

Illinois State Bar Association High School Mock Trial Invitational

RULES AND PROCEDURES HANDBOOK

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A Project of the ISBA
Standing Committee on
Law-Related Education for the Public
Illinois LEARN, Inc., and the Illinois Trial Team, a Registered
Student Organization of the University of Illinois, Champaign



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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.....	5
V.	Law Examination	6
VI.	Scheduling.....	7
VII.	Teams.....	7
	A. Student participation.....	7
	B. Affiliation with approved sponsor.....	7
	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.....	8
IX.	Dress Code and Conduct	9
X.	Overall Basic Tournament Rules	9
XI.	Dispute Resolution and Rule Violations.....	10
	A. Rule Violations During Trial	10
	B. Concerns After Trial Concludes	10
XII.	Rosters/Attendance Procedures During Trial.....	11
XIII.	Videotaping Photography and Audio Recording	11
XIV.	Space Limitations	11
XV.	Observers	12
XVI.	Viewing Other Trials	12
XVII.	Publicity.....	12
XVIII.	Guidelines for Lawyer Coaches/ Advisors	13
XIX.	Guidelines for Teachers	14
XX.	Emergencies.....	15
XXI.	Judging and Evaluation	16
XXII.	Guidelines for Presiding Judges and Evaluators.....	16-17

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

I.	A Typical Courtroom Layout.....	19
II.	Mock Trial Participants	19
III.	Overview of the Program	20
IV.	Pretrial Motions.....	20
V.	Breaks and Trial Decorum	20
VI.	Steps in a Mock Trial and Guide for Attorneys.....	21
	A. Call to Order	21
	B. Opening Statements	21
	C. Direct examination by plaintiff’s attorneys.....	22
	D. Cross-examination by defense’s attorneys.....	22

	E. Re-direct by plaintiff’s attorney of witness	23
	F. Re-cross by defense attorney of witness	23
	G. Defense attorneys’ case	23
	H. Closing arguments	23
	I. Plaintiff’s rebuttal	24
VII.	Guide for Witnesses	24
	1. Direct Examination	24
	2. Cross-Examination	24
	3. Other Tips	25
VIII.	Simplified Rules of Evidence	25
IX.	Witness Examination	26
	A. Direct examination (attorneys call and question witnesses)	26
	1. Scope of direct examination	26
	2. Form of questions	26
	3. Narration	26
	4. Refreshing recollection	26
	B. Cross-examination (attorneys question witnesses called by the other side)	27
	1. Scope of cross-examination	27
	2. Form of questions	27
	3. Impeachment	27
	C. Re-direct and re-cross	28
X.	Additional Rules of Evidence	28
	A. Hearsay	28
	a. Former testimony	28
	b. Declarant’s mental, emotional or physical condition	28
	c. “Excited utterance”	28
	d. Statements made for the purpose of medical diagnosis	28
	e. The public records exception	28
	f. Secondhand testimony	29
	g. Admission by a party opponent	29
	B. Opinions of Witnesses	29
	C. Lack of Personal Knowledge	29
	D. Relevance of Evidence	29
	E. Character Evidence	30
XI.	Introduction of Physical Evidence	31
IX.	Guidelines for Students Acting as Timekeepers	37
X.	Summary	39
XI.	Sample Forms	42
	Evaluators Score Sheet	42
	Judge’s Score Sheet	44
	Explanation of the Performance Ratings Used on the Presiding Judge	
	Evaluator Score Sheet	45

A. **RULES & PROCEDURES - "THE NUTS & BOLTS"**

I. **INTRODUCTION**

- A. The ISBA High School Mock Trial Invitational 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.
- B. **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.
- C. 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.
- D. 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 do, 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.
- E. **All participants must follow all official Invitational Rules.** Schools, teams, or participants who violate the rules may be disqualified and may be eliminated from present and future participation in the program.
- F. 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.
- G. If you have any questions, please email the Mock Trial Coordinator at:
il.hs.mocktrial@gmail.com.
- H. The Illinois State Bar Association thanks the following for their support and assistance with the ISBA High School Mock Trial Invitational:

*ISBA Standing Committee on Law-Related Education for the Public
Illinois LEARN, Inc.
The Illinois Trial Team of the University of Illinois
University of Illinois College of Law*

