



2020-2021

The Vincent J. Apruzzese High School

# Mock Trial

## Competition



# HIGH SCHOOL WORKBOOK



*Celebrating **39** years of service to the educational community*



*Sponsored by the New Jersey State Bar Foundation in cooperation with  
New Jersey's county bar associations and the New Jersey State Bar Association*

# **ATTENTION TEACHER-COACHES**

## **CASE CLARIFICATIONS**

We do not send mock trial case clarifications or updates by mail or email. It will be your responsibility to check our website, [www.njsbf.org](http://www.njsbf.org), periodically for possible updates or corrections.

## **CONTEST SCHEDULES**

Amendment to Rule 2:2-2: It is the responsibility of the teacher-coach to review the dates (including snow dates) and times provided by the county coordinator with all team members, and to arrange for substitutes if needed (see R.2:13). The county coordinator may not be able to accommodate differing vacation and/or testing schedules.

Amendments to Rules 2:10, 2:11 and 2:12: It is the responsibility of the teacher-coach to be prepared for rescheduling in the event of inclement weather, and to arrange for substitutes if needed, as previously discussed in R.2:2-2. Also see Online Rule 1.10. As with county competitions, the state coordinator may not be able to accommodate differing vacation and/or testing schedules.

## **CODE OF CONDUCT**

Teacher-and attorney-coaches, students, parents & observers are expected to abide by the provisions of the competition's Code of Conduct and the Online Rules.

## **UPDATES**

Some changes have been made to the Rules of Evidence in Part VI. Please review carefully.

## **Mock Trial Competition**

### **Statement of Goals**

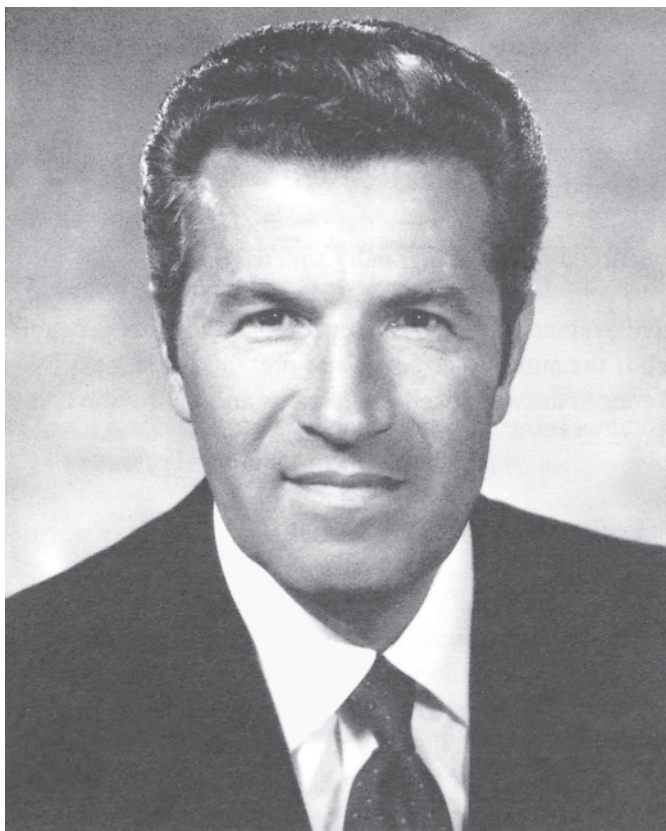
To increase comprehension of the historical, ethical and philosophical basis of the American system of justice.

To demystify the operation of the law, court procedures and the legal system.

To help students increase basic life and leadership skills such as listening, speaking, writing, reading and analyzing.

To heighten appreciation for academic studies and promote positive scholastic achievements.

To bring law to life for students through active preparation for and participation in the competitions. The goal is not to win for the sake of winning, but to learn and understand the meaning of good citizenship in a democracy vis-a-vis our system of law and justice. In this sense, all the students who participate will be winners.



**Vincent J. Apruzzese, Esq.**

In recognition of his many years of service, the New Jersey State Bar Foundation named its Mock Trial Competition in honor of Vincent J. Apruzzese, Esq. in 1991. Mr. Apruzzese is a past president of the New Jersey State Bar Association. He led the drive to build the New Jersey Law Center, served as the first chairman of the New Jersey State Bar Foundation, and was chair of the Foundation's Public Education Committee for several years. This competition is a fitting tribute to his leadership, indefatigable spirit and insight in implementing free law-related education programs for the public and particularly for young people.

# **Mock on! Our High School Mock Trial Competition Goes Virtual**

As you are aware, the current COVID-19 pandemic has made student participation in many activities difficult or impossible. The New Jersey State Bar Foundation is adapting our High School Mock Trial Competition to an online format for this school year. This will allow trials to go on regardless of courtroom inaccessibility, variances in state pandemic regulations, and potential school closures.

We understand that this new format has pros and cons. Technology can be tricky! But we will be here to support you and your team as you adapt to this new format.

## **Overview of Mock Trial Online**

In the New Jersey State Bar Foundation Mock Trial Online @Home Competition, students participate with their school team through personal devices at their individual locations. This plan allows for complete social distancing for teams.

## **Technology Needs**

- All trials will be hosted online via Zoom.
- Participants will need:
  - Access to reliable internet
  - Device for using Zoom (must meet Zoom's system requirements)
  - Webcam
  - Microphone. External microphone/speakers are permitted; however, if they produce feedback during the trial, they will need to be immediately disabled.

## **How It Works**

- The teacher-coach must register the team online on our website, [njsbf.org](http://njsbf.org)
- Team registration closes October 23, 2020.
- Prior to the trials, the County Mock Trial Coordinator will email coaches a link to the Zoom "courtroom."
- At the appointed day and time, teams will login to the Zoom "courtroom."
- Refer to the Online Rules Addendum in this Mock Trial Workbook for rules that impact the proceedings of mock trial online.

## **Changes for This Year**

Taking into account time pressures and “Zoom fatigue,” this year’s mock trial civil case has been abbreviated. Due to the nature of online competition, there will not be student juries this season. Those students who would have served as jurors should be trained as understudies wherever possible. You will also need to appoint one student from your team to serve as a timekeeper. You will find details in this workbook.

**Questions?** Contact Sheila Boro, director of Mock Trial Programs, at [sboro@njsbf.org](mailto:sboro@njsbf.org)

**VINCENT J. APRUZZESE**  
**HIGH SCHOOL MOCK TRIAL COMPETITION**  
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\* The New Jersey State Bar Foundation gratefully acknowledges the assistance of case author Ronald C. Appleby Jr., Esq., chair of the Mock Trial Committee, and members of the committee.

The Vincent J. Apruzzese High School Mock Trial Competition is sponsored by the New Jersey State Bar Foundation in cooperation with the New Jersey State Bar Association and New Jersey's County Bar Associations, and is funded by the IOLTA Fund of the Bar of New Jersey.

**PART I**  
**CODE OF CONDUCT**  
**For Participants in the**  
**Vincent J. Apruzzese High School Mock Trial Competition**

*Please review the following revised code carefully. It is the teacher-coach's responsibility to obtain all required signatures.*

**OVERALL PURPOSE AND SPIRIT OF THE COMPETITION**

The Vincent J. Apruzzese High School Mock Trial Competition ("Mock Trial Competition") has been created for the purpose of stimulating and encouraging a deeper understanding and appreciation of the American legal system by high school students. Because of the competition's experiential educational format, learning derives from various sources and results from both articulated and unarticulated messages. The students learn proper comportment from each other, their teacher-coaches, their attorney-coaches, the volunteer mock trial judges and their parents and other guest-observers in the courtroom. Given the multifarious sources of student learning in the Mock Trial Competition, this Code of Conduct interprets "Participants" to include not only the students, but all of those who have the potential to influence student learning. In keeping with this interpretation, "Extensions" of this Code of Conduct must be executed by the team members, the teacher-coach and the attorney-coach. **In addition, each teacher-coach is required to provide parents and other guest-observers with copies of this Code of Conduct.**

**SPECIFIC GOALS OF THE MOCK TRIAL COMPETITION**

All Participants shall in manner and in deed do their parts in helping the Mock Trial Competition achieve the following specific goals:

- Promote cooperation, academic integrity, honesty and fair play among students.
- Promote good sportsmanship and respect for others in both victory and defeat. Participants must also demonstrate respect for County Mock Trial Coordinators, mock trial personnel, mock trial judges and other volunteers who make this competition possible.
- Promote good faith adherence to the Mock Trial Competition rules and procedures.
- Improve proficiency in speaking, listening, reading, reasoning and analytical skills.
- Promote respect for the judicial system and instill a notion of proper courtroom decorum. This includes respect for the courthouse and other venues where mock trials take place.
- Promote congeniality and open communication between the educational and legal communities.

**SPECIFICALLY PROHIBITED NEGATIVE BEHAVIORS**

Although not exhaustive, the following list contains behaviors that are directly opposed to the goals and objectives of the Mock Trial Competition and which, if engaged in, will constitute grounds for such disciplinary action as the County Coordinator at the local level (or Mock Trial Committee at state regional, semi-final and final levels) deems appropriate given the circumstances:

- Failure of the teacher-coach (a) to familiarize all parents and guest-observers with the contents of this Code of Conduct, or (b) to submit Extensions of this Code of Conduct executed by the team members, teacher-coach, and attorney-coach to the County Coordinator prior to the first round of competition.
- Use of communications technology (audio recording, visual recording, cell phone recording, text-messaging by phone, laptop or other telecommunications device) by a team member (a) to communicate with any member of its team or anyone else during an ongoing mock trial round, or (b) to record or in any way memorialize any portion of a round of the competition in which the team is not a participant. See Online Rules 1.4 and 1.11.



- Acceptance of an audio, video, DVD recording, or other transcription of the performance of another team in a round that the recipient did not participate in, even if the recipient has not viewed the material, listened to the recording or read the transcript.
- Plagiarism by any member of a team or any team's use of material plagiarized by its teacher-coach, its attorney-coach, or by the parents or guest-observers of team members.
- Direct verbal or written communication outside of the courtroom with a volunteer mock trial judge by any team, its teacher-coach, its attorney-coach or the parents or guest-observers of team members.

## **ACCOUNTABILITY FOR AND CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT**

All Participants, including parents and guest-observers, must adhere to the rules and procedures of the Mock Trial Competition and this Code of Conduct (which includes by this reference the Extensions signed by the student teams, teacher-coaches and attorney-coaches). Teacher-coaches must submit all three of the signed Extensions that follow to their County Mock Trial Coordinators prior to the first round of the local competitions. Failure to abide by the Mock Trial Code of Conduct is sufficient grounds for disqualification and dismissal of the team with which the offender(s) is directly or indirectly connected at the sole discretion of the County Coordinator at the local level or the Mock Trial Committee at the state regional, semi-final and final levels.

## EXTENSION OF CODE OF CONDUCT

### To Be Signed by Teacher-Coach Participants in the Vincent J. Apruzzese High School Mock Trial Competition

I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct in my role as teacher-coach, hereby agreeing to focus attention on the educational value of the Mock Trial Competition.

I agree to act as an adult role model for my students and to discourage willful violations of the rules. I will instruct my students as to proper procedure and decorum and will assist them in understanding and abiding by the competition rules and procedures as well as adhering to the spirit of this Code of Conduct. By action and by deed, I will teach my students the importance of treating others with respect and courtesy. In my interaction with other teacher-coaches, attorney-coaches, mock trial judges, county mock trial coordinators, other volunteers and mock trial personnel, I will set an example that my students can follow.

I understand that I have the following responsibilities for which I, alone, am accountable:

- Training students to fulfill the role of jurors and bringing a sufficient number of student jurors to each round of competition.
- Circulating the Code of Conduct to all parents and guest-observers in advance of their attending any of the rounds of competition.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, of my team as well as opposing teams, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions. See R.2:5-3 and Online Rule 1.11.

I agree to act as a role model by carrying out my responsibilities as a teacher, never forgetting that I am representing the educational system in addition to coaching high school students as their mock trial advisor. Thus, I will zealously encourage fair play and promote conduct and behavior that is in keeping both with proper courtroom decorum and the spirit of the Mock Trial Competition. I will discourage skirting the rules and engaging in obstructionist behavior that interferes with the orderly flow of courtroom procedures. I agree to inculcate the highest standards of the education profession by discouraging a culture of win-at-any-cost and by promoting a spirit of willing compliance with the rules of the competition and the ethical guidelines provided by this Code of Conduct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Teacher-Coach

\_\_\_\_\_  
School

## **EXTENSION OF CODE OF CONDUCT**

### **To Be Signed by Attorney-Coach Participants in the Vincent J. Apruzzese High School Mock Trial Competition**

I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct in my role as attorney-coach, hereby agreeing to abide by the rules and procedures of the Mock Trial Competition and to uphold the highest standards of the legal profession.

I agree to act as a role model of our honorable profession by carrying out my responsibilities as an officer of the court, never forgetting that I am representing the judicial system in addition to coaching high school students as their mock trial advisor. Thus, I will zealously encourage fair play and promote conduct and behavior that is in keeping both with proper courtroom decorum and the spirit of the Mock Trial Competition. I will discourage skirting the rules and engaging in obstructionist behavior that interferes with the orderly flow of courtroom procedures. I agree to inculcate the highest standards of the legal profession by discouraging a culture of win-at-any-cost and by promoting a spirit of willing compliance with the rules of the competition and the ethical guidelines provided by this Code of Conduct.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, of my team as well as opposing teams, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions. See R.2:5-3 and Online Rule 1.11.

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney at Law, State of New Jersey

\_\_\_\_\_  
School

## EXTENSION OF CODE OF CONDUCT

### To Be Signed by Student Team Member Participants in the Vincent J. Apruzzese High School Mock Trial Competition

As a Team Member/Juror of \_\_\_\_\_ High School, I state that I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct as a condition of participation in the Mock Trial Competition and hereby promise to compete with the highest standards of comportment, showing respect for my fellow students, opponents, judges, attorney-coaches, teacher-coaches, county mock trial coordinators and mock trial personnel.

I agree to accept both defeat and success with dignity and restraint. I promise to avoid all tactics that I know are wrong or in violation of the rules. I make a commitment to comply with the rules of the competition in spirit and in practice. I will not plagiarize or accept plagiarized material. I will not use telecommunications technology to circumvent the rules or to gain unfair advantage. I understand that use of telecommunications technology in the courtroom by any Participant (with the exception of permissible video recording by participating teams per R.2:5-3) seeking to gain advantage for a team subjects that team to the risk of disciplinary action, which could result in an expulsion of the team from the competition or in the lesser penalty of a score reduction. I understand that I may be photographed, video recorded or audio recorded as part of my participation in the competition. See Online Rule 1.11.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, of my team as well as opposing teams, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions. See R.2:5-3 and Online Rule 1.11.

By signing below, I agree to vigorously uphold the Code of Conduct of the Mock Trial Competition:

Date: _____	_____
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## PART II

### RULES OF GENERAL APPLICATION

#### **RULE 2:1     APPLICABILITY, SCOPE, CONSTRUCTION AND CITATION OF RULES**

##### **2:1-1   APPLICABILITY; SCOPE**

The Vincent J. Apruzzese Mock Trial Competition is governed by these Rules of Procedure and Evidence. Additional rules regarding the competition and its procedures are contained throughout this workbook. Please read the entire workbook carefully. **Other rules of procedure or evidence may not be raised.**

##### **2:1-2   CONSTRUCTION**

These rules shall be construed to secure a just determination, simplicity in procedure, and fairness in administration of the competition.

##### **2:1-3   CITATION**

Attorneys should be prepared to cite the specific rule number upon which an objection is based if requested to do so by judges.

#### **RULE 2:2     GENERAL CONTEST FORMAT**

##### **2:2-1   LOCAL COMPETITIONS**

Each team must compete in at least two trials, switching sides for the second trial. If there are an uneven number of teams in the initial two trials, the County Mock Trial Coordinator has the discretion to ask teams to volunteer to play both sides at the same time or to randomly assign team(s) to do so. Contestants must be prepared to field both sides simultaneously if necessary. If a team does not have enough members to play both sides at once, the teacher-coach must notify the County Mock Trial Coordinator in advance.

In the event of an emergency, last-minute cancellation by a team, or failure of a team to appear, which may create an uneven number of teams competing, the County Mock Trial Coordinator shall designate one team to field both sides.

After each team has had an opportunity to play both sides, the County Mock Trial Coordinator may elect to utilize a single-elimination or other format. The County Mock Trial Coordinator has the authority to configure local contest schedules. The County Mock Trial Coordinator will determine which teams advance based upon win/loss record and point scores. In a configuration where teams play only two rounds initially, a team with two losses should not advance and a team with two wins should advance. Where three rounds of competition are initially scheduled, a team with three losses should not advance and a team with three wins should advance.

If a team has questions about the local competition, the teacher-coach should contact the County Mock Trial Coordinator. Names and phone numbers of County Mock Trial Coordinators are posted on our website, [www.njsbf.org](http://www.njsbf.org).

##### **2:2-2 DATES AND TIMES; FAILURE TO APPEAR**

Local contest dates and times will be determined by county coordinators. **Failure to appear on the dates specified by the County Mock Trial Coordinator will result in forfeiture.** The county coordinator works very hard to arrange contest schedules, and teams should make every effort to participate in the local contest once they have entered. Last-minute cancellations create scheduling difficulties for everyone.

It is the responsibility of the teacher-coach to review the dates (including snow dates) and times provided by the county coordinator with all team members, and to arrange for substitutes if needed (see R.2:13). Remember that your jurors are permitted to serve as understudies per the parameters outlined in R. 2:13. The county coordinator may not be able to accommodate differing vacation and/or testing schedules due to deadlines for regionals.

## **2:2-3 POSTPONEMENTS**

Postponements may be made only by the county coordinator.

## **2:2-4 CHANGES TO RULES AND PROCEDURES**

No rule or procedure may be changed after the 30th day preceding the first contest.

## **2:2-5 OFFICIAL REPRESENTATIVE OF EACH TEAM**

The official representative of a mock trial team is the teacher-coach, not students, lawyer-coaches or others. All communications regarding a team must be made by and through the teacher-coach as official team representative.

**Communications received from students will not be answered.** See R.2:14-15. Teacher-coaches and attorney-coaches are prohibited from coaching more than one team in any given year.

## **2:2-6 WORKBOOKS**

Workbooks may be photocopied as necessary, and permission to photocopy a workbook is hereby granted. Please download the workbook from the Foundation's website, [www.njsbf.org](http://www.njsbf.org).

## **RULE 2:3 TEAMS**

### **2:3-1 TEAM MEMBERS**

A competing team in any given round shall consist of no more than TEN (10) students—two (2) attorneys, three (3) witnesses and alternates—plus the teacher-coach. A school may enter ONE (1) team only. For any single trial, a team must consist of two (2) attorneys and three (3) witnesses. The competition is open to New Jersey high schools only. **For our policy regarding a combined team, please see the back of this workbook.**

### **2:3-2 IDENTIFICATION OF TEAMS**

Teams will be identified by I.D. numbers, not high school names. Contestants are not permitted to identify their school or the opposing team's school to the judges. This includes your Zoom background. See Online Rule 1.4 regarding background in Zoom.

### **2:3-3 STUDENT JURIES**

There will **not** be student juries in this season's online competition. We encourage you to train students who would have served as jurors as substitutes for attorneys and witnesses.

