOT be referred to regarding questions or disputes. All references MUST be made to the original materials previously presented in this Handbook.

General and team rules:

1. Mock trial procedures are governed by the ISBA Parent/Guardian, Teacher and Student Code of Conduct and the Mock Trial Simplified Rules of Evidence and Procedure. Other rules of procedure or evidence are not used. **Part A., Section VIII., Paragraph I., Page 8. Part B., Section VIII., Page 23.**
2. All participants are expected to display proper courtroom decorum and collegial conduct, during, before and after trial and at the hotel. All participants are also expected to wear appropriate courtroom attire while in trial. **Part A., Section IX., Page 9.**
3. Each team will try the case twice: once as prosecutor or plaintiff and once as defense or defendant. Each team must call two witnesses and only two witnesses and may not call the opposing team's witnesses as part of its own case. **Part A., Section VIII., Paragraph G., Page 8. Part B., Section VI., Paragraph C., Page 20.**
4. Students may read materials other than those provided 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 referred to in citations or footnotes in the materials. **Part B., Section VIII., Paragraph C., Page 26.**
5. Participants may not dispute witness statements and stipulations nor question the authenticity of documents at trial. **Part A., Section X., Paragraph 2., Page 9.**
6. Teams must be in the courtroom 10 minutes prior to the assigned time. If a team fails to report to the assigned courtroom within 15 minutes after the assigned time, the team will forfeit the round. **Part A., Section X., Paragraph 5., Page 9.**
7. Attorneys and witnesses may not use **electronic devices such as** laptop computers, cell phones, i-pads, tablet computers or any other electronic communication or storage devices in the courtrooms. The trial may be audio-taped or videotaped for educational use if both sides agree and if the recording equipment is placed on counsel table or in the audience and if the taping does not disrupt the trial. **Part A., Section X., Paragraph 7., Page 9 and Section XIII., Page 10.**
8. **Exhibits may not be enlarged, laminated or otherwise enhanced.** Attorneys and witnesses may not use props of any kind. **Part B., Section VIII., Paragraph C., Page 26.**

9. There will be no voir dire of jurors, no motions in limine, no pretrial motions or conferences, no motions to sequester witnesses, no calling of hostile witnesses and no motion for directed verdict or dismissal. **Part A., Section VIII., Paragraphs F. & H., Page 8 and Section B., Section IV., Page 18.**

10. Students may not communicate with anyone outside the team during the trial including but not limited to, alternates, parents, teachers and lawyer coaches. This prohibition includes during any breaks in the trial. **Part B., Section V., Page 18.**

11. Students may only ask for a recess in the case of an emergency. **Part A., Section XX., Page 13.**

12. Teams must observe the time limits. Evaluators may deduct points for exceeding the time limits. Teams may not borrow time from one portion of the trial to use in another portion. **Part A., Section X., Paragraph 3., Page 9.**

13. If a participant believes there has been a rule violation or other problem during the trial, the student should request a bench conference with the judge or refer that violation or problem to their teacher or attorney advisor who should be familiar with the ISBA Mock Trial Dispute policy. **Part A., Section XI., Page 9.**

Attorney rules:

14. Attorneys should be prepared to conduct opening statements, direct examination of their chosen witnesses, cross examination of opponent witnesses, and closing arguments. **Part B., Section VI., Page 19.**

15. Attorneys may use notes, but not in electronic form. **Part B., Section V., Page 18.**

16. Re-direct and re-cross examinations are permitted, provided they fall within the appropriate time limitations set for the teams. **Part B., Section VI., Paragraphs E. & F., Page 21.**

17. Prosecution/Plaintiff **may** reserve a portion of its closing time for rebuttal. Rebuttal is limited to the scope of the Defense's closing argument. **Part B., Section VI., Paragraph H., Page 21.**

18. Attorneys may make objections during direct and cross-examination but these should be limited and should be made by the attorney responsible for that witness. No objections will be permitted during opening statements and only very limited objections are allowed for the closing arguments and only after they have concluded. **Part B., Section VI., Paragraphs C-D., Pages 19-20.**

Witness rules:

19. 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. There is no objection for "creation of fact" or "beyond the scope of the materials." **Part A., Section VIII., Paragraph C., Page 8. Part B., Section VIII., Paragraph A., Number 2. c.,**

Page 24. Part B., Section VIII., Paragraph D., Page 31.

20. Participants may not alter witness statements. If a witness is asked a question *on cross-examination* about information that is not part of the case materials, he or she may answer *consistent with the facts* in the materials, even if not directly part of 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, each evaluator may subtract points for each rule deviation.
Part B., Section XXII., Page 16. Part B., Section VII., Paragraph 2., Page 22.

21. Witnesses may not use notes. They shall not use costumes, accents, dialect, etc.
Part B., Section V., Page 19. Part B., Section VIII., Paragraph C., Page 26.



**ILLINOIS STATE
BAR ASSOCIATION**

Illinois State Bar Association
424 South Second Street, Springfield, IL 62701
800-252-8908 217-525-1760 Fax: 217-525-9063
www.isba.org

**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
10-18	Fair
19-27	Good
28-36	Excellent
37-45	Outstanding

I award this ballot 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 Presiding Judge and Evaluator Mock Trial Score sheets

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 on Presiding Judge Scoresheet/1 on Evaluator Score sheet - 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 presentation inadequate; reliance on reminders from lawyers. Witness uncooperative.

10-18 on Presiding Judge Scoresheet/2 on Evaluator Score sheet - 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 or overuse of objections. Only fair response to objections from opposing counsel.

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

19-27 on Presiding Judge Scoresheet/3 on Evaluator Score sheet - 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: Witness exhibits good knowledge of role and tells story in coherent manner. Needs few reminders from lawyers. Good eye contact.

28-36 on Presiding Judge Scoresheet/4 on Evaluator Score sheet - 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 voice. Answers were responsive. Answers questions from both sides appropriately. Believable; does not appear to be too staged.

37-45 on Presiding Judge Scoresheet/5 on Evaluator Score sheet - Outstanding

Attorneys: Superior in qualities listed for Excellent performance. Thinks well on feet, is logical, and keeps poise under duress. Can sort out the 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.