II. GOALS OF THE ISBA HIGH SCHOOL MOCK TRIAL INVITATIONAL

- A. 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. The ISBA Invitational goals are:
- To increase student understanding of the American judicial system.
 - To familiarize students with the law, courtroom procedures, and the legal system.
 - To build bridges of cooperation, respect and support between the community and the legal profession.
 - To improve basic skills such as listening, speaking, writing, reading, analyzing, and working as a team.
 - To learn the meaning of good citizenship in a democracy through participation in our system of law and justice.
 - To develop team spirit, establish objectives, and work toward a common goal.

III. REGISTRATION PROCEDURES

- A. The Mock Trial Registration Packet and registration procedures are available online at:
- <http://www.isba.org/teachers/mocktrial>
- B. Please review the Registration Packet carefully to ensure your team completes all necessary steps. The Registration Packet lists required documents and deadlines for submission. Please contact the Mock Trial Coordinator with any questions.
- C. Payment of registration fee must be by check or money order only, made payable to: **LEARN**. Illinois LEARN is a not-for-profit corporation associated with the ISBA. No purchase orders will be accepted.

IV. MOCK TRIAL POLICY-ENTRY CRITERIA

- A. All teams must complete at least one practice trial with another school, or with another team from their school, or a regional competition, prior to attending the Mock Trial Invitational in Champaign. 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 ISBA High School Mock Trial Invitational.
- B. The ISBA's Standing Committee on Law-Related Education for the Public (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 TEST

- A. The written Law Test portion of the Invitational tests the team's knowledge of the case, the mock trial rules of evidence, and other law related topics. There is a Mock Trial Pre-Test available on the ISBA'S Mock Trial website for use in studying for the Law Test. Teachers and coaches may obtain a key by emailing the Mock Trial Coordinator.

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

The format of the Law Test consists of multiple choice and true/false questions. The "team Law Test score" will be the average of the individual team members' scores. The team with the highest team score on the Law Test will receive the Donna M. Schechter Memorial Law Test Award and will have its name engraved on a perpetual plaque to be displayed at the ISBA office in Springfield, Illinois.

If a student on the official team roster, including any alternates and timekeepers, is unable to take the Law Test for **any** reason, that student will receive a Law Test score of zero (0) and the score of zero (0) will factor into the overall team's average score.

- B. Scores from Saturday and Sunday preliminary trials and the team Law Test score will be used to determine which eight teams will participate in the final round of trials. The team Law Test score will not be included in team totals in scoring the final eight trials.
- C. Teams are assigned time slots within which to take the Law Test. Team members must complete the Law Test during the assigned time slot. For example, if your school is assigned to the 10:00 a.m. - 12:00 p.m. slot, your team may start the exam at any time between 10:00 a.m. and 12:00 p.m. and all tests must be turned in by 12:00 p.m. Times will be assigned to teams randomly based on availability of space and trial schedules. Unless the Coordinator receives a "Special Requests Form" before the start of the Invitational, the Coordinator and LRE committee, in their sole discretion, may deny a request for additional accommodations regarding time slots. If a team fails to take the Law Test during its assigned time, the team will receive a zero (0) score on the Law Test, absent extraordinary circumstances to be determined by the Coordinator and the LRE Committee.

All members of a team listed on the team's official team roster must take the Law Test during the team's assigned time slot, including alternates who do not participate in a trial. After 10:00 a.m. CST on Saturday, no team will be allowed to make changes to their official team rosters. Changes submitted after that time will not be accepted. The official team roster will be determined by the most recent copy of the roster received by the Coordinator before 10:00 a.m. on Saturday.

- D. Teachers may submit questions for the Law Test, 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 regarding this year's case, please see the registration materials for procedures and

deadlines regarding submissions.

- E. If a team has a special request for their Law Test time, the team should submit a Special Requests Form, found in the Registration Materials by the deadline provided on the form. Every effort will be made to accommodate all requests; however, **there are no guarantees that requests will be honored.** Teams should plan to be available to take the law test on either day.