## **RULE 2:5 GENERAL PROCEDURE FOR TRIALS**

### **2:5-1 DETERMINATION OF SIDES — STATE LEVEL**

Determination of which team will be prosecution/plaintiff and which team will be defense at the state level, which includes regionals, regional finals and state semi-finals as well as the final round, will be made by drawing lots a few minutes before each trial begins. However, if the same two teams have previously met in the statewide semi-finals and have both qualified for the statewide finals, the teams must switch sides in the championship round. At the regionals, teams that are eligible to advance to the next round will switch sides if possible. Where it is impossible for both teams to switch sides, a drawing of lots or coin flip must be used to determine assignments in the next round.

### **2:5-2 DETERMINATION OF SIDES — LOCAL/COUNTY LEVEL**

At the local/county level, sides for the initial round of competition may be preassigned at the discretion of the County Mock Trial Coordinator. Contestants in any subsequent round of a competition should automatically switch sides in the case for the next round (provided that they are eligible to advance to the next round). Where it is impossible for both teams to switch sides, a drawing of lots or coin flip must be used to determine assignments in the subsequent round.

### **2:5-3 OBSERVATION OF TRIALS BY NON-PARTICIPANTS**

In online competition, teams are not permitted to observe mock trial contests in which they are not participating. See Online Rules 1.2 and 1.9. Note-taking by observers by any means during competitions is not permitted except for teacher-coaches and attorney-coaches of teams participating in that round. Teams that are not participating in a round shall not audio record or video record or use any other technological means to obtain auditory or visual information. Only participating teams will be allowed to video record or audio record mock trial contests. See Online Rule 1.11.

**Those who are designated as the official recorders are reminded of the last paragraphs of the Extensions to the Code of Conduct which prohibit the distribution/dissemination/reproduction in ANY FORM of any portion of the competition without the express written consent of each student and parent/guardian as well as the student's coach, and Online Rule 1.11.**

## **RULE 2:6 PREPARATION OF MOCK TRIAL CONTESTS**

### **2:6-1 MEETINGS WITH ASSIGNED ATTORNEYS**

All teams are to work with their assigned attorneys in preparing their cases. It is recommended that teams meet with their lawyer-advisers at least six times prior to the contest. See Part VII for suggestions regarding the attorney-adviser's role in helping a team prepare for the competition.

### **2:6-2 DRESS REHEARSALS**

All teams are required to conduct one full trial enactment (dress rehearsal) with attorney-advisers in attendance based on the case prior to the first round of the competition. Additional sessions devoted to the attorneys' questioning of individual witnesses are also recommended.

## **RULE 2:7 DECISIONS**

The judge(s) will render a decision based on the quality of the students' performance in the case and the best team presentation. The judges have been instructed to rate the performance of all witnesses and attorneys on the team. (See Performance Rating Sheet.)

Judges will provide qualitative evaluations only, based on the categories in the rating sheet. Numerical scores will **not** be released. The purpose of this procedure is to re-emphasize the educational goals of the competition.

Contestants are prohibited from contacting competition judges directly to complain about competition results. See Rule 2:14 and Rule 2:15.

At the end of the trial, if time permits, teacher and/or attorney-coaches may stay logged on to confer with the judges. See Online Rule 1.5 and Rule 5:3-6.

**The decisions of the judges are final.**

## **RULE 2:8 SCORING PERFORMANCES**

While all possible measures are taken to encourage consistency in scoring, not all mock trial judges evaluate the performance of students identically. Even with rules and evaluation criteria for guidance, the competition reflects the subjective quality present in all human activities.

Please review the score sheet at the back of this workbook very carefully.

## **RULE 2:9 TIME LIMITS**

The following time limits will be in effect:

Opening Statements—4 minutes for each side

Direct Examination—6 minutes for each witness

Cross-Examination—7 minutes for each witness

Closing Statements—8 minutes for each side

Every effort shall be made to respect these time limits. See Online Rule 1.8 regarding student timekeepers. Timekeepers may issue one-minute warnings through the use of the Zoom chat. When time is up, judge(s) must halt the trial. Regarding objections, the clock will be stopped.

**Re-direct and re-cross (optional, to be used at the discretion of the team)**— After cross-examination, additional questions may be asked by the direct-examining attorney, but questions must be limited to matters raised by the attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on re-cross, but such questions must be limited to matters raised on re-direct examination and should avoid repetition. **One minute will be allowed for re-direct and re-cross respectively. Judges should not deduct points if a team decides not to re-direct or re-cross. (See Part VIII.)**

## **RULE 2:10 REGIONAL COMPETITION**

To reach the statewide finals, a team will have to compete in a two-part regional competition. Winning teams from each county qualify for the first stage of the regionals, consisting of two, single-elimination trials. Winners of the first stage will return for regional playoffs. Winners of the regional playoffs qualify for the statewide semi-finals. Winning semi-finalists will be eligible to compete in the statewide finals. If there is a tie score, the judge(s) will make the final determination based on overall team performance.

**Please take note of all of the following contest dates before entering the competition in order to make sure your team can attend.**

The New Jersey State Bar Foundation will be responsible for coordinating the regional competitions. **All regionals will be conducted as follows: Southern - February 2, 2021; Central - February 3, 2021; and North - February 4, 2021. Regional playoffs will be held on February 23, 2021.** Please reserve these dates. Inability to attend will result in forfeiture.

To find out which regional your county belongs in, please e-mail [sboro@njsbf.org](mailto:sboro@njsbf.org).

It is the responsibility of the teacher-coach to be prepared for rescheduling in the event of inclement weather, and to arrange for substitutes if needed, as previously discussed in R. 2:2-2 and Online Rule 1.10. As with county competitions, the state coordinator may not be able to accommodate differing vacation and/or testing schedules.

## **RULE 2:11 SEMI-FINALS**

Regional finals winners are eligible to compete in the statewide semi-finals scheduled for **March 4, 2021** at the New Jersey Law Center in New Brunswick. Please reserve this date. Inability to attend will result in forfeiture.

It is the responsibility of the teacher-coach to be prepared for rescheduling in the event of inclement weather, and to arrange for substitutes if needed, as previously discussed in R. 2:2-2 and Online Rule 1.10. As with county competitions, the state coordinator may not be able to accommodate differing vacation and/or testing schedules.



## **RULE 2:12 STATEWIDE FINALS**

The winners of the semi-finals are eligible to compete in the statewide championship round in March (date to be announced). Inability of finalist teams to attend will result in forfeiture. This will be a single elimination round. The judges' decision will be final.

It is the responsibility of the teacher-coach to be prepared for rescheduling in the event of inclement weather, and to arrange for substitutes if needed, as previously discussed in R. 2:2-2 and Online Rule 1.10. As with county competitions, the state coordinator may not be able to accommodate differing vacation and/or testing schedules.

## **2:13 SUBSTITUTION**

In the event that one or more members of a team cannot compete, another member or members of that team may substitute for them. The substitutes must be team members who are not already playing in that round. One attorney cannot play the roles of both attorneys in any given round. Likewise, one witness cannot play the roles of other witnesses in the same round. A student-lawyer cannot play the role of a witness in the same round nor can a witness play the role of a lawyer in the same round. See Online Rule 1.10. It is recommended that teacher-coaches prepare understudies in case of illness, other conflicts or technical difficulties.

## **2:14 COMPLAINT PROCEDURE**

No one shall contact any competition judge to complain about competition results. **Only teacher- or attorney-coaches are authorized to communicate about questions, problems, comments or complaints about contests. Communications received from students will not be answered.** Students should discuss issues or concerns with their teacher-coaches. Complaints about county competitions must be submitted in writing, via e-mail to your County Mock Trial Coordinator. Names and addresses of the County Mock Trial Coordinators will be posted on the New Jersey State Bar Foundation's website, [www.njsbf.org](http://www.njsbf.org). Please remember that, as stated in R. 2:7, the decisions of the judges are final. If a teacher-coach, as official team representative, wishes to file a grievance regarding another coach's/team's conduct or alleged rule violation, such complaint should be emailed promptly to the County Coordinator at the county level or to the Mock Trial Committee at the state regional, semi-final and final level. The County Coordinator or Mock Trial Committee shall forward the grievance to the teacher-coach of the team against which it is lodged and shall give that party a specific time period in which to respond. Final disposition of the grievance rests with the County Coordinator at the local level or the Mock Trial Committee at the state level.

## **2:15 QUESTIONS REGARDING CASE OR RULES**

Contestants who have questions about the mock trial case and/or rules should submit them through their teacher- or attorney-coaches. Teacher- or attorney-coaches should e-mail their questions to Sheila Boro, director of mock trial programs, at [sboro@njsbf.org](mailto:sboro@njsbf.org). **Communications received from students will not be answered.** Please identify yourself, your school, whether you are the teacher-or attorney-coach, and provide a daytime phone number.

## PART III

### HINTS ON PREPARING FOR A MOCK TRIAL COMPETITION

The following tips have been developed from previous experiences in training a mock trial team.

All students should read the entire set of materials and discuss the information/procedures and rules used in the mock trial contest.

The facts of the case, witnesses' testimony, and the points for each side in the case then should be examined and discussed. Key information should be listed as discussion proceeds so that it can be referred to at some later time.

All team roles in the case should be assigned and practiced.

Credibility of witnesses is very important to a team's presentation of its case. As a result, students acting as witnesses need to really "get into" their roles and attempt to think like the persons they are playing. Students who are witnesses should read over their statements (affidavits) many times and have other members of the team or their class ask them questions about the facts until they know them cold.

Student team members have primary responsibility for deciding what possible questions should be asked of each witness on direct and cross-examination. Questions for each witness should be written down and/or recorded.

The best teams generally have students prepare their own questions, with the teacher-coach and attorney-adviser giving the team continual feedback and assistance on the assignment as it is completed. Based on the experience of these practice sessions, attorneys should revise their questions, and witnesses should restudy the parts of their witness statements where they are weak.

Opening and closing statements should also be written out by team members. Legal and/or non-legal language should be avoided where its meaning is not completely understood by attorneys and witnesses.

**Closing statements should not be totally composed before trial, as they are supposed to highlight the important developments for the prosecution or plaintiff and the defense which have occurred during the trial. The more relaxed and informal such statements are, the more effective they are likely to be. Students should be prepared for interruptions by judges who like to question the attorneys, especially during closing argument.**

As a team gets closer to the first round of the contest, the competition requires that it conduct at least one complete trial as a kind of "dress rehearsal." All formalities should be followed and notes taken by the teacher-coach and students concerning how the team's presentation might be improved. A team's attorney-adviser should be invited to attend this session and comment on the enactment. [Rehearsals should be conducted online during the COVID-19 pandemic.]

The ability of a team to adapt to different situations is often a key part in a mock trial enactment since each judge—or lawyer acting as a judge—has his or her own way of doing things. Since the proceedings or conduct of the trial often depend in no small part on the judge who presides, student attorneys and other team members should be prepared to adapt to judicial rulings and requests, even if they appear contrary to outlined contest procedures and rules.

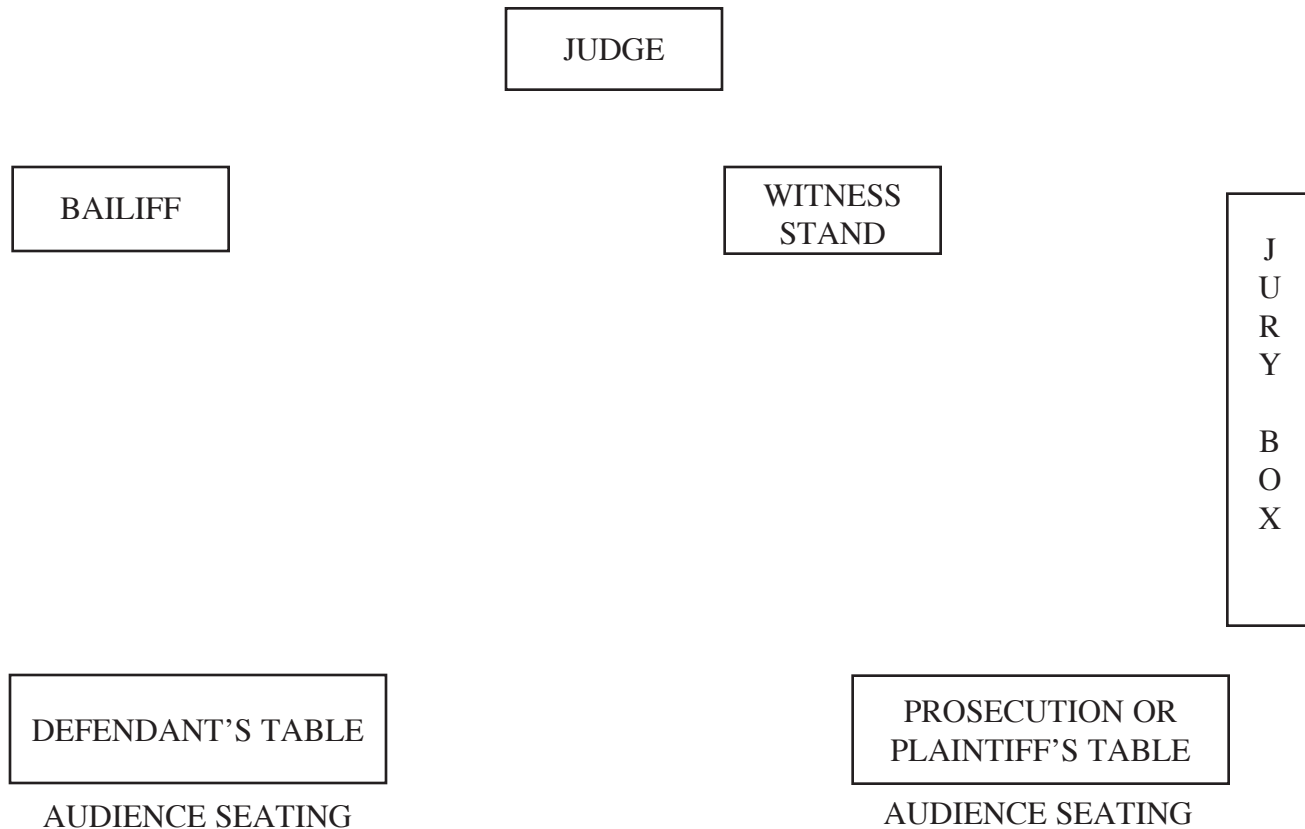
**Some of the things most difficult for team members to learn to do are:**

- (a) To decide which are the most important points to prove their side of the case and to make sure such proof takes place;
- (b) To tell clearly what they intend to prove in an opening statement and to argue effectively in their closing statement that the facts and evidence presented have proven their case;
- (c) To follow the formality of court, e.g., when addressing the judge, to call the judge “your honor,” etc.;
- (d) To phrase questions on direct examination that are not leading (carefully review the rules and watch for this type of questioning in practice sessions);
- (e) Not to ask so many questions on cross-examinations that well-made points are lost. When a witness has been contradicted or otherwise discredited, student attorneys tend to ask additional questions which often lessen the impact of points previously made. (Stop — recognize what questions are likely to require answers that will make good points for your side. Rely on the use of these questions. Avoid pointless questions!)
- (f) To think quickly on their feet when a witness gives an unexpected answer, an attorney asks unexpected questions, or a judge throws questions at the attorney or witness. (Practice sessions will help prepare for this.)

## PART IV TRIAL PROCEDURES

Before participating in a mock trial, it is important to be familiar with the physical setting of the courtroom as well as with the events that generally take place during the exercise and the order in which they occur.

### COURTROOM LAYOUT



### PARTICIPANTS

The Judge(s)

The Attorneys

Prosecutor–Defendant (Criminal Case)

Plaintiff–Defendant (Civil Case)

The Witnesses

Prosecutor–Defendant (Criminal Case)

Plaintiff–Defendant (Civil Case)

### STEPS IN MOCK TRIALS

#### The Opening of the Court

Either the clerk of the Court or the judge will call the Court to order.

The case will be announced, i.e., “The Court will now hear the case of \_\_\_\_\_ v. \_\_\_\_\_ .”

The judge will then ask the attorneys for each side if they are ready.

## Appearances

### Opening Statements to the Jury

#### (1) Prosecution (in criminal case)/Plaintiff (in civil case)

The prosecutor in a criminal case (or plaintiff's attorney in a civil case) summarizes the evidence which will be presented to prove the case.

#### (2) Defendant (in criminal or civil case)

The defendant's attorney in a criminal or civil case summarizes the evidence which will be presented to rebut the case the prosecution or plaintiff's attorney has made.

### Direct Examination by Prosecution or Plaintiff's Attorney

The prosecutor(s) or plaintiff's attorney(s) conduct direct examination (questioning) of each of their own witnesses. At this time, testimony and other evidence to prove the prosecution's or plaintiff's case will be presented. The purpose of direct examination is to allow the witness to narrate the facts in support of the case. Direct examination is limited by the scope of the affidavits and/or the exhibits contained in this workbook.

NOTE: The attorneys for both sides, on both direct and cross-examination, should remember that their **only function is to ask questions which elicit the most important facts of the case**; attorneys themselves may not testify or give evidence, and they must avoid phrasing questions in a way that might violate this rule.

### Cross-Examination by Defendant's Attorney

After the attorney for the prosecution or plaintiff has completed questioning each witness, the judge then allows the other party (i.e., defense attorney) to cross-examine the witness. The cross-examiner seeks to clarify or cast doubt upon the testimony of opposing witnesses. Inconsistency in stories, bias, and other damaging facts may be pointed out through cross-examination.

### Direct Examination by Defendant's Attorneys

Direct examination of each defense witness follows the same pattern as the preceding which describes the process for prosecution's/plaintiff's witnesses.

### Cross-Examination by Prosecution or Plaintiff's Attorneys

Cross-examination of each defense witness follows the same pattern as the step above for cross-examination by the defense.

### Closing Arguments to the Jury

#### (1) Defense

The closing statement for the defense is essentially the same as for the prosecution/plaintiff. Counsel for the defense reviews the evidence as presented, indicates how the evidence does not satisfy the elements of the charge or claim, stresses the facts favorable to the defense and asks for a finding (verdict) of not guilty (criminal case) or judgment for the defense (civil case). The defense will give its closing argument first, followed by the prosecution/plaintiff, as done in real trials.

#### (2) Prosecution or Plaintiff

A closing statement is a review of the evidence presented. It should indicate how the evidence has satisfied the elements of the case, and ask for a finding (verdict) of guilty (criminal case).

## THE JUDGE'S ROLE

The judge is the person who presides over the trial to ensure that the parties' rights are protected, and that the attorneys follow the rules of evidence and trial procedure. In trials held without a jury, the judge also has the function of determining the facts of the case and rendering a judgment. (The student jurors will render a verdict, but will not determine which team wins. That will be decided by the judges.)

At all levels of the competition, a panel of two judges will judge the contests wherever possible. This may include two judges, sitting or retired, one judge and one lawyer, or two lawyers. If, for any reason, only one judge is available for any given contest, the contest shall proceed with one judge.

## THE STAFF'S ROLE

Staff of the New Jersey State Bar Foundation, when in person, attend the regional, semi-final and final contests in order to handle room and luncheon arrangements. **Please do not ask staffers to get involved in the competition proceedings. Student team members are responsible for pointing out infractions, if any, to judge(s). The judge(s) will then decide.**(See Parts V and VI for further details, particularly the section dealing with objections.)

## **PART V**

### **RULES OF PROCEDURE**

#### **RULE 5:1 GENERAL PROCEDURE DURING TRIALS**

##### **5:1-1 USE OF EXHIBITS**

The use of evidentiary or demonstrative exhibits not contained in this Mock Trial Workbook is not permitted. Use of props, visual and illustrative aids, other than what is specified in this workbook, is prohibited. Case materials cannot be enlarged unless specifically stated. It is assumed that once an exhibit has been put into evidence, it has been published to the jury. See Online Rule 1.7.