VI. SCHEDULING

- A. 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, found in the Registration Materials. Every effort will be made to accommodate all requests; however, **there are no guarantees that requests will be honored.** 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 Invitational must be currently enrolled in grades nine (9) through twelve (12) at the time of the Invitational. Each Illinois high school may enter one team consisting of a total of ten (10) students. No more than seven (7) may participate in each trial, with up to three (3) alternates who may participate if one of the seven participants is unable to do so. Alternate team members and timekeepers are included in the maximum ten (10) students that may be listed on the team's official roster.
- 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 accepted 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 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 (7) team members are used. Team members may not switch roles, as identified on the roster, during a trial. **Alternates may participate if needed, but the number of team members participating in each trial may not exceed seven (7).**
- G. **Teams must have their official team roster finalized and/or updated and given to the Coordinator before 10:00 a.m. CST on Saturday. Changes submitted after that time will not be accepted.**

VIII. TOURNAMENT FORMAT

- A. The ISBA High School Mock Trial Invitational is a two (2) day, weekend event (Saturday and Sunday) 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.
- B. Trials will begin at or about 10:00 A.M. on Saturday, depending on the number of teams participating.
- C. 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.
- D. The ISBA, sponsors of the event, and the venue for the program assume no responsibility for student participants. The responsibility for the safety and well-being of the students rests with the participating high schools, teacher coaches, and chaperones.
- E. Teams will be paired for each trial by a random draw. Teams will participate in one (1) trial on Saturday (as prosecution/plaintiff or defense) and will argue the opposite side of the case on Sunday. The teams accumulating the highest number of points will be announced on Sunday. This accumulation includes the results of both trials, plus the team law exam score. The ISBA, the Illinois Trial Team, and the LRE Committee may announce the top eight (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.
- F. In the event the ISBA, the Coordinator, 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.

- G. 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.
- H. 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 **\$1,000** to defray expenses for the National High School Mock Trial Championship. The ISBA will also pay National High School Mock Trial Championship registration fee (**\$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 the weekend in May during which the National High School Mock Trial Championships is scheduled. The location of the Championship varies.
- I. All witnesses are written in a gender neutral format.
- J. Voir dire examination of a witness is not permitted.
- K. Each side must call **two (2)** 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 ten (10) minutes prior to trial time).
- L. No team may call a "hostile" witness.
- M. 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>. Should a situation arise for which the aforementioned documents do not contain, suggest, or describe a solution or a rule, then the rules of the American Mock Trial Association (available at <http://www.collegemocktrial.org/rules-and-forms/>) will govern. Other rules are not to be used at trial.
- N. 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

- A. 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 *Guidelines for Students Acting as Timekeepers* later in this Handbook in Part B.
- E. Teams are expected to be in the assigned courtrooms ten (10) 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 fifteen (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. The ISBA does not release scores.
- G. There is a **no electronic device** rule in the courtroom, which prohibits 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
 - 1. 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.

2. 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.
3. 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

1. 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 lawyer coach** 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 Coordinator and the LRE Committee may, at their discretion, call upon representatives from the teams to question about the allegations.
2. All decisions of the Coordinator and the LRE Committee are final. At **no** time should a parent, a non-participating student, or observer bring any allegation to the Coordinator, LRE Committee, or presiding judge.

XII. ROSTERS/ATTENDANCE PROCEDURES DURING TRIAL

- A. Rosters: Each team is required to submit the names of its team members, not to exceed ten (10) members, on an Official Team Roster to the Mock Trial Coordinator by the deadline stated in the Registration packet. The names submitted are the only members that may participate in the event. All changes must be submitted to the Mock Trial Coordinator before 10:00 a.m. CST on the Saturday of the Invitational.
- B. Extra trial roster forms for distribution to the opposing teams will be in your school folder at the check-in desk. Teams must complete a trial roster, not to exceed seven (7) participants, on the form provided or on a similar form before trial and provide one (1) copy to the opposing team, one (1) copy to the presiding judge, and one (1) copy to the evaluators. If possible, provide additional copies for each evaluator. The trial roster forms must be ready at the start of the trial to ensure that trials remain on schedule.

XIII. VIDEOTAPING, PHOTOGRAPHY AND AUDIO RECORDING

- A. 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**

and promotional purposes. The recording device should be placed either at the counsels' 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 photographers designated by the Mock Trial Coordinator and/or ISBA.

XIV. SPACE LIMITATIONS

- A. 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 lawyer coach and will also 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 agreement with the host.
- B. **REMEMBER: Space at this event is limited. The ISBA, the Illinois Trial Team, 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 that must not be exceeded. Consider these limitations when inviting guests. During the Invitational, teams may not change rooms without the express permission of the ISBA, the Illinois Trial Team, and the LRE Committee. Teams violating this rule or 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 (1) year at the sole discretion of the LRE Committee Chair.**

XV. OBSERVERS

- A. 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.
- B. **Observers must be in the room prior to the start of trials. Latecomers cannot be guaranteed entry into trials, as late entry may disturb the trial.** If an observer arrives after trials have started, they should speak with an LRE member, a Mock Trial Subcommittee member, an Illinois Trial Team member, or the Coordinator before entering any trial room.
- C. Observers may not take photographs, video recordings or audio tapes of the trials once the presiding judge commences the trial, nor at any point throughout the trial or post-trial evaluation period. Observers not complying with this prohibition may be asked to leave the courtroom at any time at the discretion of the judge, the Mock Trial Coordinator, or a LRE Committee member.
- D. 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.

- E. If an observer believes there is a reason for a dispute, the observer should discuss the issue with the lawyer-coach or teacher. Only teachers and lawyer coaches are permitted to discuss any dispute resolution matters with the LRE Committee and the Coordinator.
- F. It is the responsibility of the teacher, lawyer coach and/or students to ensure that family members and friends who plan to attend the Invitational are aware of these rules and comply with them. All teachers/coaches and students will be asked to sign a code of conduct affirming that all of these rules have been reviewed with any individual who plans to attend the event. An attendee's failure to comply with the rules stated in this Handbook may result in the attendee being removed from the event, at the discretion of the Coordinator and LRE Committee.

XVI. VIEWING OTHER TRIALS

- A. 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, the Coordinator, or an LRE Committee member.

XVII. PUBLICITY

- A. 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 LAWYER COACHES/ADVISORS

- A. All teams participating in the Invitational are STRONGLY ENCOURAGED to utilize a lawyer coach or advisor to assist them with preparations for the mock trial event. Local lawyer coaches/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.
- B. All lawyer coaches are expected to adhere to the rules, facts and materials set forth in the ISBA High School Mock Trial Invitational Rules and Procedures Handbook. Please be aware that periodic changes are made to the rules. **Please read all materials carefully.**
- C. Education of students is the goal of the Mock Trial Invitational. Coaches and 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. Coaches/advisors prepare students for either outcome by placing the highest value on excellent preparation and presentation, rather than on winning or losing the trial.

- D. **Students MUST formulate their own openings, closings and questions. Teacher and lawyer coaches/advisors may assist and direct, but the work product must be that of the student participants.**
- E. If the lawyer coach/advisor believes there is a reason for a dispute, her or she should consult and follow the dispute resolution steps outlined in Part A, Section XI.
- F. Lawyer coaches/advisors may be asked to judge or evaluate trials (other than a trial in which the lawyer's child or school is a participant) but only if no other lawyer 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 lawyer advisor.

XIX. GUIDELINES FOR TEACHERS

- A. All teachers must be familiar with the ISBA High School Mock Trial Invitational Rules and Procedures Handbook and with the forms that must be submitted so that a school's team can participate in the Invitational. This information is 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 webpage for updates to the mock trial materials and forms. Teachers are responsible for checking update memoranda placed on the ISBA Mock Trial webpage.
- B. In order to ensure effective communication between teachers, the Illinois Trial Team, and the LRE Committee, teachers are responsible for providing accurate e-mail address information to the LRE Committee and the Coordinator.
- C. 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.
- D. At the Invitational, teachers are responsible for ensuring that their school's team acts in a courteous, safe and cooperative manner; respects the rights and property of others at the event; and respects the property and premises of the University of Illinois, including all public areas. Teachers are also responsible for ensuring the same conduct of their school's team at any hotel that houses the team during the Invitational.
- E. Teachers are responsible for having their school's team timely participate in the Law Examination and timely arrive at their assigned courtrooms for the mock trials in which

they are participating.