##### **5:1-2 STATEMENT OF FACTS AND STIPULATIONS**

The Statement of Facts, if provided, and any additional stipulations may not be disputed. The Statement of Facts is not admissible as an exhibit.

##### **5:1-3 MOTIONS**

No motions of any kind are allowed. For example, defense cannot make a motion to dismiss after the prosecution has rested its case. Motion for directed verdict is also prohibited.

##### **5:1-4 VOIR DIRE**

Voir dire, the preliminary examination of a witness or juror to determine his or her competency to give or hear evidence, is prohibited.

##### **5:1-5 COURTROOM DECORUM**

Usual rules of courtroom decorum apply to all participants. Appropriate, neat appearance is required.

#### **RULE 5:2 OBJECTIONS**

##### **5:2-1 IN GENERAL**

**Procedural objections and objections to evidence are restricted to those in the Mock Trial Rules of Evidence.** Other objections found in the New Jersey and Federal Rules of Evidence are not permitted. All objections, except those relating to openings or closings, shall be raised immediately by the appropriate attorney. When an objection is made, each side will usually have at least one fair opportunity to argue the objection before the presiding judge rules. Sidebars are not permitted. Competitors shall refrain from interrupting an adversary during opening statements or closing arguments. See Mock Trial Rule of Evidence 1201.

##### **5:2-2 TIME FOR OBJECTIONS**

A student attorney can object any time that the opposing team has violated the rules of evidence or has violated the rules or procedures of the Mock Trial Competition. **IMPORTANT:** Only student attorneys may object to any violations they believe have occurred, and they must object directly to the judge during the trial at the time of the violation, except with respect to opening statements and closing arguments. See Mock Trial Rule of Evidence 1201.

##### **5:2-3 LIMITATION ON OBJECTIONS**

Objections made after the trial has concluded cannot be addressed. NJSBF staff members cannot object on your behalf. Please do not ask staffers to intervene in the competition.

##### **5:2-4 MANNER OF OBJECTIONS**

The attorney wishing to object should do so at the time of the violation, except as set forth in Rule 1201. Also see Online Rule 1.5. When an objection is made, the judge will ask the reason for it. Then the judge will turn to the attorney who asked the question, and that attorney usually will have a chance to explain why the objection should not be accepted (“sustained”) by the judge. The judge will then decide whether a question or answer must be disregarded because it has violated a rule of evidence or mock trial procedure (“objection sustained”) or whether to allow the question or answer to remain on the trial record (“objection overruled”). When objecting to a competition rule or procedural violation, student attorneys should be prepared to refer to the appropriate rule number in this workbook if requested to do so by judges. All objections should be made succinctly, with the reason for the objection publicly stated.

## **RULE 5:3 PROCEDURE REGARDING ATTORNEYS**

### **5:3-1 MANDATORY ATTORNEY PARTICIPATION IN EXAMINATIONS**

Each attorney shall conduct the examination of three witnesses (1 direct and 2 cross-examinations or 2 direct and 1 cross-examination).

### **5:3-2 ATTORNEY OPENINGS/CLOSINGS**

Each team must present an opening statement and closing argument. An attorney for a team presenting the opening statement may not make the closing argument. An attorney is not permitted to advise of facts in opening for which there is no good faith basis in the Mock Trial Workbook materials. In closing argument, an attorney is not permitted to comment on evidence that was not presented or evidence which was excluded by the presiding judge. In an opening or closing, an attorney is allowed to make arguments from a fair extrapolation of the facts in the Mock Trial Workbook. "Fair extrapolation" refers to an inference that can be reasonably made from the facts stated in the Mock Trial Workbook or from testimony adduced during the course of the trial. The defendant's attorney shall make the first closing statement, followed by the prosecuting/plaintiff attorney. No rebuttal statements are permitted.

### **5:3-3 DESIGNATION OF ATTORNEY PERMITTED TO OBJECT**

Only one attorney may address any one witness. The attorney who will examine or cross-examine the witness is the only attorney who may make an objection. Likewise, only the attorney who will open may object to the opposition's opening statement and only the lawyer who will close may object to the opposition's closing.

### **5:3-4 USE OF NOTES BY ATTORNEYS**

Attorneys are permitted to use notes in presenting their cases.

### **5:3-5 COMMUNICATION BETWEEN AND AMONG TEAM MEMBERS AND OTHERS**

A. During a trial, law instructors, coaches, and all other observers may not talk to, signal or otherwise communicate, in any manner whatsoever, with or, in any way, coach or attempt to coach any members of the team.

B. No team member shall seek to communicate, verbally, non-verbally or in writing, with any witness who is in the act of testifying.

C. See Online Rule 1.4 prohibiting communication among team members and others during the trial.

### **5:3-6 COMMUNICATION WITH JUDGES**

No one affiliated with a competing team is permitted to have any contact with competition judges before or during the competition. Only student-attorneys and student-witnesses may communicate with the judges during a trial. At the end of the trial, if time permits, teacher- and/or attorney coaches may stay logged on to confer with the judges. See Online Rule 1.5.

## **RULE 5:4 WITNESS TESTIMONY**

### **5:4-1 FACTS RELIED UPON FOR TESTIMONY**

Each witness is bound by the facts contained in his/her own witness statement, the facts contained in the Statement of Facts, if provided, and the necessary documentation provided in the competition workbook. A witness is not bound by facts contained in other witness statements.



### **5:4-2 WITNESS' PHYSICAL APPEARANCE**

A witness' physical appearance in the case is as he or she appears in the trial enactment.

### **5:4-3 WITNESS' GENDER**

Contestants cannot change the gender of witnesses as provided in the case unless it is indicated that a witness can be male or female. Male or female contestants, however, may play the roles of any witnesses.

### **5:4-4 REQUIRED EXAMINATION OF WITNESSES**

Each team of attorneys must engage in either the direct examination or cross-examination of each witness. Direct examination is limited by the scope of the affidavits and/or the exhibits contained in the workbook.

### **5:4-5 FAIR EXTRAPOLATION**

A witness who is testifying may use fair extrapolations from his or her own statement. "Fair extrapolation" refers to an inference that can be reasonably made from the facts stated in the witness statement of the testifying witness. A witness who is testifying on direct examination, in responding to questions of counsel, may utilize the reasonable and logical inferences from his or her own statement. Testimony which is unsupported by the facts in a witness' own statement and/or intended solely for the purpose of materially strengthening his or her team's position, is "unfair extrapolation" and is in violation of the rules and spirit of the competition. If a witness invents an answer which is favorable to his or her side, but not fair extrapolation, the opposition may object; the judge will decide whether to allow the testimony. An exception to this rule can occur when an attorney on cross-examination asks a question, the answer to which is not included in the witness statement. The witness is then free to "create" an answer.

### **5:4-6 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. A witness may be impeached by showing that he or she has given a prior statement that differs from his or her trial testimony, that he or she has some interest in the outcome of the case, that he or she has a bias for or against any other party or person, that he or she has some other motivation to either lie or be untruthful, or that he or she is simply mistaken as to what he or she has seen or heard. See Online Rule 1.7.

### **5:4-7 USE OF NOTES BY WITNESSES**

Witnesses are not permitted to use notes while testifying during the trial.

### **5:4-8 REQUIRED WITNESSES**

All three witnesses for each side must testify. Teams may not call another team's witnesses.

### **5:4-9 SEQUESTERING WITNESSES**

Sequestering witnesses is not permitted.

## **RULE 5:5 INTRODUCTION OF PHYSICAL EVIDENCE**

### **5:5-1 PRE-TRIAL CONFERENCE**

Physical evidence must be relevant to the case and the attorney must be prepared to define its use on that basis. In an actual trial an attorney introduces a physical object or document for identification and/or use as evidence during the trial. **For the purposes of this mock trial competition, there will be a pre-trial conference, lasting no more than five minutes, in which both prosecution's/plaintiff's and defendant's attorneys get together to present pre-marked exhibits for identification before trial. The issue of admissibility cannot be addressed at this stage.**

The purpose of the pre-trial procedure is to avoid eroding into each team's time limitations during the trial and to help students understand that attorneys, while they are adversaries, can also work cooperatively to benefit their clients. During this pre-trial, students should introduce themselves and the roles they will play. Remember to give your County or State Coordinator scoresheets with the names of the students in advance of your trial. See "Important Notice" preceding scoresheets for details.

## PART VI

### MOCK TRIAL RULES OF EVIDENCE

In American courts, complex rules are used to govern the admission of proof (both oral and physical evidence). These rules are to ensure all parties a fair hearing as well as to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. Attorneys must use the evidence rules, by making objections, to protect their client and fairly limit the actions of opposing counsel and their witnesses.

For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence and the New Jersey Rules of Evidence and their parallel numbering system. **Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure.** The High School Mock Trial Rules of Evidence are fully set forth below. DO NOT refer to any other outside materials or source other than these rules when making or responding to objections. Rules 1201 and 1202 have been added as no parallel rules exist in either the Federal or State Rules of Evidence.

Not all judges will interpret the Rules of Evidence (or procedure) in the same way, and mock trial attorneys should be prepared to point out specific rules for reference (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate. Judges are asked to adjust scoring to reflect how well attorneys pose and respond to objections. Judges are encouraged to have attorneys explain their positions more than might be expected in a real courtroom, so you may demonstrate your knowledge of how the evidence rules apply in court.

While the evidence rules are numbered, attorneys are expected to refer to the rules by description but may also refer to them by number. Memorizing the evidence rule numbers is not necessary. However, if a Judge asks for a rule number, the mock trial attorney should be prepared to give the rule number referenced. Note that multiple evidence objections may be under a single rule number. Additionally, where a witness makes a statement which is objected to and the Judge sustains the objection, the mock trial attorney may also request: “I ask that the jury be directed to disregard the witness’s last statement” or “I ask that the witness’s last statement be stricken from the record.”

#### ARTICLE IV. RELEVANCY AND ITS LIMITS

##### **Rule 401. Test for Relevant Evidence**

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

##### **Rule 402. General Admissibility of Relevant Evidence**

Relevant evidence is admissible unless these rules provide otherwise. Irrelevant evidence is not admissible.

**Example of objection to irrelevant evidence:** “I object, your Honor. This testimony is not relevant to the facts of the case.”

##### **Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons**

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, needlessly presenting cumulative evidence, or unfair extrapolation.

The probative value of evidence is the tendency of the evidence to establish the proposition that it is offered to prove. In determining the probative value of evidence, the focus is upon the logical connection between the proffered evidence and the fact in issue.

**Example of objection to compound question:** “Objection. Counsel is asking the witness a compound question.”

**Example of objection to mischaracterization of testimony:** “Objection. Counsel is mischaracterizing the witness’s testimony.”

**Example of objection to assuming facts not in evidence:** “Objection. Counsel’s question (or closing argument) assumes facts which are not in evidence.”

**Example of objection to unfair extrapolation:** “Objection, the witness’ unfair extrapolation is in violation of Rule 5:4-5 in that it goes beyond the witness’ statement/deposition/testimony or any reasonable inference to be drawn therefrom.”

*NOTE:* While “needless presentation of cumulative evidence” may support the objection that a question was already “asked and answered,” this objection is **not** allowed in Mock Trial Rules. The prescribed time limits already discourage repetitive questioning.

#### **Rule 404. Character Evidence not Admissible to Prove Conduct; Exceptions**

**(a) Character Evidence Generally.** Evidence of a person’s character or character trait, including a trait of care or skill or lack thereof, is not admissible for the purpose of proving that on a particular occasion the person acted in accordance with the character or character trait.

This rule does not apply to evidence admissible under Rule 406, however.

**Example of objection to improper character testimony:** “Objection. Counsel’s question is inadmissible, as it goes to the witness’s character.”

*NOTE:* That is, you cannot show that someone acted a certain way just because they did a similar act in the past. BUT see habit evidence, Rule 406, below.

#### **(b) Crimes, Wrongs, or Other Acts**

(1) Prohibited Uses. Evidence of a crime, wrong or other act is not admissible to prove a person’s character in order to show that on a particular occasion the person acted in accordance with the character.

(2) Permitted Uses. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or lack of accident when such matters are relevant to a material issue in dispute.

**(c) Character and Character Trait in Issue.** Evidence of a person’s character or trait of character is admissible *when that character or trait is an element of a claim or defense*.

#### **Rule 405. Methods of Proving Character**

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

**(b) Specific instances of conduct.** When character or a trait of character of a person is an essential element of a charge, claim, or defense, evidence of specific instances of conduct may also be admitted.

#### **Rule 406. Habit, Routine Practice**

Evidence of a person’s habit or an organization’s routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

The witness’ knowledge must be that the person or organization has engaged in the habit or routine practice on many occasions.

The habit or routine practice must be specific, or else it is inadmissible under Rule 404(a) as character evidence.

*NOTE:* For example, if a witness knows X *always* uses his/her seatbelt when getting into a car, as the witness has often seen him/her get into a car many times and buckle the seatbelt, the witness may be permitted to testify to this habit. The key to admissibility is that X engages in the conduct of wearing his/her seatbelt on a regular basis. The habit must be specific or routine must be specific in nature. The witness cannot make the broad statement, for example, that X is a careful driver.

## **ARTICLE VI. WITNESSES**

### **Rule 601. Competency to be a Witness**

Each mock trial witness is competent to be a witness and may testify in accordance with his/her witness statement, deposition, prior testimony, the facts contained in the Statement of Facts and the documents provided. A witness may testify as to any reasonable inference to be drawn from these facts.

**Example of objection to unfair extrapolation:** “Objection, the witness’ unfair extrapolation is in violation of Rule 5:4-5 in that it goes beyond the witness’ statement/deposition/testimony/Statement of Facts/documents or any reasonable inference to be drawn therefrom.”

### **Rule 602. Need for Personal Knowledge**

A witness may testify to a matter only if evidence is introduced establishing that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness’s own testimony. This rule does not apply to a witness’s expert testimony, which is governed by Rule 703.

**Example of objection to lack of personal knowledge:** “Objection. The witness has no personal knowledge that would enable him/her to answer this question.”

**Example of objection to speculation:** “Objection. The question calls for speculation on the part of the witness.”

### **Rule 607. Who May Impeach a Witness**

Any party, including the party that called the witness, may attack the witness’s credibility. Also see R.5:4-6.

*NOTE:* That is, an attorney may ask questions to show that the witness is lying or lied on a prior occasion.

### **Rule 608. Evidence of Character for Truthfulness or Untruthfulness and Conduct of Witnesses**

**(a) Opinion and Reputation Evidence of Character.** The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, provided, however, that (1) the evidence relates only to the witness’ character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

**(b) Specific Instances of Conduct.** Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness’ character for truthfulness may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness, (1) concerning the witness’ character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

### **Rule 609. Impeachment by Evidence of Conviction of Crime**

#### **(a) In General.**

(1) For the purpose of attacking the credibility of any witness, the witness’s conviction of a crime, subject to Rule 403, shall be admitted.

(2) Such conviction may be proved by examination of that witness.

### **Rule 611. Mode and Order of Interrogation and Presentation**

#### **(a) Control by the Court; Purposes.**

The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to

- (1) make those procedures effective for determining the truth and
- (2) protect witnesses from harassment or undue embarrassment.

**Example of objection to argumentative question:** “Objection. Counsel’s question is argumentative.”

### **(b) Leading and Narrative Questions.**

Leading questions should not be used on direct examination or re-direct examination of one’s own witness. Ordinarily, the court should allow leading questions on cross-examination and re-cross-exam. Narrative questions (questions that call for a narrative answer) are generally not permitted on direct or re-direct exam or cross or re-cross exam.

*NOTE:* Direct examination may cover all facts relevant to the case of which the witness has firsthand knowledge. It is limited by the scope of the witness statements and/or the exhibits in this workbook and the Statement of Facts or stipulated facts if he/she has knowledge of them. Any factual areas examined on direct examination may be subject to cross-examination. On direct examination, a witness is not permitted to quote from the witness statement of another witness. Fair extrapolation, as defined in Rule 5:4-5, is permitted.

In direct examination, attorneys call and question witnesses. Witnesses may not be asked leading questions by the attorney who calls them. A leading question is one that suggests to the witness the answer desired by the examiner, and often suggests a “yes” or “no” answer. Direct questions generally are phrased to evoke a set of facts from the witness.

**Example of direct question:** “Mr. Hudson, when did you meet June Harris?”

**Example of a leading question:** “Mr. Hudson, isn’t it true that you first met June Harris on April 14, 1981?”

**Example of objection to leading question:** “Objection. Counsel is leading the witness.” (Remember, this is only objectionable when done on direct examination or re-direct examination of one’s own witness).

**Example of objection to non-responsive answer:** “Objection. The answer is not responsive.”

**Example of objection to question calling for a narrative answer:** “Objection. Counsel’s question calls for a narrative answer.”

*Note:* Narrative questions (questions that call for a narrative answer) and narrative answers are generally not permitted, especially in direct examination. While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions should not be so broad that the witness is allowed to wander or narrate a whole story. The opposing team will likely want to object to a question on direct examination calling for a narrative response.

At times, a direct question may be appropriate, but the witness’ answer may go beyond the facts for which the question was asked. This may also happen when a leading question is asked on cross-examination and the answer given is in a narrative form.

### **(c) Cross-Examination.**

The scope of cross-examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness’ statement, including all reasonable inferences that can be drawn from those facts and matters. Opposing counsel may also inquire into any omissions from the witness’ statement that are otherwise material and admissible and/or into any issue potentially affecting the credibility of the witness.

*NOTE:* An attorney may ask leading questions when cross-examining the opponent’s witnesses, but asking that opposing witness a narrative question is generally not wise, since it gives the witness an opportunity to stress facts that favor his/her own side.

While the purpose of direct examination is to get the witness to tell a story, the questions in cross-examination and re-cross should ask for specific information. It is not in the cross-examining team’s interest to ask an opposing witness questions that are so broad that the witness is allowed to wander or narrate a whole story. Questions tending to evoke a narrative answer often begin with “how,” “why” or “explain.” An example of a narrative question is: “Mr. Hudson, what went wrong with your marriage?”

On cross-examination, a witness is permitted to invent an answer which is not included in his/her witness statement only

as permitted by Rule 5:4-5. If that answer is inconsistent with any other evidence, including statements of that witness, the Statement of Facts, or any other stipulations, the cross-examining attorney may impeach or object as may be appropriate. For example, he/she may object to an answer as being non-responsive.

**(d) Re-Direct and Re-Cross Examination.**

After cross-examination, additional non-leading questions may be asked by the direct-examining attorney on re-direct examination, but questions must be limited to matters raised by the opposing attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on re-cross, but such questions must be limited to matters raised on re-direct.

*NOTE:* Re-direct and re-cross are optional, to be used at the discretion of the team. One minute will be allowed for re-direct and re-cross respectively. Judges should not deduct points if a team decides not to re-direct or re-cross.

**Example of objection to questions beyond the scope:** On re-direct or re-cross, the opposing party may object as follows: “Objection. This question is beyond the scope of cross-examination (or re-direct).”

**(e) Permitted Motions.**

The judge is presumed to strike testimony elicited by a question following a successful objection to its admission.

*NOTE:* For the purpose of mock trial, it is assumed that when an objection is sustained, the response is stricken. If the witness has responded in a meaningful way, mock trial attorneys need not but may move to have the testimony stricken from the record. Counsel should **not** refer to stricken testimony in closing arguments.