- F. 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.
- G. **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, the Illinois Trial Team, and the 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

- A. Each team shall designate one (1) person who will be the point of contact for the ISBA, the Illinois Trial Team, and the LRE Committee in the event of an emergency. That designated person must be a person who accompanies the team to the Invitational. It is preferred that this designated person be the teacher or attorney advisor for the team.
- B. 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.
- C. An emergency caused by inclement weather or other unexpected or unforeseen occurrence may come up that in the opinion of the ISBA, the Coordinator, and the LRE Committee prevents one or more schools from attending the competition. In such cases, a decision will be made by the ISBA, the Coordinator, and the LRE Committee regarding the rescheduling of the entire Invitational 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, the Coordinator, and the LRE Committee informed regarding any such adverse weather conditions.
- D. If a team member is unable to participate in a mock trial event due to illness, injury or other health reason that occurs before the mock trial event commences, the team is responsible for either having a substitute member available or proceeding without that team member.
- E. If after a mock trial event 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.

- F. The ISBA, the Coordinator, 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

- A. 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 student attorneys or the witnesses at any time during the trial.
- B. In addition to the presiding judge, at least three (3) scoring evaluators will evaluate each trial. Evaluators may include attorneys, judges, educators, community leaders, law students, and other appropriate individuals approved by the LRE Committee.
- C. 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 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.
- D. Numerical scores will not be announced at trial or released after the conclusion of the event. It is the policy of the ISBA, the Illinois Trial Team, and the LRE Committee NOT to release rankings or scores, other than announcing the top eight teams that will progress to the final round of trials. The top three (3) ranked schools will be announced at the conclusion of the program.
- E. THE DECISIONS OF THE JUDGES AND EVALUATORS ARE FINAL AND ARE NOT OPEN TO DISPUTE.

XXII. GUIDELINES FOR PRESIDING JUDGES AND EVALUATORS

- A. 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 will 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. Evaluators will play the role of jurors.
- B. Prior to each trial, we ask that all presiding judges read the following statement:

While the ISBA, the Illinois Trial Team, and 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.

- C. The High School Mock Trial Invitational Rules and the Simplified Rules of Evidence govern all trials. Please study these rules, case materials and score sheets before judging the trials.
- D. The presiding judge should attempt to move the trial along. Each trial should last approximately one (1) hour. Teams are given specified time limits for each portion of the trial. There will be at least one (1) 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 evaluators. The presiding judge may also complete a score sheet awarding points to each team.
- E. 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.
- F. 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 objection of "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.
- G. 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.

- H. 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 is limited time between trials.
- I. BEFORE judges and evaluators have started giving their oral comments, they should complete the attached score sheets (sample sheets are at the back of the Handbook). 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.
- J. Participants are rated according to a numerical scale. The judges and evaluators are scoring STUDENT ACHIEVEMENT in each category. **Judges and evaluators are not scoring on the merits of the case.** Judges and evaluators may consider penalties for violations of the Invitational's 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.
- K. Judges and evaluators should score each student's performance immediately after that student performs. This ensures that the performance is fresh in the evaluator's mind and that scores are as accurate as possible. "Scoring as you go" is the easiest way to proceed through a mock trial.
- L. Immediately after EACH trial, the completed and signed score sheets must be turned in to the bailiff, who will take them to Coordinator.
- M. DO NOT SHOW THE SCORE SHEET OR DISCUSS NUMERICAL SCORES WITH THE STUDENTS, TEACHERS, OR ATTORNEY ADVISORS.
- N. Remember to score as you go!

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.

Students will be scored using the Score Sheet that appears in the back of the Handbook. Students should be familiar with the Score Sheet, as well as the time constraints and the rules.

All ISBA High School Mock Trial Invitational 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/PROSECUTION

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 evaluators/jurors
- Attorneys
 - Prosecution and defense (criminal case)
 - Plaintiff and defendant (civil case)
- Witnesses for each side
- Student time keeper(s)

III. OVERVIEW OF THE PROGRAM

- A. The ISBA sponsors the High School 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 these goals in mind.