**Rule 612. Writing Used to Refresh a Witness’s Memory**

A written statement is used to refresh the memory of a witness, but while on direct examination, a witness cannot read from the witness’ own statements to bolster testimony (that is, to show that the witness said something earlier). The adverse party may cross-examine the witness on the material and introduce into evidence those portions of the written statement that relate to the testimony of the witness.

**Rule 613. Witness’s Prior Statement [See Online Rule 1.7 re: Use of Exhibits/Affidavits in Online Format.]**

The statements of witnesses, whether in affidavit or deposition format, are not admissible into evidence, but may be used during cross-examination for impeachment purposes. When examining a witness about the witness’ prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, indicate the relevant segment of the statement for opposing counsel. Counsel may show the document for impeachment, or on re-direct examination, may show the same document to rebut the impeachment.

*NOTE:* For in-person competition, it is best to briefly show the exhibit you are going to show a witness to opposing counsel just as you are about to approach the witness with it. When asking the witness about the document, it is best to refer to the page and line number. For example:

“Ms. Jones, I am showing you what has been marked as S-1 for identification. Do you recognize S-1?” (The witness should say “yes” and identify the document. After the witness identifies S-1, ask, “I would like you to read line X of page Y. . . .” When referring to the witness’ own statement, mock trial attorneys may ask the witness if the statement was given under oath, but are not required to do so and may refer to it in summation.

Otherwise, opposing counsel may ask the court: “Can I have the page and line number (counsel is referring to)?”

If your witness is impeached by his or her statement, but the words used were taken out of context, not fairly showing what the witness meant, on re-direct you may want to show the statement to your witness and “rehabilitate” him/her. For example, if cross-examination brings out that the witness said “I did not shoot the victim,” in response to police asking if s/he did so, you may ask your witness to add what s/he said after that phrase:

“Witness, you were asked if you said to police, “I did not shoot the victim?” “Yes.” “Do you remember your complete response to police?” “No.” “I am showing you S-1 again, the same line opposing counsel showed you. Do you now remember your *complete* answer to that question?” “Yes.” “What was that full response?” “I did not shoot the victim until he pointed a gun in my face.””



After the exhibits have been agreed upon, the attorneys may ask witnesses about the documents.

For example, if an attorney decides to show a letter (already agreed upon as an exhibit by both sides) to a witness, an attorney may show the letter to him/her, asking: “Mr. Davis, do you recognize this document which is marked Plaintiff’s P-1 for identification?” (The witness should say yes and identify the document.)

At this point the attorney may proceed to ask the witness questions about P-1.

If the attorney wishes to place the document into evidence, say, “Your Honor, I offer this letter for admission into evidence as Plaintiff’s P-1 and ask the court to so admit it.” Moving a document into evidence must occur either at the time the document is identified or at the end of the parties’ case.

Get a ruling from the court on admissibility.

Bringing physical evidence to the trial, e.g., a weapon in the case of a murder trial, is prohibited unless otherwise indicated. It is sufficient to rely upon the documents provided in this workbook for exhibits. Use of props, visual and illustrative aids, other than what is specified in the workbook, is prohibited, under Rule 5:1-1.

## **ARTICLE VII. OPINION TESTIMONY**

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

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- (a) rationally based on the witness’s perception;
- (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue; and
- (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

*NOTE:* Lay witnesses are any witnesses not admitted as experts in the trial. A lay witness may offer testimony in the form of an opinion based on the common experience of laypersons in the community and of which the witness has firsthand knowledge. Examples include: what things look like; how someone is acting (e.g., drunk, tired, happy); speed, distance, sound, size, weight, degree of darkness, and general weather conditions.

A witness may not testify to any matter of which the witness has no personal knowledge (except for expert witnesses, in exceptions listed below).

For example: If Mrs. Davis was not present at the scene of an intersectional collision between a Ford Explorer and a bus, she could not say, “The bus went through the red light.”

**Example of objection to improper request for opinion:** “Objection. The witness is not qualified as an expert on this topic and counsel is asking the witness to give an expert opinion.”

**Example for lay witnesses:** “Objection. Counsel is asking the witness to give an opinion on a topic about which the witness has no personal knowledge.”

## **ARTICLE VIII. HEARSAY**

### **Rule 801. Definitions**

The following definitions apply under this article:

- (a) “Statement” means a person’s oral assertion, written assertion, or nonverbal conduct if the person intended it as an assertion.
- (b) “Declarant” means the person who made the statement.
- (c) Hearsay is a statement attributed to a declarant *who is not a witness in the case* which is offered to prove the truth of the statement. A witness is not permitted on direct examination to quote from the witness statement of another witness.

**Example:** Mrs. Mills is testifying. Her witness statement contains the following statement: “Mr. Hudson told me he was at the scene of the crime.” This is inadmissible hearsay (if offered to prove that Mr. Hudson was at the scene of the crime)

unless Mr. Hudson is also a witness in the case. If Mr. Hudson is a witness in the case, then the statement is not hearsay.

**Example:** Mrs. Mills is testifying. Mr. Hudson is a witness in the case. His witness statement contains the following statement: “I heard Mrs. Harris threaten my son.” Mrs. Mills may not testify that “Mr. Hudson said that Mrs. Harris threatened his son.” The statement is not contained in the witness statement of Mrs. Mills. Such testimony is inadmissible hearsay and also violates the mock trial rule that prohibits a witness on direct examination from quoting from the witness statement of another witness.

(d) Statements That Are Not Hearsay.

A statement that meets the following conditions is not hearsay:

(1) Party Declarant’s Admission against Interest

A statement may be admissible if it was said by a party in the case and contains evidence that goes against the party’s interest (e.g., in a murder case, the defendant told someone he committed the murder).

(2) Opposing Party’s Statement

A statement may be admissible if it is offered against an opposing party and was made by the party.

**Rule 802. Hearsay Rule**

Hearsay is not admissible except as provided by these Rules.

**Example of objection to hearsay:** “Objection. Counsel’s question/the witness’ answer is based on hearsay.” (If the witness makes a hearsay statement, the attorney should also say, “and I ask that the jury be directed to disregard the witness’ last statement” or “and I ask that the witness’ last statement be stricken from the record.”)

**Rule 803. Exceptions to the Rule against Hearsay**

The following exceptions to the hearsay rule are not dependent on whether the declarant is available as a witness or not:

(1) **Present Sense Impression.** A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

(2) **Excited Utterance.** A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

(3) **State of Mind.** A statement of the declarant’s then-existing state of mind (such as motive, intent or plan).

NOTE: Understand that the statement may not be used to prove the truth of the matter asserted, however, if it comes in, it is only to establish the speaker’s “state of mind.”

**Rule 804. Hearsay Exceptions; Declarant Unavailable**

(a) Criteria for Being Unavailable. A declarant is considered to be unavailable as a witness if the declarant is absent from the hearing because of death.

(b) Trustworthy statements by deceased declarants. In a civil proceeding, a statement made by a person unavailable as a witness because of death, if the statement was made in good faith upon declarant’s personal knowledge in circumstances indicating that it is trustworthy.

**Rule 805. Hearsay within Hearsay**

Hearsay included within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

**ARTICLE XII. OTHER OBJECTIONS**

**Rule 1201. Objections to Openings and Closings**

Attorneys may not interrupt or object during the opposition’s opening or closing, but must raise any objections to openings or closings immediately after the opposing attorney concludes. The presiding judge will then rule on the objections and instruct the jury as may be necessary.



**Rule 1202. Number of Objections**

While there is no limit on the number of objections attorneys may raise, teams should be aware that judges may assess scoring penalties for objections which are frivolous.

**Rule 1203. Other Standard Objections**

Other standard forms of evidentiary objections allowed in the Mock Trial Competition are as follows. These “other objections” may be altered from year to year depending on the nature of the case.

**Example of objection to lack of proper foundation:** “Objection. Counsel has not laid a proper foundation for the question (or for admission of an exhibit).”

**Example of objection to conclusion of law improperly called for by question:** “Objection. Counsel is calling for the witness to make a conclusion of law.”

## PART VII

### GUIDELINES FOR ATTORNEY TEAM ADVISERS

The rules of evidence governing trial practice have been modified and simplified for the purposes of this mock trial competition (see Part VI of this packet.) Other more complex rules are **not** to be raised during the trial enactment.

Team members cannot contradict the witness statement sheets for the case (see Part X of this packet) nor introduce any evidence that is not included in this packet of materials.

ALL WITNESSES MUST TAKE THE STAND.

The decision of the judge(s) in any mock trial enactment determines which team advances. This decision is to be based on the quality of the students' performance.

The preparation phase of the contest is intended to be a cooperative effort among students, teacher-coach and attorney-adviser. **Remember:** The official representative of a mock trial team is the teacher-coach, **not** students, lawyer-coaches or others. All communications regarding a mock trial team will be made by and through the teacher-coach as official team representative.

When assisting students, attorney-advisers should avoid use of highly complicated legal terminology unless such terminology is pertinent to the comprehension of the case.

**Attorneys should not "script" or prepare the cases for the students. As part of the educational goals of the competition, students are expected to read, study and analyze the case. Attorney-coaches may then help students to refine their strategy.**

The first session with a student team should be devoted to the following tasks:

- answering questions which students may have concerning general trial practices;
- explaining the reasons for the sequence of events/procedures in a trial;
- listening to the students' approach to the assigned case; and
- discussing general strategies as well as raising key questions regarding the enactment.

A second and subsequent session with students should center on the development of proper questioning techniques by the student attorneys and sound testimony by the witnesses. Here an attorney can **best** serve as constructive observer and critic-teacher, i.e., listening, suggesting, demonstrating to the team.

## PART VIII

### GENERAL GUIDELINES TO PRESENTATIONS FOR JUDGES

Under contest rules, student-attorneys are allowed to use notes in presenting their cases; witnesses may **not** use notes in testifying.

Attorneys and witnesses may neither contradict the witness statement sheets for the case nor introduce any evidence that is not included in this packet of materials.

Only **one** opening and closing statement is allowed.

Except for opening the court, general procedural instructions, rulings on objections, etc., it is best to keep judicial involvement/participation to a minimum during the trial enactment.

**Each** attorney (two for each side) shall conduct the examination of three witnesses. See R.5:3-1.

The Mock Trial Rules of Evidence have been revised. (See Part VI of this workbook). They are to govern proceedings. Other more complex rules are **not** to be raised during the trial enactment.

Witness statements may be used by attorneys to “refresh” a witness’ memory and/or impeach the witness’ testimony in court.

Attorneys have been asked to keep their presentations within the following guidelines: Opening Statements—4 minutes; Closing Statements—8 minutes; Direct Examination—6 minutes/witness; and Cross-Examination—7 minutes/witness. Regarding objections, the clock will stop. One minute will be allowed for re-direct and re-cross respectively. See rule 2:9 on “Time Limits” for details. Judges should **not** deduct points if a team decides not to re-direct or re-cross.

The decision of the judge(s) determines which team advances and which team is eliminated.

In the event of a tie score, the judge(s) shall make a final determination based on overall team performance. Judges may award an additional point to the team with the better overall team performance in order to break a tie. See Part XI for details.

Judges may include in their rating of overall team performance an evaluation of civility and compliance with the Code of Conduct in this workbook as well as compliance with mock trial rules.

If a team fails to adhere to the established guidelines/rules set forth for the competition, a judge may (depending upon the circumstances of the violation) lessen his/her rating of that team.

Better understanding is promoted among students and teachers if the judge(s) in a mock trial takes a few minutes following the enactment to explain his/her decision(s) regarding the teams’ presentation. Judges will provide a qualitative evaluation of each team’s performance. They will not release numerical scores. At the end of the trial, if time permits, teacher-and/or attorney-coaches may stay logged on to confer with the judges. See Rule 2:7, Rule 5:3-6, and Online Rule 1.5.

**The judges’ decisions are final.**

## **PART IX**

### **MOCK TRIAL VIDEO**

Watch championship teams battle for the state title in our instructional video on our website, [njsbf.org](http://njsbf.org). You’ll see examples of opening statements, direct and cross-examinations of witnesses and closing arguments, which were excerpted from the final round of the New Jersey State Bar Foundation’s 2018-2019 Vincent J. Apruzzese High School Mock Trial Competition.

## **PART X**

*Eli Adam, Estate of Nancy Adam and Kai Cruz v. City of Metropolitan*

### **STATEMENT OF FACTS**

Plaintiffs Eli Adam, Nancy Adam and Kai Cruz claim to have been falsely arrested. Eli Adam, along with mother Nancy Adam (now deceased) and friend Kai Cruz, sued the Metropolitan Police Department (via the City of Metropolitan) under Section 1983, violation of civil rights. This is a liability only trial, with the jury being asked as to liability as to each of the three plaintiffs.

On Sunday, May 26, 2019, at around 11:00 p.m., Metropolitan Police Chief Marcin "Mounty" Wojciechowski was driving his personal van southbound on Route 3, with an ex-fellow-officer, Nico Reed, in the front passenger seat. Wojciechowski was off-duty, and they were driving from a restaurant in Metropolitan City, toward the residence of Nico Reed at the edge of the city limits. Driving directly behind him was Eli Adam, driving a car with mother, Nancy Adam, in the front passenger seat. Directly behind Adam's car was Kai Cruz, driving his/her van. The plaintiffs had just left a street demonstration in downtown Metropolitan, organized by the Numerians. The Numerians are an organization of people, of all races, ethnicities and religions, who express beliefs in having less government, in peaceful protest, and in the benefits of living a "simple life." The Metropolitan chapter of the Numerians had recently been staging large protests, including demands to cut funding of the Metropolitan Police Department.

While testimony differs as to how and why the vehicles came to stop, they did. "Mounty" Wojciechowski and Reed claimed that the Adams both assaulted Mounty, committing simple assault, a misdemeanor. Kai Cruz was also arrested for harassment, for allegedly alarming conduct. Chief Wojciechowski was off duty at the time. The plaintiffs were arrested by the on-duty first responding officer, Jaime Cato. The plaintiffs deny any assault, but admit that Mounty was hit by a tomato Nancy Adam had possessed. The plaintiffs further assert that Jaime Cato did not personally see any assault. Plaintiffs also deny that Kai Cruz committed harassment.

### **EXHIBIT**

Exhibit A – Call from Chief Wojciechowski to 911.

### **STIPULATIONS**

1. Numerians are a fictional group created for the purposes of this Mock Trial Competition, and are not intended to refer to or represent any past or present groups or organizations.
2. There is to be no speculation as to the race, ethnicity or religion of Marcin "Mounty" Wojciechowski, who was adopted.
3. Marcin "Mounty" Wojciechowski died on October 1, 2019, having fallen from a cliff. His cause of death was found to be blunt force trauma, suffered from his impact after the fall.

4. Wojciechowski was six feet and six inches tall.
5. The speed limit on Route 3, between exits 13 and 14, is 50 miles per hour. At that point, the highway is four lanes wide, two lanes each way. North of exit 14, the roadway is only two lanes wide, one lane each way.
6. At the scene, on the ground, Tatum Barman recovered a mask, depicting a smiling face with red cheeks, a wide moustache upturned at both ends, and a thin vertical pointed beard. The mask has a rubber band attached, at each ear, to wear it, but the rubber band was broken when found.
7. Nancy Adam died on October 1, 2019, of a stroke, unrelated to the May 26 incident.
8. On May 26, 2019, Nico Reed was in a hard cast from just below the shoulder of the right arm to the hand and was wearing a neck collar.
9. Every evening of May 26, since 2016, there has been a peaceful demonstration outside of Metropolitan City Hall, in a designated area, organized and attended by the Numerians and their supporters.
10. On the back of Wojciechowski's Explorer was a license plate frame which said, "Support Police," in letters two centimeters high.
11. Exhibit A constitutes the call from Chief Wojciechowski to 911. Lieutenant Barman may testify to Exhibit A.
12. On December 28, 2017, on the Tweeter social media site was a post from "Real Eli Adam," saying, in full, "Police officers should know what it's like to be persecuted themselves."
13. Under Metropolitan law, when a police complaint is filed as a summons, the accused defendant is served with the summons, but is not arrested. When the complaint is filed as a warrant, the accused is arrested, and held until a detention hearing is held, several days later.
14. It was a new moon on the night of May 26, 2019.
15. Costumes, make-up and props are prohibited.
16. All witness statements are deemed to be sworn. If asked, a witness must acknowledge swearing an oath or certifying to the contents of the document on the date indicated therein, and also to signing any statement.
17. Witnesses may be male or female.

18. The trial judge shall dispense with the reading of the jury charge, and it shall be stipulated that all jurors are familiar with its contents. There will not be a student jury in this year's virtual competition.

**Plaintiff's Witnesses**

Eli Adam  
Kai Cruz  
Shiloh Pittsburg

**Defense Witnesses**

Nico Reed  
Sergeant Jaime Cato  
Lieutenant Tatum Barman

*These materials are produced for educational purposes only. All characters, names, events and circumstances are fictitious. No resemblance or reference to real individuals, events or circumstances is intended or should be inferred.*

## **JURY CHARGE**

I am now going to tell you about the principles of law governing this case. You are required to accept my instruction as the law.

I sit here as the judge of the law. As part of this responsibility, I have made various rulings and statements throughout this trial. Do not view these rulings and statements as clues about how I think this case should be decided. They are not. They are based solely on my understanding of the law and rules of evidence and they do not reflect any opinions of mine about the merits of this case. Even if they did, you should disregard them, because it is your role to decide this case, not mine.

The lawyers are here as advocates for their clients. In their opening statements and in their summations they have given you their views of the evidence and their arguments in favor of their client's position. While you may consider their comments, nothing that the attorneys say is evidence and their comments are not binding upon you.

You sit here as judges of the facts. You alone have the responsibility of deciding the factual issues in this case. It is your recollection and evaluation of the evidence that controls. If the attorneys or I say anything about the facts in this case that disagrees with your recollection of the evidence, it is your recollection that you should rely on. Your decision in this case must be based solely on the evidence presented and my instructions on the law.

The evidence in this case consists of the following:

1. the testimony that you heard from the witness;
2. the stipulations and admissions that were placed on the record. As you recall, the stipulations and admissions are facts that the parties agree are true. Therefore, you can accept all admissions and stipulations as true in your deliberations.

Any testimony that I have stricken from the record is not evidence and should not be considered by you in your deliberations. This means that even though you may remember the testimony, you are not to use it in your discussions or deliberations.

Further, if I gave a limiting instruction as to how to use certain evidence, specifically to consider hearsay evidence, not for the truth of the matter asserted, but only for some other purpose, that evidence must be considered by you for that purpose only. You cannot use it for any other purpose.

The plaintiffs, Eli Adam, Nancy Adam and Kai Cruz, contend that they were falsely arrested by police officer Jaime Cato, employed by the defendant, the City of Metropolitan. Defendant denies this.

As jurors, it is your duty to weigh the evidence calmly and without passion, prejudice or sympathy. Any influence caused by these emotions has the potential to deprive both the plaintiffs and the defendant of what you promised them - a fair and impartial trial by fair and impartial

jurors. Also, speculation, conjecture and other forms of guessing play no role in the performance of your duty.

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as the testimony of an eyewitness. Circumstantial evidence, sometimes called inferences, consists of a chain of circumstances pointing to the existence of certain facts. Circumstantial evidence is based upon deductions or logical conclusions that you reach from the direct evidence.

Let me give you an example of direct and circumstantial evidence. If a witness testified that he/she observed snow falling last night, that would be an example of direct evidence.

On the other hand, if a witness testified that there was no snow on the ground before going to sleep, and that when he/she arose in the morning the ground was snow covered, you could infer from these facts that it snowed during the night. That would be an example of circumstantial evidence.

You may consider both direct and circumstantial evidence in deciding this case. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any evidence.

In deciding the facts of this case, you will have to decide which witnesses to believe and which witnesses not to believe. You may believe everything a witness says or only part of it or none of it.

In deciding what to believe, here are some factors you may want to consider:

1. Does the witness have an interest in the outcome of this case?
2. How good and accurate is the witness' recollection?
3. What was the witness' ability to know what he/she was talking about?
4. Were there any contradictions or changes in the witness' testimony? Did the witness say one thing at one time and something different at some other time? If so, you may consider whether or not the discrepancy involves a matter of importance or whether it results from an innocent mistake or willful lie.

You may consider any explanation that the witness gave explaining the inconsistency. You may consider the demeanor of the witness. By that I mean the way the witness acted, the way the witness talked, or the way the witness reacted to certain questions.

Use your common sense when evaluating the testimony of a witness. If a witness told you something that did not make sense, you have a right to reject that testimony. On the other hand, if what the witness said seemed reasonable and logical, you have a right to accept that testimony. Is the witness' testimony reasonable when considered in the light of other evidence that you believe?

Evidence, including a witness' statement or testimony prior to the trial, showing that at a prior time a witness has said something which is inconsistent with the witness' testimony at the trial may be considered by you for the purpose of judging the witness' credibility. It may also be



considered by you as substantive evidence, that is, as proof of the truth of what is stated in the prior contradictory statement.

If evidence has been presented showing that at a prior time a witness has said something or has failed to say something which is inconsistent with the witness' testimony at the trial, then this evidence may be considered by you as substantive evidence or proof of the truth of the prior contradictory statement or omitted statement.

However, before deciding whether the prior inconsistent or omitted statement reflects the truth, in all fairness you will want to consider all of the circumstances under which the statement or failure to disclose occurred. You may consider the extent of the inconsistency or omission and the importance or lack of importance of the inconsistency or omission on the overall testimony of the witness as bearing on his or her credibility. You may consider such factors as where and when the prior statement or omission occurred and the reasons, if any, therefore.

The extent to which such inconsistencies or omissions reflect the truth is for you to determine. Consider their materiality and relationship to his/her entire testimony and all the evidence in the case, when, where and the circumstances under which they were said or omitted and whether the reasons s/he gave you therefor appear to be to you believable and logical. In short, consider all that I have told you before about prior inconsistent statements or omissions.

You will, of course, consider other evidence and inferences from other evidence including statements of other witnesses or acts of the witness and others, disclosing other motives that the witness may have had to testify as s/he did, that is, reasons other than which s/he gave to us.

Perhaps a hypothetical example will help you to understand what constitutes a prior contradictory statement and, more importantly, how it may be used by you. Assume at the trial the witness testifies: "The car was red." In cross-examination of that witness, or at some other point in the trial, it is shown that at an earlier time, the witness testified or said: "The car was blue." You may consider the prior contradictory statement that "The car was blue" as a factor in deciding whether or not you believe that statement made at trial that "The car was red." You may also consider the earlier statement that "The car was blue" as proof of the fact or evidence that the car was blue.

Plaintiffs are suing under Section 1983, a civil rights law passed by Congress that provides a remedy to persons who have been deprived of their federal constitutional rights. They assert that their constitutional rights were deprived by being arrested by a City of Metropolitan Police Officer Jaime Cato, who, the City of Metropolitan concedes, was on duty, and acting as a police officer at that time.

This is a civil case. Plaintiffs are the parties who brought this lawsuit. Defendant is the party against which the lawsuit was filed. Each plaintiff has the burden of proving his/her case by what is called the preponderance of the evidence. That means each plaintiff has to prove to you, in light of all the evidence, that what he/she claims is more likely so than not so.

To say it differently: if you were to put the evidence favorable to one of the plaintiffs and the evidence favorable to defendants on opposite sides of the scales, a plaintiff would have to make the scales tip somewhat on his/her side. If a plaintiff fails to meet this burden, the verdict must be for defendants. If you find after considering all the evidence that a claim or fact is more likely so than not so, then the claim or fact has been proved by a preponderance of the evidence.

In determining whether any fact has been proved by a preponderance of evidence in the case, you may, unless otherwise instructed, consider the testimony of all witnesses, regardless of who may have called them, and all exhibits received in evidence, regardless of who may have produced them.

You may have heard of the term “proof beyond a reasonable doubt.” That is a stricter standard of proof and it applies only to criminal cases. It does not apply in civil cases such as this. So you should put it out of your mind.

The fact that a governmental entity or agency is involved as a party must not affect your decision in any way. A governmental agency and all other persons stand equal before the law and must be dealt with as equals in a court of justice. When a governmental agency is involved, of course, it may act only through people as its employees. Defendant City of Metropolitan is sued as the principal and Officer Jaime Cato is recognized as its agent. Defendant officer and the City of Metropolitan have stipulated that at the time of the occurrence the Officer was acting within the scope of his/her employment as agent of the City of Metropolitan.

Plaintiffs claim that Officer Jaime Cato, an agent of Defendant, City of Metropolitan, falsely arrested them. To succeed on this claim, plaintiffs must prove each of the following two things by a preponderance of the evidence:

Firstly, that Jaime Cato arrested Plaintiff.

Also, either that Officer Jaime Cato did not have probable cause that Plaintiffs committed any offense to arrest Plaintiffs or that that offense did not occur in his/her presence.

If you find that Plaintiffs have proved each of these things by a preponderance of the evidence, then you must decide for Plaintiffs.

If, on the other hand, you find that Plaintiffs have failed to prove any one of these things by a preponderance of the evidence, then you must decide for Defendant.

If you find that an arrest occurred, then you must decide whether the Plaintiffs have proved by a preponderance of the evidence that Defendant lacked probable cause to arrest Plaintiffs.

To determine whether probable cause existed, you should consider whether the facts and circumstances available to Defendant would warrant a prudent officer in believing that Plaintiffs had committed or were committing an offense in his/her presence.

Defendant City of Metropolitan concedes that Chief Marcin "Mouny" Wojciechowski did not arrest Plaintiffs. The question is whether Jaime Cato had probable cause to arrest Plaintiffs, and

whether s/he had cause to believe that plaintiffs had committed a disorderly persons offense in his/her presence.

A person commits a simple assault if s/he attempts to cause or purposely, knowingly or recklessly causes bodily injury to another. The Defendant asserts that Eli Adam and Nancy Adam each committed this offense.

A person commits harassment if, with purpose to harass another, s/he makes, or causes to be made, a communication or communications anonymously or at extremely inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm. The Defendant asserts that Kai Cruz committed this offense.

Simple assault and harassment are disorderly persons offenses, not felonies. This means that because Officer Jaime Cato did not have a warrant for the arrest, s/he could only arrest Plaintiffs for simple assault if Plaintiffs committed a disorderly persons offense in Officer Jaime Cato's presence.

In this case, the state prosecutor decided not to prosecute the criminal charges against Plaintiffs. The decision whether to prosecute is within the prosecutor's discretion, and he or she may choose not to prosecute a charge for any reason. Thus, the decision not to prosecute Plaintiffs does not establish that Defendant lacked probable cause to arrest Plaintiffs. You must determine whether Defendant had probable cause based upon the facts and circumstances known to Defendant at the time of the arrest, not what happened afterwards.

Probable cause requires more than mere suspicion; however, it does not require that the officer have evidence sufficient to prove guilt beyond a reasonable doubt. The standard of probable cause represents a balance between the individual's right to liberty and the government's duty to control crime. Because police officers often confront ambiguous situations, room must be allowed for some mistakes on their part. But the mistakes must be those of reasonable officers.

As I told you earlier, Plaintiffs must prove that Defendant intended to commit the acts in question; but apart from that requirement, Defendant's actual motivation is irrelevant. If Defendant's actions constituted an unreasonable seizure, it does not matter whether Defendant had good motivations. And an officer's improper motive is irrelevant to the question whether the objective facts available to the officer at the time gave rise to probable cause.

As you know, each of plaintiff's claims in this case relate to his/her arrest for the disorderly persons offense of simple assault, for Eli and Nancy Adam, and for harassment, for Kai Cruz.

At various points in a criminal case, the government must meet certain requirements in order to arrest, and ultimately convict a person for a crime. It is important to distinguish between those requirements and the requirements of proof in this civil case.

In order to arrest a person, the police must have probable cause to believe the person committed a crime. Probable cause requires more than mere suspicion; however, it does not require that the officer have evidence sufficient to prove guilt beyond a reasonable doubt. The standard of

probable cause represents a balance between the individual's right to liberty and the government's duty to control crime. Because police officers often confront ambiguous situations, room must be allowed for some mistakes on their part. But the mistakes must be those of reasonable officers.

## **JURY VERDICT FORM**

UNITED STATES DISTRICT COURT  
DISTRICT OF METROPOLITAN

ELI ADAM, NANCY ADAM AND KAI CRUZ,  
Plaintiffs  
v.  
CITY OF METROPOLITAN,  
Defendants

WE, the jury, unanimously find the following by a preponderance of the evidence:

### **Question 1**

Did City of Metropolitan Officer Jaime Cato, arrest Plaintiff Eli Adam?

Answer: Yes \_\_\_ No \_\_\_

IF YOU ANSWERED "YES" TO QUESTION 1, PROCEED TO QUESTION 2. OTHERWISE  
MOVE ON TO QUESTION 3 BECAUSE YOU HAVE COMPLETED YOUR  
DELIBERATIONS WITH RESPECT TO PLAINTIFF ELI ADAM.

### **Question 2**

Did City of Metropolitan Officer Jaime Cato, have probable cause to believe that Plaintiff Eli Adam had committed the offense of simple assault in his/her presence?

Answer: Yes \_\_\_ No \_\_\_

### **Question 3**

Did City of Metropolitan Officer Jaime Cato, arrest Plaintiff Nancy Adam?

Answer: Yes \_\_\_ No \_\_\_

IF YOU ANSWERED "YES" TO QUESTION 3, PROCEED TO QUESTION 4. OTHERWISE  
MOVE ON TO QUESTION 5 BECAUSE YOU HAVE COMPLETED YOUR  
DELIBERATIONS WITH RESPECT TO PLAINTIFF NANCY ADAM.

### **Question 4**

Did City of Metropolitan Officer Jaime Cato, have probable cause to believe that Plaintiff Nancy Adam had committed the offense of simple assault in his/her presence?

Answer: Yes \_\_\_ No \_\_\_

**Question 5**

Did City of Metropolitan Officer Jaime Cato, arrest Plaintiff Kai Cruz?

Answer:      Yes \_\_\_                      No \_\_\_

IF YOU ANSWERED "YES" TO QUESTION 5, PROCEED TO QUESTION 6. OTHERWISE YOU HAVE COMPLETED YOUR DELIBERATIONS.

**Question 6**

Did City of Metropolitan Officer Jaime Cato, have probable cause to believe that Plaintiff Kai Cruz had committed the offense of harassment in his/her presence?

Answer:      Yes \_\_\_                      No \_\_\_

## STATEMENT OF ELI ADAM

I am the last of the Adam family, the last of my line. Not “Adams,” mind you, but Adam. Adam, the leading family of Metropolitan. My grandmother invented “liquid typing paper,” which nobody seems to remember. Back when there were typewriters, and a typist would make a mistake, a bit of that magic white liquid would cover up the mistake. I own the grand mansion on Main Street, which has traditionally been called the “Adam Cottage.”

I first met Kai on the street, nearly five years ago, walking out of my house, when s/he accosted me. S/he was with a group of Numerians, and they had handouts, explaining about their group. After Kai handed me one, I asked Kai who the Numerians were. Of course, I had heard of them, but I just heard on the news that they were a bunch of dangerous crazies. S/he told me about their belief in peacefulness in all things. This struck a chord with me. You see, I had an anger problem at that time. I had been diagnosed with IED, Intermittent Explosive Disorder. Ever since the misguided wars in the Middle East, people have thought that IED meant “improvised explosive device,” and I guess it does. But IED was the acronym for the disorder first.

Anyway, back in 2017, I was very much provoked by a neighbor who was filming me with his cell phone, for supposedly mixing garbage in with my recycling for the trash pickup. My housecleaner had always done the recycling, so I was doing it wrong, but not on purpose, of course. I had grabbed the cell phone from his hand and thrown it on the ground, breaking it to pieces. As a result, I have a conviction for fourth degree criminal mischief, having admitted that I broke another's property intentionally, which had a value of over \$500.

This was a wake-up call for me. Reflecting back, I realized that I had become more and more quick to anger, and less and less able to control my temper. I was embarrassed, as I had put a blemish on the good name of my forebears. The Adam family name is well known in Metropolitan. I got a therapist, the one who diagnosed me with IED, and she prescribed antidepressants, which had helped me keep my cool thereafter, but they gave me terrible migraine headaches.

After Kai got me into a mindfulness group run by a Numerian psychologist, I threw those pills away. I learned how to recognize and avoid triggers for my anger. I also learned breathing exercises to use to calm down when in a stressful situation. After that, I was cured! I was also cured of my high-society lifestyle. I got rid of the housecleaner, and much else, and learned such everyday things as how to sort recycling. That allowed me to sell the residence I owned down the street, where I had let the housekeeper live, to Kai. As Kai had little money, s/he pays me a monthly mortgage payment, and will finish paying off the residence about 28 years from now.

May 26, 2019. The only other arrest in my life. We had been coming from a Numerian demonstration that night, in fact. It was May 26, at nearly 11:00 p.m. I was driving, in my Mini Cooper, with Mom in the front passenger seat, down Route 3, between exits 13 and 14. Mom is living in the memory unit of the Metropolitan Nursing Home now, but last May I still had her with me in my house, and the dementia was not so bad yet. Mom needed her meds, though, and I left the protest early, as I had forgotten to give her antipsychotic that morning, and I only had pills at home. Not that it was urgent.

47  
48 It was nice outside, but that stretch of the road is dark, and it's a bit curvy. Living around here my  
49 whole life, I know every bend in the road well. I was making sure that my friend, Kai Cruz,  
50 driving his/her Ford F-150 behind me, was keeping up. Kai's cell phone had died, or so s/he'd  
51 told me, and s/he hated the darkness of the back roads home to our neighborhood, so we decided  
52 that s/he'd just follow my car in his/her's. I am aware that Kai has some eye condition that  
53 affects night vision, but it does not seem to have any practical effect on Kai, so it can't be that  
54 bad.

55  
56 The road there is one lane each way. The speed limit is 50 miles per hour. I was going a bit  
57 slower, for Kai's sake. Then I came upon this Ford Explorer. It was driving slow. I don't know,  
58 maybe 35 mph. I started to get a line of cars behind me, like a conga line. I tried to pass earlier,  
59 when the center line was dotted, but the Explorer would move left to block my path, and slow  
60 down a bit more. I was mad, I have to admit, but I did my deep-breathing exercise, and that  
61 succeeded in calming me down. I was not tailgating. I maintained about three car lengths  
62 distance from the SUV. I also knew that a stretch would eventually come up where the highway  
63 broadened, so there'd be two lanes, and I could finally pass this turkey. But, after a couple  
64 minutes of this, and the Explorer continuing to hold up progress, I made a courtesy beep, you  
65 know, when you hit the horn once, briefly. Not leaning on the horn, or anything like that. Also,  
66 to show that I wasn't being a jerk, I put my left hand out my window, which was open on that  
67 warm, clear night, and I flashed the peace sign. By flashing it, I was making clear to the  
68 Explorer's driver that I meant no offense.

69  
70 The roadway there becomes two lanes each way, and I was just about to pass when the Explorer  
71 slammed the brakes suddenly, and came to a full stop. Thank goodness I have good reaction  
72 times. I was able to stop in time to avoid hitting the SUV from behind, but only by a few inches.  
73 We both stopped and parked. My friend Kai was not so lucky. S/he ended up tapping the back of  
74 my car with his/hers. It wasn't that bad a tap. But I got out of the car upon coming to a stop and  
75 parking, so that I could see whether there was any damage. The asphalt only went a few feet past  
76 the white fog line, then the land dropped off into a deep ditch. I had seen cars stuck in that ditch  
77 over the years. That idiot could have cost us our lives. As it was, all three vehicles ended up  
78 parked in the right lane of what had become a four-lane highway.

79  
80 I made a beeline for where our back bumpers met. Kai alighted and came forward to the same  
81 spot, on our drivers' side. I saw the look of relief on Kai's face, which suddenly turned to a look  
82 of fear, looking past me. I turned to see what Kai was looking at, and, not three feet away from  
83 me was this Mounty guy, dressed in a fancy sports jacket, white button-down shirt and dress  
84 pants, an angry look on his face. He started by saying I'd been "tailgating" him, and that's when  
85 I could smell the alcohol on his breath. I had thought it was weird that he'd stopped totally and  
86 parked. I soon came to realize that was because he was in the throes of road rage.

87  
88 The shirt I wore that night said "Numerians for Freedom." My mom had on a similar shirt, and I  
89 imagine Kai had a similar one on, as well. To be a Numerian, you just have to join. There are no  
90 tithes, no oaths, no leaders, per se. You just have to believe in having a simple life, focused on  
91 interpersonal relationships, and on kind acts. We're big on free speech, and we are anti-consumer  
92 goods, anti-fashionable name-brand clothing. We are against having too much government,



93 against too many pharmaceuticals. Did you know that only the United States and New Zealand  
94 allow television commercials for prescription drugs? That must be why everybody is popping  
95 pills all the time.

96  
97 Oh, and Numerians believe in peaceful protest, as well. Think Gandhi. Think Martin Luther  
98 King, Jr. Think back to the wonderful hippies! But the Numerians have enemies. The big  
99 corporations hate us, of course. Social media silences us. Which is why we do street  
100 demonstrations. It is the only way to get the word out to the masses. That puts us in direct  
101 contact, however, with another group which hates us: the police. I say “we,” and I do not wish to  
102 brag, but I have been financially blessed, and I have been generous with a group that refuses  
103 corporate money on principle. In fact, I run the Metropolitan branch of the Numerians, and I am  
104 its main benefactor.

105  
106 We Numerians try to understand the point of view of others, including those who stubbornly  
107 oppose us. With police, I kind of understand that our position, that police need smaller, saner  
108 weapons, no military hardware, and a more positive attitude, might rub some of them the wrong  
109 way. There are those police who react to us with blind rage, though, like this MOUNTY guy did  
110 that night. He must have figured that we were coming from the Numerian demonstration that  
111 night, as we were headed to the ‘burbs from Downtown Metropolitan, where it had been held,  
112 and the peace sign identified me to him as the enemy. This is all you need to know to understand  
113 what happened that night to Mom and me, oh, and to my best friend, Kai Cruz, as well. That  
114 explains the sudden stop.

115  
116 I don’t know why I put on that mask. This was before COVID-19, and, in any event, it was a  
117 Guy Fawkes mask, better known these days as a Vendetta mask, from the comic book and the  
118 2005 movie. We’d wear them while protesting. I donned the mask after I got out of the car. My  
119 face is well-known, and it would not have been good to be recognized.

120  
121 Mom was suffering from dementia, and had a habit of eating tomatoes whole. She had just taken  
122 a first bite of the tomato just before I had stopped the vehicle. As I noticed MOUNTY’s angry stare,  
123 I realized that Mom had gotten out of the car after I stopped. I was afraid she’d go wandering into  
124 the road or something, but I could not get to her, as my car and Kai’s car blocked my path from  
125 the side of the road, where she was standing, a little unsteady on her feet, at the front of my car.