IV. PRETRIAL MOTIONS

- A. 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.
- B. 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

- A. 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). Witnesses may not use notes or notecards.
- B. If a witness is using notes/notecards, this is a breach of the rules. As restricting their use of the notes/notecards may harm the opposing team's presentation, the student may continue to use the notes/notecards, but the judge and evaluators should view this as a rule infraction and may penalize with a point reduction.
- C. 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 lawyer or teacher coaches or parents while the trial is in progress. This**

includes verbal communications, signals and notes.

- D. Teams may not request sequestration.
- E. **Be courteous to witnesses, other attorneys, and the judge and evaluators.** Carry your professional attitude 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.
- F. 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

- A. 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.
- B. Each team must be prepared to argue both sides of the case. Each team must call two (2) witnesses and may not call the opposing team's witnesses as part of its own case.
- C. *Call to Order*
 1. 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*
 1. 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.
 2. NO OBJECTIONS MAY BE MADE DURING OPENING STATEMENTS.
 3. ONLY ONE ATTORNEY FOR EACH SIDE SHOULD PRESENT THE OPENING STATEMENT.
 4. 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.

5. 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*

1. Attorneys call their witnesses and conduct direct examination in order to present testimony and other evidence to prove their case.
2. 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.
3. Each team will be given information about three (3) witnesses and each side should call two (2) witnesses. Teams may not call the witnesses assigned to the other side.
4. 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.
5. 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.
6. 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. No other attorney for the plaintiff/prosecution will be allowed to make or respond to objections while that witness is testifying.

D. *Cross-examination by defense's attorneys*

1. After the attorney for the plaintiff has completed questioning the witness, the judge

allows the defense's attorney to cross-examine the witness.

2. 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.
3. 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.
4. 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.
5. 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. No other attorney for the defense will be allowed to make or respond to objections while that witness is testifying.

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

1. 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*

1. 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*

1. 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*

1. 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.

2. NO OBJECTIONS ARE PERMITTED DURING CLOSING ARGUMENT.
3. ONLY ONE PARTICIPANT WILL MAKE THE CLOSING ARGUMENT FOR EACH SIDE.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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*

1. 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

A. *Direct Examination*

1. 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.

B. *Cross-Examination*

1. 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.
2. 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.
3. 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?"

C. *Other Tips*

1. If you are going to testify about records or documents, familiarize yourself with them thoroughly before coming to trial.
2. When answering questions, speak clearly so that you will be heard.
3. Listen carefully to the questions.
4. Before you answer, make sure you understand what has been asked. If you do not understand, ask that the question be repeated or clarified.
5. 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.
6. Witnesses may not use costumes, accents, dialect, etc., but should dress appropriately for the courtroom.

VIII. SIMPLIFIED RULES OF EVIDENCE

- A. 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.

- B. 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 the judge's ruling with grace and courtesy.

IX. WITNESS EXAMINATION

A. *Direct examination (attorneys call and question witnesses)*

1. Scope of direct examination: Direct examination may cover all facts relevant to the case for which the witness has firsthand knowledge.
2. 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.
 - a) Example of a direct (non-leading) question: "What happened after you left the store?"
 - b) Example of a leading question: "The light was green when you approached the intersection, correct?"
3. 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.
 - a) Example of a narrative question: "What happened on the date in question?"
 - b) 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.
4. 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.

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

1. 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.
 - a) 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.
2. 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.
3. 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.
 - a) Example (Prior conduct): "Isn't it true you were kicked out of college because they discovered you had falsified your application?"
 - b) Example (Past conviction): "Isn't it true that you've been convicted of a criminal offense?"
 - c) Example (Bias): "You do a lot of business with the defendant, don't you?"
 - d) Example (Perception): "Isn't it true that you couldn't hear what she said with fifty people shouting around you?"
4. 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.

C. *Re-direct and re-cross*

1. 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. Attorneys should only question about matters brought out on cross and re-direct.

X. ADDITIONAL RULES OF EVIDENCE

A. *Hearsay*

1. 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.
2. 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.

B. *Opinions of Witnesses*

1. 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.
2. 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.
3. 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.

C. *Lack of Personal Knowledge*

1. A witness may not testify about any matter of which he or she has no personal knowledge.

D. *Relevance of Evidence*

1. 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.