126  
127 I tried to ignore the man's stare as I started to move forward to go around the front of my car.  
128 MOUNTY was blocking my path, and stuck his finger in my face, calling me a “crackpot  
129 Numerian.” My mom must have seen me, and she herself navigated between the Explorer and  
130 my car towards me. I took Mom's arm, just in front of the car, and behind the man's, after he  
131 finally stepped back a yard or so. Meanwhile, Kai had yelled out, for all the world to hear, "Oh,  
132 Eli. I'm so sorry - I hit you!" My headlights were on, so I saw the man, MOUNTY, sorry, I have no  
133 idea how to write his full name, and everyone seems to use that nickname for him. Still in my  
134 face, and now also a foot away from Mom, he said, yelling, "You nearly hit me," and "s/he hit  
135 you," and "you have to report a car crash to police and insurance!" I was surprised by his  
136 outburst, and said something about how I did not have to call anyone, that nothing happened. I  
137 don't know the exact words I said. I was so worried about Mom.

Mom tripped forward, and somehow the tomato went flying, landing on the big guy's chest. That MOUNTY guy had been wearing a fancy name-brand dress white shirt, and it was covered in red now. He bellowed that he was a police officer. I tried to make light of the situation, you know, to calm things down, saying, "First blood. Bet now you'll file for disability!"

This made that MOUNTY guy really mad. He punched at my face, but it was just a glancing blow, making my mask fall off. At that moment, my dear Mom, no doubt rattled by my situation, fell on the pavement. I went on my knees to attend to her. MOUNTY came down to my level, a little later, and I saw that he was grabbing for a gun, which he had above his ankle, pulling his pant leg up, to get it out of its holster, as I was trying to get Mom to respond to me, without success. I shoved him, but not hard, asking him why he'd upset an old woman, and I guess MOUNTY wasn't situated well, kneeling on the ground, an outstretched arm keeping him up. He lifted that arm, and so he clumsily dropped all the way to the ground. The roadway was dusty, and his fancy shirt and designer pants got all dusty. I'd hardly touched him, really. And why would I attack some guy armed with a gun, anyway? I had smelled alcohol on MOUNTY's breath, another reason not to attack him.

That's when I noticed a uniformed Metropolitan police officer behind me. I turned around, and Officer Cato was several feet away. S/he was out of breath, apparently from running. I tried to tell him/her about poor Mom, but MOUNTY yelled out how "we had all attacked him," so all the officer, Jaime Cato, did was put my hands behind my back and handcuff me. Actually, used a zip tie to tie my hands together behind my back, way too tight. I had marks on my hands for a week. Then something worse happened. They arrested my mom! Both hands tied across her front. Otherwise, she'd have fallen again for sure. Thank goodness Mom wasn't injured that night, at least not physically. Of course, the distress she felt from the attack and the arrest showed plainly on her face.

I tried to tell the uniformed police officer what happened. S/he was too focused on MOUNTY, referring to him as "Chief." That officer, who I came to know was Jaime Cato, asked MOUNTY, "What happened, Chief?" MOUNTY excitedly claimed that I had been driving like a maniac, flipping him the finger, and he'd stopped out of fear. He then went on to claim my mom and I had thrown "rotten" tomatoes at him. Tomatoes, plural. I never even had a tomato.

Just then, this Nico Reed person hobbled over, who had an arm cast, in a sling, and a cervical collar. Whenever MOUNTY would say something to the officer, Reed would add, "that's right," or something to that effect. Even assenting when MOUNTY, who was getting more excited as he told his "story," said that I had also thrown a tomato of my own at him. I don't even know how Nico Reed managed to get out of the car on his/her own. I'm sure that Reed saw nothing, and is just worried about the image of his/her best friend. Who wouldn't lie for their best friend?

I never saw the license plate frame on the Explorer, that I'm told says "Support Police." Not that it would have made any difference. And I did not recognize this MOUNTY character, not that night, not ever. I'd never met him before in my life.

I was so relieved to see a familiar face among the officers, Sgt. Barman, who had been to a few of my holiday parties, and who said to me: "I am sure an Adam would never intentionally hit an

officer,” and I nodded, my voice too hoarse to even speak at that point. I don’t even know where Barman had come from. Our luck did not change immediately, but, back at the station, I heard the sergeant tell Mouny and Cato to “put these tickets on a summons, not on a warrant.” I did not know it at that time, but that was the moment we were no longer under arrest. The next day, the charges on those summonses disappeared as well. It’s a shame that my social position had to be recognized to get justice, however. “Justice delayed is justice denied,” we must remember, and that is why I started this lawsuit. The police must be held accountable, as do all who wield power. As I see it, I pay plenty of taxes to Metropolitan, and they deserve to give some back for this affront, especially to my poor mother.

Shiloh Pittsburg writes all of my social media posts. Shiloh does so much for the Numerians, in fact. Well, I pay him/her well enough, right out of my own pocket. I do usually read the U.S. and local news, and I will give Shiloh ideas on what to say. I am not a social media person myself. I prefer reading off actual, real paper. My grandmother would be proud!

/s July 3, 2019

## STATEMENT OF KAI CRUZ

I am Professor Kai Cruz, and I have been teaching at Metropolitan University for the last three years. I prefer to be called Prof. Cruz, rather than Mr./Ms./Mrs. Cruz. I suppose you could call me Dr. Cruz, but I don't want to be incorrectly thought of as a physician. I am an entomologist, and you could say that bugs are my life. My mother was an exterminator. I too started on the dark side, as it were, killing pesky critters that had the temerity to invade people's beloved homes. But my university study of insects led me to discover their beauty, and I have ever after sought to find ways to avoid insect infestation without the need to kill the insects, just keep them away, or keep them from breeding. In fact, I discovered the nocturnal brown vine beetle, which is named *Kaihynchus cruzcatus* in my honor. Sadly, I had to change my study to diurnal insects from nocturnal insects, like my namesake, the brown vine beetle, after I was suddenly struck with night blindness, after a fall one fateful afternoon in 2018. You see, I always have my head in the clouds, thinking about my work, instead of looking where I am going. As an absent-minded professor, I guess it is an occupational hazard. The night blindness isn't so bad that I can't drive, mind you, although I am more comfortable avoiding it. But insects are very small, much smaller than cars, for example.

My best friend in the world, Eli Adam, was with me at the demonstration on May 26. Bumping into Eli at a protest five years ago was the luckiest break in my life. I knew Nancy really well, being Eli's friend, and Nancy then living at Eli's house, as Nancy could no longer take care of herself. We all had our tee-shirts on and our signs. Nancy stumbled a bit as we were walking back to the parking lot for our cars, after everything was over. She was talking nonsense, and laughing for no reason, which I had not seen before. As I was worried about how Nancy was doing, I told Eli that I'd follow their vehicle home. I only live a couple blocks away from them, so it was no big deal. I bought the house from Eli a couple years ago, although s/he owns the mortgage on it, and I proudly became a Metrozen, that is, a citizen of Metropolitan.

Our shirts said, "Numerians love everyone." That's because it is true. We Numerians may not look like we are one people, and we may not share the same genes, but we have the same mindset. We all want freedom - freedom of thought, freedom of action, economic freedom. Government is too big. The monopolies (which the government helped create) who help to govern us are too big. We just want to live simply, without all the focus on possessions and on status. That includes less money for police. Not no money, mind you. Just less, so we have police that are not equipped with military hardware, with an end to early pensions. And we'd announce our beliefs at our protests, with the police surrounding us. I swear, however, that none of us ever hurled anything at the cops except well-deserved insults.

I did see that we were going awfully slow on the road home. I'm not sure how fast, maybe 40 mph. I also saw Eli try to pass a couple of times, each time where the dotted center line was, but it seemed that s/he couldn't get past the truck in front of him/her. Then I saw Eli stop completely, and I braked right away, but somehow I ended up hitting Eli. Not too bad. I did worry that Nancy might have been hurt, though, as she was really frail.

Everything happened so fast. I just wanted to see how Nancy was, even more than to see our bumpers. I got out of the car and walked forward, as Eli approached me. The dent on Eli's car

was small, and my only damage was to the license plate and frame, being all bent up. Eli was fiddling with his/her Vendetta mask in his/her hands – s/he donned it suddenly, then said, “You cannot kill me!” It was just a silly joke, a reference to that movie, the guy with the mask said that in *V for Vendetta*.

Then I could see Nancy scooting between the Explorer and Eli’s car, approaching us, which meant that she was also getting closer to the driver of the other car, MOUNTY. I could tell that he was angry. Dressed all fancy, too. Not a Numerian look.

I don’t really think that Nancy hit MOUNTY with the tomato on purpose, although, at the time, I did say to myself that Mama Bear was looking out for Baby Bear, as the soggy tomato landed smack dab on the guy’s chest, ruining that nice white shirt and sports jacket. Nancy would have fallen on her face, had Eli, who’d sprung into action, not grabbed her just then. After losing that tomato, Nancy started saying, “Sorry, sorry, sorry,” over and over again. Though maybe she was sorry she wouldn’t get to eat it – Nancy loves eating tomatoes these days.

Eli and Nancy were facing away from me, standing in front of MOUNTY. Eli blurted out, “First blood,” followed by some joke about how police like to file for disability. Then Eli and MOUNTY talked, yelled over each other, so I couldn’t make anything else out. I saw Eli double over, and put two and two together – MOUNTY must have hit him/her. MOUNTY bent down on one knee, I thought, silly me, in order to help Eli, who was kneeling on the ground, no doubt in pain. I’m not sure how MOUNTY fell, but I do know that it upset him. He got up, disgusted, and was smacking his fancy pants, with dust flying up. I personally didn’t see a gun. I never saw Eli with a tomato. Only after it was over did I see that Nancy was on the ground, as Eli grabbed her to get her up.

At some point that Vendetta mask fell off. Eli’d worn it at the protest that evening. I have tried it on, and the eyeholes are small, so it restricts your peripheral vision. S/he does love that mask, though, probably because it was a present from me.

I had my mini bullhorn. It has a few dents and scratches on it, from the years of use in the cause. It was clipped to my belt. I instinctively used it. I said, “Leave them alone!” I didn’t speak badly about anyone, as I did not want to escalate the situation. I backed up, and backed into a uniformed police officer, who, it turns out, was Jaime Cato. I had not seen the police lights on the marked police car, perhaps because it was parked ten feet behind mine. I didn’t even have time to apologize when Cato took out a pair of handcuffs and asked me to put my hands behind my back. I did so. I have been arrested plenty of times at protests for not “dispersing.” It never resulted in charges. I guess I instinctively did what the officer said, even though I’d done nothing at all wrong!

S/he made me sit on the ground, then went right away to Eli and handcuffed him/her behind the back, but with a zip tie. Even as Eli was repeating how s/he’d been the one who’d been assaulted. Then did the same with poor Nancy. Then the officer started chatting with MOUNTY like they were old friends. I was too far away to hear Cato, but MOUNTY had a loud, booming voice. He said that the tomatoes had both exploded to bits on impact, so they must have been rotten. Then a hunched figure, which I know now was Nico Reed, hobbled over slowly towards

92 them. I could only hear Reed's laugh, but s/he managed to nod in agreement to everything  
93 Mouny said, in spite of having that cervical collar people wear when they're suing somebody.  
94

95 Officer Cato was frustrated that the backup s/he'd called for was slow to arrive. S/he mumbled  
96 something to Mouny about "dispatch says they're all busy," and Mouny responded, "Well,  
97 what do you expect when the officers are all stuck policing demonstrators downtown. As if the  
98 suburbs don't need services," to which Nico Reed nodded, saying, "You're right, Chief. You're  
99 always right!" Disgusting. I hope that this injustice won't stand.

100  
101 At the station, I was isolated from everyone, in a small room. I was resigned to being sent off to  
102 jail, and then, who knows what. Suddenly, some other lackey cop let me out of the room, saying  
103 I was free to go, and I was relieved to see a friendly face, that of Shiloh Pittsburg. Shiloh would  
104 do anything to help me, as we grew up together. I did have to pass right by that Mouny on the  
105 way out the police headquarters door, though. He was breathing heavy, in the way that Eli does  
106 when s/he's angry. That's all I remember about the last time I saw the big chief. I don't recall if  
107 he said any parting words, or anything else.

108  
109 /s August 3, 2019  
110  
111

## STATEMENT OF SHILOH PITTSBURG

It's Pittsburg, without an "h" on the end. I am an accountant by trade, but a Numerian in all other things. I know it sounds odd that an accountant would be a Numerian, what with the belief in simplifying your life, selling unnecessary possessions, and dedicating yourself to speaking out against greedy corporations, and for world peace. But, to be honest, someone has to keep the books of the organization, and that's me. As the Numerians are headquartered right here in Metropolitan, the main office is, for want of a better place, in my humble little Pittsburg Accountant office, in fact. Well, I personally have been keeping the accounts of this fine organization for a decade now, and, I can tell you, the Numerians need me.

It turns out that a group that bad-mouths big pharma, big oil, big agra (that is, agriculture), big insurance, big retail (all that child sweatshop-produced clothing) and Wall Street, doesn't get many corporate sponsorships. Who knew? Things turned around, however, for us when Eli Adam came to us. Kai Cruz was so excited, saying that s/he had "landed a big fish," by which s/he meant a big donor. I grew up with Kai, and we're fairly close. S/he always knew how to schmooze people with big hearts and bigger wallets. It was a sea change for our group, and for its bank account. Given the nature of Numerians, you would never know it, though. S/he has always given funds to us quietly, which we all hope will continue. Not to say that Eli Adam is a quiet person, being a loud-and-proud spokesperson for us.

I was at the Numerian demonstration on May 26, 2019, downtown, of course. I never miss them. The vibe in 2019 was different than what has followed. We didn't manage to get much attention. Not for lack of trying. I had taken some great photos that night of the Adamses, Cruz, everyone but me, but after the whole arrest thing, I never did anything with them, and my cell phone died a week later, without me being able to retrieve anything. In any event, I could not get Nancy to smile, or even look at me, so the photos of her would have been sad. I had never seen Nancy so out of it.

I was driving home on Route 3, leaving a bit early, to avoid the traffic, and I came upon flashing police lights in the roadway, blocking my path. While cars in front of me drove around, I parked, as the shoulder in that spot was wide enough for my car. There were two police cars at that point, and, having walked past them, at the side of a van, I could see Eli Adam, by using my mini flashlight.

I heard the bullhorn, with Cruz asking for help. Eli looked frightened. Cruz, you could tell, was trying to keep a brave face. Nancy just looked lost, once I saw her, looking confused, hands tied.

I was at the police station when they let everybody free. I heard Sgt. Barman behind me, as we all walked out together, say, "Let it go, Mounity. I'll make sure this doesn't look bad for us. The City doesn't have money for a lawsuit."

Eli Adam, our spokesperson, got into a bit of trouble before this happened. That, you see, was all my fault. I write many of the speeches for our chapter of the Numerians, and we're the main chapter, here in Metropolitan. I ghostwrote, in Eli's name, a post on a social media site. Actually, I run all of his/her sites. The post, from December 28, 2017, a reply to something that got me



47 upset at the time, which I forget, said that “police officers should know what it’s like to be  
48 persecuted.” There were critical replies, so I quietly took it down. But not before someone  
49 archived the post, and reposted it themselves. The internet is forever, they say. After that  
50 blunder, which doesn’t reflect what Eli Adam thinks at all, I made a New Year’s resolution not  
51 to fan the flames of hatred. Numerians are for love and peace, after all!

52  
53 People ask why we Numerians stopped protesting, especially in light of what’s going on now.  
54 Well, first it was COVID-19, and most Numerians are older, and many are in at-risk categories.  
55 Most importantly, our message is more of a Occupy Wall Street one, and our charter disallows  
56 corporate funding, and joining those with corporate funding. We hold virtual protests on Zoob, if  
57 anyone is interested.

58  
59 I was not originally named a witness in this lawsuit. I told Eli, however, that s/he should have my  
60 input, and I was asked by some attorney to provide a statement. I feel strongly that the police  
61 violated citizens’ precious rights in this case, and they will keep doing it, unless we all speak up.

62  
63 I smelled alcohol on Mouny’s breath at the station, and he was slurring his words. I swear that  
64 man was drunk!

65  
66 /s May 29, 2020  
67  
68



## STATEMENT OF NICO REED

Mounty is an old-school police officer, I guess you might say. He is larger than life, and physically larger than most everyone. He had his scrapes with the ex-chief and the mayor, but somehow, he always comes out like he's made out of Teflon. He made Chief of the Metropolitan Police Department in mid-June of 2018. It was all over the local news, including television. He'd been a fixture on the news for years, though, as the spokesperson for the department, giving press conferences.

Why is he called Mounty? Some think it comes from the Royal Canadian Mounted Police, as they are called Mounties. No, it's that Marcin Wojciechowski, pronounced "Voy-cheh-hov-ski," had a very difficult last name, and the first name morphed from Marcin to "Mountain." On account of his size, of course. "Mounty" is simply short for "Mountain." The fact that he loves mountain climbing, and is an expert at it, came after he acquired his moniker.

They say that Mountain was drunk that night, when he had that encounter with those Numerians. That's not true. I mean, he had had a single drink that night, to be sociable. But he had nursed that one vodka and tonic the whole evening. He was my designated driver, so he'd been careful. What with me with my right arm in a cast, in a sling, and with the cervical collar on. I had slipped off a boulder only a month before, and I was physically unable to drive. Mounty, as always, was there for me. It was May 26, a Sunday. but the next day was Memorial Day. As the weather was good, it seemed that everyone in Metropolitan was out and about to the wee hours. Mounty and I were no exceptions. I had joined Metropolitan Police Department exactly three years earlier, together with a few others. Mounty had been instrumental in getting me the job, in fact. We had met on a hike. He became like a second father to me.

My recent injuries had caused me to quit the force, so it was no celebration for me, personally. But for the rest it was a celebration that night, at the Mighty Pint Bar, and I found that, by drinking, I was able to force a smile for the sake of the other men and women in blue. We were both regulars at the Mighty Pint, as the owner was a retired Metropolitan Police captain. Many fellow officers were there. Mounty collected money that night for funding adoption ceremonies. Mounty himself was adopted, and I know it meant a lot to him.

I had to leave early, on account of my injuries. I had taken a prescribed muscle relaxer, and the combined effect with the alcohol made me a little woozy. Mounty would usually help to close the bar down, but he brought me home early that night. As we left, the other officers and I joked that Mounty was my chauffeur. We briefly got stuck in the demonstration traffic, blocks from the actual protest, but Metro Police officers managed to direct cars around the mess.

Mounty drove a Ford Explorer, or really, a "Ford Police Interceptor Utility." Mounty always bought cars at auction, from our own fleet. He painted it purple, and proudly had a "support police" license plate frame on the back. That type of Explorer is a little weightier, and Mounty equipped it with a sweet, strong engine, but it also has heavy braking power, too. It can brake fast. I should know. I was the one who changed that engine and tweaked those brakes. Mounty let me get under the hood when police work was slow. At the time, I'd done car mechanic work as a side job. Now, having left the force, I am a muscle car mechanic full-time.

47  
48 Behind us, a Mini Cooper was flashing its headlights repeatedly, and kept honking, even though  
49 MOUNTY was driving at almost the speed limit. So MOUNTY started grunting, and said, exasperated  
50 and emotionally, "I'm so upset right now that I just need to pull off to the side of the road and  
51 calm down!" Maybe the word he used wasn't "upset."