E. *Character Evidence and Bad Acts Evidence*

1. A defendant can introduce testimony about his character for the particular character trait at issue in the case, being the defendant's reputation for truth and veracity or for being a peaceful person. This testimony can be presented in two (2) ways.
2. First, a defendant can produce a witness who testifies about the defendant's reputation for truth and veracity. This reputation testimony must be confined solely to hearsay evidence, namely what the witness knows about what others say about the defendant's reputation. For example, a witness can testify that he/she is familiar with the defendant's reputation for truth and veracity; can testify how the witness is so familiar (*e.g.* the witness resides in the same community where the defendant resides); and then can testify what that witness heard about the defendant's reputation.
3. Second, a defendant can produce a witness who testifies about that witness' own personal opinion about the defendant being a truthful and believable person. This opinion testimony must be confined solely to the witnesses' own opinion. The witness can testify about specific facts which lead the witness to form that opinion about the defendant.
4. Once testimony about the defendant's good reputation is introduced into evidence, the witness is permitted to testify that he/she has not heard anyone speak against the character of the defendant regarding that particular character trait.
5. The prosecutor is entitled to cross-examine the character witness to determine whether the witness has adequate knowledge of the defendant and the defendant's reputation and, in doing so, may ask the witness whether the witness has heard about specific bad acts inconsistent with the good character vouched for by the witness.
6. But a prosecutor may not ask the witness about specific bad acts of the defendant, only if the witness has heard about the acts. (Yes, this is an anomaly which the Illinois courts allow.) Nor can the prosecutor introduce into evidence, through a witness or documents, specific bad acts of the defendant. Particular acts of misconduct by the defendant cannot be shown on cross-examination or in rebuttal, for the reason that it is unfair to force an accused to account for any past misconduct which is unrelated or at most only circumstantially related to the issues at hand. The reason for this limitation on the prosecution is because the prosecution is not permitted to show that the defendant acted badly at an earlier point in time in order to show that the defendant has the propensity to have committed the bad act for which the defendant is now charged and stands trial.
7. Any witness, including the defendant, may be impeached by attacking his or her character with proof of a conviction of a crime punishable by death or imprisonment of one year or more (*i.e.* a felony) or of a crime that involves dishonesty or false

statements. However, only actual convictions may be used for this purpose: proof of arrests, indictments, charges, or the actual commission of a crime are not admissible. In impeaching a defendant or witness with proof of a prior conviction the prosecutor may establish the fact of the conviction, the date of conviction and the nature of the conviction (e.g. "Isn't it true that in 2004 you were convicted of the offense of theft by shoplifting?"). But the prosecutor may not bring out the underlying facts of the crime of conviction. On redirect a defendant or witness may offer brief testimony in explanation or mitigation about the prior conviction, but the extent of such redirect testimony is subject to the discretion of the trial judge.

XI. INTRODUCTION OF PHYSICAL EVIDENCE & PRESENTATION STYLE PROHIBITIONS

- A. 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. 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.**
- B. 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.
- C. 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.
- D. **It is strongly encouraged that, before you arrive for the mock trial event, your trial team take the following steps in order to save time for everyone at the event and so that you will not be unnecessarily distracted by these tasks while you are trying your case:**
 - 1. Since you may not know whether or not you will use the mock trial materials as evidence either in direct or cross-examination, a good practice is to plan on using every document and physical item in the mock trial materials as possible evidence exhibits.
 - 2. Mark the copy of each document or physical item with an exhibit number. If you are a plaintiff/prosecutor, mark your document/item as "Plaintiff's Exhibit [insert number]". If you are a defendant, 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.

3. Make at least three (3) copies per trial of each marked exhibit: one (1) to give as a courtesy to the judge, one (1) to give/show to the opposing team, and one (1) 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.

E. **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.
4. 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.
5. 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]?”
6. 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.**
7. **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.

- F. **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.
1. 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.
 2. 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.
 3. 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.
 4. If the judge admits the exhibit into evidence, you are then free to have the witness read from the exhibit and you can also then ask substantive questions about what is stated in the exhibit.
 5. 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.
- G. **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.

- H. **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.
- I. 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.