52  
53 As the Mini Cooper was tailgating us, I heard a bang that seemed to come from the rear window.  
54 So did MOUNTY, who blurted out, "We're hit." I responded, "Yeah, but with what?" MOUNTY then  
55 looked at the driver's side mirror, and screamed, "Now s/he's giving me the finger out the  
56 window!" S/he must have thrown something that hit the car! I looked in the rear view mirror,  
57 unable to turn my head, and I could see that the driver's left arm was out the window, but I could  
58 not see the arm, just see that the arm was not in the car cabin. MOUNTY quickly called 911.

59  
60 MOUNTY and I had joined a mountain climbing club which was headed by the guy who ran a  
61 mindfulness workshop we both attended. MOUNTY had a temper, and I suggested it, as it is not  
62 good for a guy as big as MOUNTY to lose his temper. He said he would only attend if I went with  
63 him, so I did. We learned certain exercises, and one was a breathing exercise. As MOUNTY slowed  
64 down to park, having hung up on 911, I could see him engaging in the consciously deep  
65 breathing, with heavy audible inhaling and exhaling, which is the breathing exercise to regain  
66 calm. He then got out of the car, I guess to get some fresh air.

67  
68 I opened my door, but hesitated to get out, given my injuries. Eli Adam came out of the Cooper,  
69 I could see from the rear-view mirror, and from my passenger side mirror. Also, I heard the  
70 slamming of his/her car door. Eli ran over to MOUNTY, screaming, over the sound of traffic, "You  
71 nearly killed me and my poor mother." I say it was Eli, but at that time, s/he had something  
72 covering his/her face. I guess it was a Guy Fawkes mask. The kind those nutty Numerians wear  
73 at their protests. MOUNTY responded that he hadn't tried to kill anyone, and, as a law enforcement  
74 officer, he upholds the rules of the road. Eli Adam responded, "You don't know who you're  
75 messing with! My family is well-respected."

76  
77 MOUNTY overheard the other driver, Kai Cruz, say s/he'd hit Eli Adam's car. MOUNTY explained  
78 that they had to call insurance. Eli Adam responded, all indignant, "I will NOT call insurance.  
79 Insurance companies are a boondoggle!" The irate older woman, Nancy Adam, then ducked into  
80 the car, and came out with a tomato in her hand, and threw it at MOUNTY. It landed on his chest,  
81 making a stain. Eli Adams must have thrown one, too, as s/he chuckled and said, "We drew first  
82 blood. You will end up on disability!"

83  
84 That's when I finally finished getting out of the car although I don't know why I thought I could  
85 help MOUNTY, in my sorry state. Luckily, Officer Cato had come on the scene. S/he'd seen nearly  
86 everything. MOUNTY and I filled Cato in on the rest. Hitting the car, and the tomato throwing duo  
87 ruining the Chief's shirt and sports jacket.

88  
89 I could have sworn that the thud I'd heard was something hitting MOUNTY's car. After getting to  
90 MOUNTY's house that night, I examined the rear of the Explorer as best I could manage. There was  
91 no mark on the back window, just the words "Clean me!" that someone had written with their  
92 finger on the dusty window. Well, MOUNTY never did wash his vehicles, that I could remember.

93 There was a dent in the metal that I had never seen before, however, just below the back  
94 window. Mounty would have fixed any dent, had it happened earlier. He was a stickler on that.

95  
96 /s September 21, 2020

97  
98 **Nico Reed, Supplemental Statement**  
99

100 When I gave the statement above, Mounty was still with us. On October 1, 2019, months after  
101 that encounter with the Adam family, Mounty, his wife Micki and I were doing what we loved  
102 most, mountain climbing the steep face of a cliff, in The Gunks. Up in The Gunks, as  
103 aficionados call the Shawangunks, in Upstate New York, is the closest good sheer-face rock  
104 climbing. It was a freaky thing, really. Mounty and his wife were above me, out of harness  
105 already, looking down at me as I struggled. I had healed nicely from my earlier injuries, but I  
106 was out of shape, and Mounty and Micki were shouting encouragement as I managed to get one  
107 hand above the other. Then, suddenly, I saw the large frame of Mounty fall and pass me, nearly  
108 brushing my shoulder as he fell. It was a long way down, and let's just say it was necessarily a  
109 closed casket funeral. Now our climbing club is the Mounty Climbing Club, in honor of that  
110 legend of a man. It is so strange to think that now I am completely fine, after my bad accident,  
111 and that Mounty, who seemed indestructible, is gone. Dear Micki and I, along with his many  
112 brothers and sisters on the force, will cherish his memory as a proud police officer.

113  
114 Did Eli Adam recognize Mounty? I believe so, although I only put it together after Sgt. Barman  
115 mentioned they'd met before. While I know I never mentioned it in my original affidavit, Eli  
116 called Mounty a "fascist pig" when s/he got out of the car. I'm a hundred percent certain.

117  
118 It is true that Mounty carried a handgun strapped to his calf, under his pants. The reason Mounty  
119 crouched down at the scene, however, was not to get his firearm, but to assist Nancy Adam, who  
120 had fallen. I saw that clear as day.

121  
122 s/ December 28, 2020  
123

**STATEMENT OF SERGEANT JAIME (“JAY-MEE”) CATO, METROPOLITAN  
POLICE DEPARTMENT**

I was the on-duty Metropolitan Police Officer who was the first to arrive to the scene. I have since been promoted to sergeant, last July, despite only having four years on the force. A record! I resent the insinuations that my actions in this case had anything to do with it. I credit my advancement to my statistical record as a patrol officer. I wrote more motor vehicle tickets, and racked up more arrests than anyone else on the force. That takes hard work. The money from fines and penalties added much-needed income to Metro City’s budget.

I had on my assigned body worn camera, but it was malfunctioning that night, and nothing was recorded. Sure, I could have gone back to the station for a replacement, but, thanks to the Numerians, I was much better employed keeping the rest of Metropolitan safe while Downtown kept most officers busy.

I received a call from dispatch that an officer was in need of assistance. A road rage thing. That was what I had in mind when I arrived at the scene, between exits 13 and 14 on Route 3, where I saw a van with its four-way flashers on, parked in the two-lane roadway, southbound. I parked a couple of feet behind, but over the line into the fast lane of the highway, to protect anyone on the roadway from oncoming traffic, and left my overhead lights on.

I came forward, and saw, just to the left of the vehicles in the roadway, the unmistakable presence of Chief Mouny Wojciechowski, along with who I came to learn were the Adamses and Kai Cruz, wearing Numerian t-shirts. Mouny yelled excitedly, in his gruff voice, “I’m hit!” Mouny was a mess, just covered in tomato juice and seeds, then he got on one knee, perhaps from the blow, I don’t know. Then the Chief fell, and he came up slapping off the dirt and dust from his white shirt, dress pants and sports jacket. The only thing that could have caused the Chief to fall was Eli Adam. I could not see him/her touch him, but that must be what happened. Mouny was a mountain of a man, and he would not just fall to the ground for no reason! And I did see Eli Adam’s arm reach out towards the Chief, just before he fell.

I heard Kai Cruz before seeing him/her. Cruz had a small bullhorn, but it was loud. Cruz was yelling into it about “dirty cops.” Cruz blocked my path, calling me an “establishment stooge,” into the bullhorn, nearly elbowing me in the ribs. Luckily, I have fast reflexes. Accordingly, I arrested him/her for harassment, as Cruz’s speech had been alarming, and going on at night. Cruz submitted to being handcuffed. As I had been all ready to arrest Numerians at the protest earlier that day, I had, in addition to my pair of handcuffs, a number of zip ties. They work great if you make a figure-eight out of them, to tie hands together. It’s just that, once tightened, they won’t loosen, and all you can do is cut them off with a strong knife.

It was then when I saw Nico Reed, who approached me, slowly walking between the Explorer and the Cooper from the passenger’s to driver’s side of the vehicles. S/he explained that s/he’d “seen everything.”

Reed and Mouny recounted how the Adamses had pelted Mouny with tomatoes. I waited for Eli Adam to assist Nancy Adam to get up off the ground. I had not seen Nancy Adam fall, with

all the commotion. As they stood up, I arrested Eli Adam, then Nancy Adam thereafter. I zip tied Nancy Adam's arms in the front, instead of behind her back, due to her being elderly.

I then called dispatch for backup officers to arrive. I knew, however, having just left the protest, which was still wrapping up, that most of the working Metropolitan Police officers at that time were still assigned to that downtown area, and so could not come to my assistance. Luckily, Lt. Barman was nearby, and came to the scene in his/her unmarked car.

Eli Adam later complained about the zip ties, and they were tight. But I didn't have time to look in my squad car for a knife. I took Eli Adam to the station in my squad car, and then Nancy Adam and Cruz were taken there by other later responding officers.

Back at the station, I drafted the warrant complaints. Being arrested on a warrant would mean going to jail overnight, and, the next day, the prosecutor deciding whether to continue to hold them. I was about to fingerprint and photograph my arrestees, when Mouny came up to me, and, without explanation, told me to redo the complaint as a summons, and let them go. A few hours later, before I filed the summonses, I was told by Lt. Barman not to file any complaints at all, and not to even finish my narrative police report, which, by Metropolitan standard operating procedure, an arresting officer had to file for any arrest. I didn't ask why.

/s September 3, 2019

1                   **STATEMENT OF METROPOLITAN POLICE LT. TATUM BARMAN**

2  
3 I am a lieutenant with the Metropolitan Police Department. I could have retired with benefits as a  
4 sergeant back in January of 2019, as that's when I had served for the requisite 25 years with the  
5 force. On July 4, 2019, Mouny promoted me to lieutenant, however, in a ceremony he himself  
6 officiated over. My promotion was a decision he made single-handedly. I am now about to retire  
7 with an annual pension of two-thirds of a lieutenant's salary. He was a true leader, and, as he  
8 once told me, "I make the calls, and that way I am able to take the credit or the blame. I'm fine  
9 with that."

10  
11 Mouny simply is not seen by most locals as being a "Metrozen," as we people from  
12 Metropolitan call ourselves. He is from Boston, Massachusetts, and has the accent to prove it.  
13 When he started as a patrol officer in 2005, I was his partner on the road. We still had two-  
14 person patrols back then. Ex-Chief Carlisle was old-fashioned, and she never changed anything  
15 much for the two decades that she was chief, until Mouny took over. Mouny was rough around  
16 the edges, had a temper, and Mouny could be the bad cop to my good cop without him even  
17 trying. But he has heart and a lot of drive. I knew just how to deescalate any time he got people  
18 worked up, be they citizens or suspects or superior officers. Yes, Mouny used to ruffle feathers  
19 of the brass and the politicians. I would smooth things over.

20  
21 The exception was when Mouny was in a high-speed chase in 2010. We finally each had our  
22 own squad car by then, on patrol. During that chase, in the middle of night, of a Mazda Miata, on  
23 a dark stretch of highway, the pursuing Metro patrol officers were about to call off the chase as  
24 too dangerous. Mouny was on the police radio dispatch line, however, telling his fellow officers  
25 that we could not "let this guy get away." No one knew if it was a guy or a woman, or the man  
26 on the moon, but that's what he said. Mouny happened to be on that back road, going the same  
27 way. So he jammed on his brakes, and the Miata got smashed into the back of Mouny's squad  
28 car like a pancake. I was the accident reconstruction expert, and I was the one to examine the  
29 scene. Every reported accident requires an accident reconstruction report, and that one was a  
30 doozy. The skid marks, as well as the black box in Mouny's patrol car, show that he hit the  
31 brakes as hard as he could before the Miata hit him head-on. I also found that Mouny had turned  
32 off all squad car's lights before the Miata driver could see him. Mouny was lucky, having  
33 suffered a couple of fractured neck vertebrae and some bruises, but coming out of it otherwise  
34 fine. Not only did the other driver get killed, but his girlfriend in the front passenger seat, as well.  
35 They were Mel and Carrie Starkweather. Boy, Mouny was lucky, in that it turned out that the  
36 dead couple had been wanted for several murders. The chief and the mayor were about to fire  
37 him, when the press made Mouny out to be a hero. Accordingly, they promoted Mouny to  
38 sergeant instead! In fact, we were both promoted to sergeant in the same ceremony.

39  
40 I knew that I was never going to be chief myself. I was from the wrong political party, and had  
41 made the mistake of running for office once, unsuccessfully, against an incumbent with a long  
42 memory. I had confidence that Mouny could accomplish what I could not, so long as he could  
43 learn to bite his tongue and play nice in the sandbox.

44  
45 Over time, Mouny started to mellow. I credit Nico Reed with that. They shared a passion for  
46 rock climbing. Not my cup of coffee, but I know that some people find it exhilarating. Nico also



47 had an interest in everything to do with self-help. Nico took MOUNTY to some meditation retreat.  
48 In the mountains, naturally. This was a few years ago. Also, I saw that MOUNTY was drinking less  
49 when we officers would all go out. MOUNTY would still get angry, but then he'd suddenly calm  
50 down.

51  
52 Reed benefitted from his relationship with MOUNTY. I was about to suspend Reed for calling out  
53 sick while really working on some hot rod car. Right then, then-Captain MOUNTY barged into my  
54 office and told us that Reed would get a warning instead. Reed, finding this out, thanked MOUNTY  
55 profusely. I just let it go, as Reed wasn't a bad kid.

56  
57 Meanwhile, Chief Carlisle was in poor health, and, having banked months in sick time over  
58 many years, was out of the office more often than in. I did what I could to involve MOUNTY in  
59 local politics and civic events.

60  
61 As I was born and raised here in "Metro City," so, of course, I know all about Eli Adam and  
62 his/her esteemed family. Eli's father, Bartholomew the seventh, was a benefactor for worthy  
63 local organizations from the Metropolitan Orchestra to the Metro Little League, to the Police  
64 Canine Supporters. Upon "Barty's" passing, Eli started to do the same. That is, until s/he got  
65 involved with the Numerians. The first thing to go were the police charity functions and  
66 donations. Then pretty much everything else. All the Adam family money came from  
67 Metropolitan factories, all gone now, and Metropolitan working people. The Numerians talk  
68 about "Community," with a capital "C," but that is a generality, and Eli and the Numerians care  
69 nothing for Metropolitan itself. They can have their "simple life" and their utopian pipe dreams  
70 somewhere, anywhere, else.

71  
72 It was still a tradition, nonetheless, if you wanted to get anywhere in Metropolitan City  
73 government, to go to the Adam mansion and kiss the ring of the latest potentate of the family.  
74 Which is Eli, as the rest of the Adamses are dead and gone, except for the mother, who has  
75 dementia, and whom nobody ever seems to see anymore.

76  
77 It was late December of 2017, when I took MOUNTY to the Adam annual holiday party, always  
78 held right there in the Adam mansion, or "cottage," as Eli calls it. I had been given two  
79 invitations, as Eli knew me in passing, on account of most of my family having worked for a  
80 Adam family business at one time or another. We just had a "hi-bye" relationship, though. Eli  
81 knows my name, I'm sure, but will always call me "Officer," in an insulting way. S/he once said  
82 that police officers deserved to be "knocked down a peg or two." Looking back on what  
83 happened that night, it seems that Eli might have meant it literally.

84  
85 At the party, I had introduced MOUNTY to Eli. I "warned" Eli to watch out, in that MOUNTY was  
86 looking to be our next chief. It was a reference to all the Numerians' local protesting, and police-  
87 bashing talk. I remember that Eli laughed. I distinctly recall MOUNTY telling Eli Adam, in  
88 response to lecturing about gas-guzzling cars, about his "tricked out" purple Interceptor  
89 Explorer, and how he had the engine changed, so that it could out-speed anything on the road.

90  
91 On May 26, 2019, coming to the scene, I was able to recognize, with the headlights and my  
92 flashlight, none other than Eli Adam in handcuffs. There was a Vendetta mask on the ground

93 next to him/her. I saw an old woman in handcuffs, too, which turned out to be Nancy Adam, as  
94 well as the person later known to me as Kai Cruz. Nancy Adam did not seem to even know  
95 where she was. Cruz was yelling, and kicked something on the ground in frustration. I looked  
96 down, and saw it was a little bullhorn.

97  
98 Eli Adam looked right in my face, recognized me immediately, and said, “You know who I am.  
99 Uncuff me immediately and stop this insanity.” I would have, at that very moment, frankly  
100 because of who Eli Adam is, and for no other reason, but Mouny hadn’t taken those deep  
101 breaths yet, and still seemed pretty steamed, mumbling curses out of his mouth, to no one in  
102 particular, so I bided my time. Back at the station, I told Mouny that the mayor had said to let  
103 the Adamses, and friend, go and drop the charges. In fact, I had been unable to get a hold of  
104 Mayor Gonzalez, but that’s what she would have told me, I’m sure. To be clear, Office Cato had  
105 every right to arrest those people. Officer Cato was just about to take mug shots of the arrestees  
106 when Mouny ordered that they all be let go.

107  
108 Mouny’s Explorer was just over the solid center line of the four-lane highway. There is a  
109 shoulder beyond the fog line going southbound, with blacktop just wide enough for a car to pass  
110 on the right. The three cars were found by initial responding Metropolitan Police Officer Jaime  
111 Cato to be stopped behind each other, roughly one foot apart each, and the Mini Cooper and the  
112 van parked on the roadway, inside the marked lines. All three cars had on their four-way  
113 flashers. I looked for skid marks (tire transfer marks) with my flashlight but found none. Eli and  
114 Cruz claimed that their cars had impacted with each other, but all I could see, using my  
115 flashlight, was that the front license plate of Shiloh Pittsburg’s Aerostar van was dented.  
116 Accordingly, I took no photographs of the scene, nor did I instruct any other officer to do so.

117  
118 Eli Adam claimed that s/he stopped because Mouny was straddling the lane in front of him/her,  
119 not letting him/her pass, while slowing down. What s/he described is known to me as a “rolling  
120 road block.” It may be performed by police officers when a dangerous driver comes up from  
121 behind. I doubt this happened, as it was Chief Mouny himself who had just changed the police  
122 policy manual to not allow for rolling roadblocks, as they are dangerous.

123  
124 I was, I made myself, the lead officer on this case, even though I arrived after Jaime Cato was  
125 already on scene before me. It is true that while normally the arresting officer would be the lead  
126 officer, I have much more experience than Cato. Besides, I had years of experience smoothing  
127 those ruffled feathers! The City is self-insured, and there’s room in the budget for lawsuits, and I  
128 did remind Mouny of that that night, but only because I knew that the Numerians would lie to  
129 get money out of us. If they can’t defund us one way, they’ll do it another way!

130  
131 I had been to earlier Numerian protests in Metro, and I do recall a few protestors throwing stuff  
132 at officers. What I recall were rotten eggs and water bottles. I wasn’t there that night, however.  
133 Eli Adam would benefit from defunding the police, as s/he pays a lot of taxes for that huge  
134 mansion.

135  
136 Other than this affidavit, I have composed nothing else regarding these arrests.

137  
138 s/ May 30, 2019



## **EXHIBIT A**

**The 911 call audio of Chief Mouny Wojciechowski, in full, made on May 26, 2019, at 11:15 p.m., was as follows:**

"The Chief here. Officer in need of immediate assistance. Crazy driver of a Mini Cooper just hit the back of my car with an object. We're driving on Route 3, near exit 15, southbound."

The audio then abruptly cuts off.