XII. OBJECTIONS

- A. 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.
- B. 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.
- C. 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.
- D. 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.
- E. 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.

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

1. 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.
2. **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.**
3. 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.
4. 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.
5. 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."
6. 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.

G. 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.

1. Irrelevant evidence: "Objection. This testimony is irrelevant to the issues of this case," or "Irrelevant."
2. Leading questions: "Objection. Counsel is leading the witness." (This is only objectionable when done on direct examination.)

3. Improper character testimony: "Objection. The witness's character (or reputation) has not been put in issue."
4. 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.
5. Hearsay: "Objection. Counsel's question/the witness's answer is based on hearsay."
6. 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.
7. Lack of Personal Knowledge: "Objection. The witness has no personal knowledge to answer the question."
8. Argumentative Question: "Objection, the question is argumentative" or "Your Honor, Counsel is arguing with the witness."
9. Speculation: "Objection. Counsel is asking the witness to speculate in order to answer the question."
10. Narrative: "Objection. The question asks for a narrative response." or "Objection. The witness is testifying in the narrative."
11. Asked and Answered: "Objection. The question has already been asked and answered."
12. Non-responsive: "Objection. The witness's answer is non-responsive. Would you please direct the witness to answer the question as asked?"
13. 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 be 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.

H. 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.

XIII. GUIDELINES FOR STUDENTS ACTING AS TIMEKEEPERS

- A. 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 each session. Time keeping forms will be provided at the trial location.
- B. Student timekeepers may be alternate team members, but timekeepers must be one of the ten (10) students on the Official Team Roster submitted to the Coordinator. As part of the ten (10) person roster, the student timekeeper is required to take the Law Test. Failure of the student timekeeper to take the Law Test will result in a score of zero (0) for that student on the Law Test, and will be factored into the teams overall law test score. Timers for each team 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.**
- C. 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.
- D. 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).
- E. 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, OBJECTIONS, JUDGE'S RULINGS ON OBJECTIONS, 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.

XIV. SUMMARY OF RULES APPLICABLE TO ATTORNEYS AND WITNESSES DURING THE TRIAL

IMPORTANT NOTE & DISCLAIMER:

Everyone involved with teams attending the Invitational is expected to read the entire Handbook. This is a summary for the convenience of 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. Part B., Section VIII.*
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.*
3. Each team will try the case twice: once as prosecutor or plaintiff and once as defense or defendant. Each team must call two (2) witnesses and only two (2) witnesses and may not call the opposing team's witnesses as part of its own case. *Part A., Section VIII., Paragraph G. Part B., Section VI., Paragraph C.*
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.*
5. Participants may not dispute witness statements and stipulations nor question the authenticity of documents at trial. *Part A., Section X., Paragraph B.*
6. Teams must be in the courtroom ten (10) minutes prior to the assigned time. If a team fails to report to the assigned courtroom within fifteen (15) minutes after the assigned time, the team will forfeit the round. *Part A., Section X., Paragraph E.*
7. Attorneys and witnesses may not use **electronic devices** such as: laptop computers, cell phones, iPads, 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 G. and Section XIII.*
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.*

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. and Section B., Section IV.*
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.*
11. Students may only ask for a recess in the case of an emergency. *Part A., Section XX.*
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 C.*
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.*

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

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. Part B., Section VIII.,*

Paragraph A., Number 2. c., Part B., Section VIII., Paragraph D.

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 V. Part B., Section VII., Paragraph 2.***

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



**ILLINOIS STATE
BAR ASSOCIATION**

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XV. SAMPLE FORMS

Illinois State Bar Association High School Mock Trial Score Sheet

JUDGES AND EVALUATORS PLEASE NOTE:

Re-direct, re-cross and Plaintiff's rebuttal in closing are now allowed in this program, though not required.

Plaintiff _____ Defense _____

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

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

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

I award this ballot to: _____ Prosecution _____ Defense
 Nomination for Outstanding Attorney _____ P / D

Nomination for Outstanding Witness _____ P / D

Evaluator's Printed Name: _____

Evaluator's Signature: _____

Do not show scores to the students, teachers or guests. Please return all completed score sheets to the Mock Trial Coordinator at the conclusion of each trial.

**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.