## PART XI

### EXPLANATION OF PERFORMANCE RATINGS USED ON MOCK TRIAL COMPETITION SCORESHEETS

Please consider the criteria listed below when evaluating student performances. Participants will be rated in the categories listed in the score sheet on a scale of **5-10**. **Fractional points are NOT to be awarded.**

*Please use the following guide when awarding points:*

**5-6: Average** (exhibiting only a few of criteria listed below)

**7-8: Very Good** (exhibiting many of the criteria listed below)

**9-10: Excellent** (exhibiting virtually all of the criteria listed below)

The judge(s) will score student performance in each category, not the legal merits of the case. Each category on the score sheet must be evaluated separately. Note that one team must be awarded more total points than the other. **There are no ties. The tiebreaker category is overall team performance. In the event of a tie score, the judge(s) shall make a final determination based on overall team performance. While this category must be rated like all other categories, judges may award an additional point to the team with the better overall team performance in order to break a tie.** This category is designed to measure whether the team stayed within established time limits, followed mock trial rules and procedures, and demonstrated excellent teamwork. See Part VIII for more information.

Also please note that all post-trial evaluations by the judge(s) will be qualitative. Numerical scores will not be released. The purpose is to re-emphasize the educational goals of the competition.

## EVALUATIVE CRITERIA

### Attorneys

#### *Opening/Closing Statements:*

- Establishes theory of the case (opening)/continues theory of case (closing).
- Clearly provides overview of team's case and position in a persuasive fashion.
- Addresses strengths of own case, and weaknesses of opponent's case.
- Demonstrates a thorough understanding of the issues.
- Exhibits mastery of case and materials.
- Applies applicable law effectively.
- Refers to key witnesses.
- Is articulate and professional in presentation, with minimal use of notes.
- Discusses burden of proof.
- States relief requested.
- Displays appropriate decorum to judges, opposing team and teammates.
- Demonstrates spontaneity, summarizes evidence and incorporates examples from actual trial (closing).

#### *Direct Examination:*

- Effective in phrasing straightforward questions and eliciting information.
- Exhibits mastery of case and materials.
- Observes rules of competition at all times.
- Demonstrates understanding of mock trial procedures and rules of evidence.
- Uses case theory appropriately and effectively.

- Avoids leading and narrative questions.
- Responds effectively to opponent's objections.
- Demonstrates proper use of objections in cross-examination.
- Makes effective use of time.
- Interacts well with witnesses.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

***Cross Examination:***

- Skillfully utilizes leading questions.
- Does not ask "one too many" questions, i.e. cross examines witnesses judiciously.
- Does not invite invention.
- Effectively able to rephrase questions.
- Exhibits mastery of case and materials.
- Observes rules of competition at all times.
- Demonstrates understanding of mock trial procedures and rules of evidence.
- Responds effectively to opponent's objections.
- Demonstrates proper use of objections in direct examination.
- Effectively exposes contradictions or weaknesses of other side's case.
- Interacts well with witnesses. Confidently manages difficult witnesses.
- Able to proceed without reading from prepared script.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

**Witnesses**

***Direct Examination:***

- Dress and demeanor are appropriate for witness being portrayed. (Costumes are not allowed. See case stipulations.)
- Demonstrates extensive knowledge of the facts and theory of team's case.
- Observes rules of competition at all times.
- Convincingly and credibly portrays character throughout testimony, without relying on notes. (See R.5:4-7.)
- Shows emotion appropriate to the role.
- Effectively responds to questions without inventing material facts.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

***Cross Examination:***

- Convincingly and credibly portrays character throughout testimony, without relying on notes. (See R.5:4-7.)
- Able to field questions with confidence and poise.
- Observes rules of competition at all times.
- Does not become flustered or uncertain when responding to unanticipated or leading questions.
- Able to avoid impeachment.
- Employs invention but only appropriately.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

## IMPORTANT NOTICE

Teams must enter the names of the students and roles they are playing **on the score sheet** and submit same to the County or State Mock Trial Coordinator in advance of the online trial. Prepare one sheet for the prosecution/plaintiff and one for the defense. Permission is granted to enlarge the score sheet on a photocopier if necessary in order to include this information. **Please type or print clearly.**

## 2020-2021 VINCENT J. APRUZZESE MOCK TRIAL COMPETITION

### Score Sheet

Prosecution/Plaintiff: \_\_\_\_\_ Defendant: \_\_\_\_\_  
(Team Code) (Team Code)

**Date:** \_\_\_\_\_ **Competition Level:** \_\_\_\_\_ **Round:** \_\_\_\_\_

On a scale of **5 to 10** rate the Prosecution/Plaintiff and Defendant in the categories below.

**DO NOT USE FRACTIONS.**

	PROSECUTION/PLAINTIFF		DEFENDANT	
	Name	Score	Name	Score
<b>Opening Statements</b>				
<b>Prosecution/Plaintiff's First Witness</b>				
Witness Performance — Direct Examination:				
Witness Performance — Cross Examination:				
Attorney — Direct Examination:				
Attorney — Cross Examination:				
<b>Prosecution/Plaintiff's Second Witness</b>				
Witness Performance — Direct Examination:				
Witness Performance — Cross Examination:				
Attorney — Direct Examination:				
Attorney — Cross Examination:				
<b>Prosecution/Plaintiff's Third Witness</b>				
Witness Performance — Direct Examination:				
Witness Performance — Cross Examination:				
Attorney — Direct Examination:				
Attorney — Cross Examination:				
<b>Column Subtotals:</b>				

(Continued on next page.)

## 2020-2021 VINCENT J. APRUZZESE MOCK TRIAL COMPETITION

### Score Sheet

Prosecution/Plaintiff: \_\_\_\_\_ Defendant: \_\_\_\_\_  
(Team Code) (Team Code)

**Date:** \_\_\_\_\_ **Competition Level:** \_\_\_\_\_ **Round:** \_\_\_\_\_

On a scale of **5 to 10** rate the Prosecution/Plaintiff and Defendant in the categories below.

**DO NOT USE FRACTIONS.**

	PROSECUTION/PLAINTIFF		DEFENDANT	
	Name	Score	Name	Score
<b>Defense's First Witness</b>				
Witness Performance — Direct Examination:				
Witness Performance — Cross Examination:				
Attorney — Direct Examination:				
Attorney — Cross Examination:				
<b>Defense's Second Witness</b>				
Witness Performance — Direct Examination:				
Witness Performance — Cross Examination:				
Attorney — Direct Examination:				
Attorney — Cross Examination:				
<b>Defense's Third Witness</b>				
Witness Performance — Direct Examination:				
Witness Performance — Cross Examination:				
Attorney — Direct Examination:				
Attorney — Cross Examination:				
<b>Closing Arguments</b>				
<b>Overall Team Performance*</b>				
<b>Column Subtotals:</b>				
<b>Subtotals from preceding page</b>				
<b>Column Totals</b>				

Please advise county or state coordinator of scores before critique.

Judge(s) Signature(s)

**\*This category MUST be graded with all the other categories, and can also be used as a tiebreaker.**

11

WINNER (P or D)

## NJSBF HIGH SCHOOL MOCK TRIAL POLICY REGARDING A COMBINED TEAM

The intent of the New Jersey State Bar Foundation (NJSBF) High School Mock Trial policy regarding a combined team is to encourage schools, which would otherwise be unable to compete because of an inability to field a full team, to request permission to combine their students with those of another school. In order to form a combined or cooperative mock trial team under the above circumstances, the boards of education or governing bodies of both schools must submit a joint request to the Mock Trial Committee of the New Jersey State Bar Foundation. Teams that combine without such permission will be disqualified.

The intent of the cooperative mock trial program is to afford greater opportunity to students to participate in mock trial only when the enrollment of their high school would not allow either the initiation of such a program or its continuance. Only schools that qualify under the specific enrollment requirements will be permitted to apply to form a combined team with any other equally qualified school. No cooperative mock trial team should be undertaken to enhance the competitive advantage of a member school or for the purpose of “venue shopping.”

The following guidelines were adopted by the New Jersey State Bar Foundation’s Mock Trial Committee and will be utilized to implement cooperative mock trial teams in order to afford the opportunity for as many students as possible to participate in the NJSBF Vincent J. Apruzzese Mock Trial Competition. Factors considered in granting approval of a combined team include, but are not limited to, the following:

- The boards of education or governing bodies of both schools approve the request to form a combined team.
- The host school accepts the responsibilities and obligations that go along with that designation. The combined team will compete in the county in which the host school is located. (See #7 of application form regarding designation of the host school.)
- The total student population of each school involved is under 200 students per class year (800 for a 4-year high school and 600 for a 3-year high school).
- A pattern of declining enrollment in mock trial, i.e., insufficient number of team members in or from the previous year to field a team.
- The schools involved have made a good faith effort to recruit students for mock trial without success.
- The boards of education or governing bodies of both schools certify that they are not applying to form a combined team for the purpose of strengthening their current teams.
- The boards of education or governing bodies of both schools certify that, without a combined team, the schools involved would not be able to participate in the competition.

The Mock Trial Committee will review requests on a case-by-case basis and will advise applicants of its decision in writing. The application form follows on the next page.

The application must be approved by both boards of education or other governing bodies, signed by both school principals and submitted to the State Bar Foundation’s Mock Trial Committee with the approval of their County Mock Trial Coordinator(s). The application form will be reviewed by the Mock Trial Committee and its decision will be final. Schools must make an application **prior** to their enrollment in NJSBF’s Vincent J. Apruzzese Mock Trial Competition and, if approved, must enroll in mock trial as one single team and remain as a single team throughout the competition school year. Approval is only for the school year in which it is given.

# NJSBF VINCENT J. APRUZZESE MOCK TRIAL COMPETITION COMBINED TEAM APPLICATION

Combined Team Application for School Year: \_\_\_\_\_

## Cooperating Schools

### School #1 (Sponsoring/Host)

Address \_\_\_\_\_

Principal Name & Email \_\_\_\_\_

Enrollment \_\_\_\_\_

### School #2

Address \_\_\_\_\_

Principal Name & Email \_\_\_\_\_

Enrollment \_\_\_\_\_

Combined enrollment: (no. of pupils) \_\_\_\_\_

1. Mock trial is open to all students in both schools in grades 9 through 12. Both schools represent that they have made a good faith effort to recruit students for a mock trial team without success and that one or both schools has been unable to obtain enough student participation to field a team for the school year for which a cooperative team approval is sought. Both schools certify that they are not applying to form a combined team for the purpose of strengthening their current teams.

Please attach a sheet outlining the circumstances in both schools which have led to this cooperative team application specifically setting forth why, without a combined team, the schools involved would not be able to participate in the competition.

2. Approved (public schools): Both Boards of Education Yes\_\_\_\_\_ No\_\_\_\_\_ Date\_\_\_\_\_

3. Approved (non-public schools): Superintendent(s)/ School Governing Bodies Yes\_\_\_\_\_ No\_\_\_\_\_ Date\_\_\_\_\_

4. County Coordinator approval:

\_\_\_\_\_, Coordinator, \_\_\_\_\_ Approved: Yes\_\_\_\_\_ No\_\_\_\_\_ Date\_\_\_\_\_  
(signature) (County)

County Coordinator approval:

\_\_\_\_\_, Coordinator, \_\_\_\_\_ Approved: Yes\_\_\_\_\_ No\_\_\_\_\_ Date\_\_\_\_\_  
(signature) (County)



5. Public Schools Agreement: \_\_\_\_\_ agrees to act as the Sponsoring/Host school.  
(name of school)

Non-Public Schools Agreement: \_\_\_\_\_ agrees to act as the Sponsoring/ Host school.  
(name of school)

6. The participating schools shall agree on the legal, financial, staff and personnel responsibilities of each school, including but not limited to, such considerations as transportation, release time, rules, and supervisory services.

7. The Sponsoring/Host School for the combined mock trial team shall be the larger of the two schools based on enrollment of grades 9-12. The combined mock trial team shall function as any other extracurricular activity in that school and will compete in the NJSBF Mock Trial Program in the county in which the host school is located.

8. A participating school shall not withdraw from a Cooperative Program until the completion of the involved Mock Trial Competition season.

9. The Sponsoring/Host School will be considered the home site, and as such will be entitled to all county and state awards.

10. The student participants shall be subject to NJSBF's Vincent J. Apruzzese Mock Trial Competition eligibility rules as well as the eligibility rules of both schools; where rules are at variance, the more stringent rules will be in effect.

11. The decision of the NJSBF State Mock Trial Committee will be final, with NO appeals.

I hereby attest to the accuracy of all facts contained herein. I have also read and agree to abide by all qualifications set forth in the application.

\_\_\_\_\_, Principal \_\_\_\_\_, School #1

\_\_\_\_\_, Principal \_\_\_\_\_, School #2

This agreement shall terminate at the end of the school year for which cooperation is sought. Renewal must be accompanied by a new application.

New Jersey State Bar Foundation Approval: Yes\_\_\_ No\_\_\_

\_\_\_\_\_, Executive Director, NJSBF

\_\_\_\_\_, Chair, NJSBF Mock Trial Committee

**Please scan and email to Sheila Boro, Director of Mock Trial Programs, at [sboro@njsbf.org](mailto:sboro@njsbf.org).**

## PART XII

### ONLINE @HOME RULES ADDENDUM

#### **Online Rule 1.1. Photo/ Video Release**

By registering to compete in the New Jersey State Bar Foundation's Mock Trial Competition, each participant grants the New Jersey State Bar Foundation the right to photograph, record, or stream trials and use them for any mock trial related purpose, including educational or promotional materials. If a participant does not wish to be photographed or recorded, that teacher-coach must notify the County Mock Trial Coordinator, or State Mock Trial Director at advanced levels, in writing prior to the date of the first round of competition.

#### **Online Rule 1.2. Zoom Security Measures**

1. The Zoom waiting room feature and password will be used. A link to the Zoom "courtroom" will be emailed to participants prior to the tournament.
2. It is not permissible to share Zoom links with anyone that is not a competing team member, coach or observer. Do not post links on social media or other platforms.
3. Anyone who violates Zoom security will be automatically disqualified from the Mock Trial Competition.

#### **Online Rule 1.3. Naming Rules**

To be admitted from the waiting room to the main room and to trial rooms, each person must use the following renaming rules. Participants must have a valid team code and use their real name:

- **Competing team members:** Courtroom Number (P/D) First and Last name.  
Example: 3 (P) Frodo Baggins
- **Witnesses:** add "playing witness name"  
Example: 3 (P) Samwise Gamgee playing Luke Skywalker
- **Timekeeper:** Courtroom Number (P/D) TIMEKEEPER First and Last name  
Example: 4 (P) TIMEKEEPER Gandalf the Grey
- **Coaches:** Courtroom Number (P/D)- COACH First and Last name  
Example: 2 (D)- COACH Bilbo Baggins
- **Judges:** Courtroom Number JUDGE- First and Last name  
Example: 5 JUDGE- Hermoine Granger
- **Observer:** Courtroom Number (P/D)- OBSERVER First and Last name  
Example: 6 (D)- OBSERVER Bell Gamgee

#### **Online Rule 1.4. Presentation in Zoom**

1. Background: No virtual backgrounds are allowed except for solid color black or white. It is the duty of the participants to remove distractions from the background.
2. One person per screen at a time. The naming rules need to be followed for each participant.
3. All participants will mute their audio and video when not performing. For example, when "Witness Mr. Defendant" is testifying, the only students who may be displayed or heard are those portraying, directing, and crossing the witness.
4. With the exception of the timekeeper, the Zoom chat is not to be used during the trial for communications, including the private chat feature. Team members are not allowed to communicate privately with one another or anyone else using other methods such as text (with phones on vibrate or silent), or a different chat platform. This is a violation of the Code of Conduct.
5. All cell phones need to be silenced or on vibrate. Participants need to take precautions to have a quiet background during their performance.

### **Online Rule 1.5. Trial Functions in Zoom**

- 1. Pretrial Check In:** While waiting for the trial to begin, all participants will have their camera on and mic off. When the judges are all present, they will ask the lead attorney if all competing team members are present. All judges will stay on camera with their mic muted. The judges will remain on camera and start the trial.
- 2. Pretrial Matters:** During team introductions, team members will have their camera and mic on. For pretrial matters, only the judges and presenting attorneys will have their camera and mic on; all other participants will have the camera off and mic muted.
- 3. Attorney:** Attorney participants will sit for scored functions (opening, closing, witness exams) and for other functions (introductions, housekeeping, objections).
- 4. Witness:** Witnesses will be seated for their examination.
- 5. Timekeeper:** The timekeeper will remain off camera and will use the chat for one-minute warnings.
- 6. Post Trial Comments:** All competing student participants and judges will have their camera on and mics muted unless speaking. At the end of the trial, if time permits, teacher- and/or attorney-coaches may stay logged on to confer with the judges. See R.2:7 and R.5:3-6 in the Mock Trial Workbook.

### **Online Rule 1.6. Location**

Teams may determine location needs as based on their individual team needs (internet accessibility) and school regulations. If any team members are meeting in the same building, they must use one screen per person at a time and individual students need to compete from individual rooms. Students must be far enough away in the building to avoid microphone feedback and sound quality/echo issues.

### **Online Rule 1.7. Use of Exhibits/ Affidavits in Online Format**

1. All participants must possess hard copies of all relevant materials, including exhibits and witness statements. When referenced, students must be able to access documents quickly.
2. Students need not show opposing counsel documents prior to the admission of those documents.
3. Exhibits will not be shared on the screen. It is sufficient to refer to the exhibits. See #1 above.
4. All students have access to all case documents. Judges will be instructed to penalize students who deny having exhibits or who attempt to manipulate time in locating a document.

### **Online Rule 1.8. Timekeeper**

- a. Each team is required to provide one student who will serve as the timekeeper for that team. Timekeepers are responsible for fairly and accurately keeping and reporting the time during the trial presentation. Timekeepers are not to communicate with their respective teams during the course of the trial presentation except to indicate a one-minute time warning using the chat.
- b. See R.2:9 regarding time limits in the Mock Trial Workbook.
- c. The timekeeper shall time their own team and will input the one-minute warning time in the Zoom chat for everyone to see.
- d. Timekeepers time is final and not disputable.

### **Online Rule 1.9. Trial Access**

Each team will be allowed up to 12 devices logged into Zoom per trial. Participants include competing team members, timekeeper, and coach(es). It will be at the team's discretion to use devices logged into Zoom for non-competing team members, coaching staff, and observers.

### **Online Rule 1.10. Technical Difficulties**

In the event of technical difficulties during the trial in a virtual competition, the presiding judges shall have discretion to declare a brief recess to resolve any technical difficulty substantially impairing a participant's participation in the trial. If the technical difficulty cannot be resolved within a reasonable,

but brief, amount of time, then the trial will continue with another member of the impacted team substituting for the impacted team member. The emergency substitute must be a member of the same team as the impacted participant.

Before making an emergency substitution, the impacted team must make the presiding judges aware, by stating words to the effect of, “Your honor, before I begin I would like to inform the court that I am [insert name] and I am substituting for [insert name], who is unable to compete due to technical difficulties.”

If no substitute is available, or the team chooses not to use a substitute, the judges will score a zero for the affected role(s) and the trial will proceed.

The presentation will be scored based on the performance by the initial team member and the emergency substitute, taken as a whole.

Once the presiding judges determine either at the request of the team or *sua sponte* that a student is unable to compete in a role due to technical difficulties, to minimize disruption, the impacted student is not permitted to return and compete in the role for which a substitution was made.

For purposes of this rule, technical difficulties include internet failure and computer, device or microphone failure; failure of a camera only does not permit emergency substitution under this rule. Students who lose internet connection shall rejoin the trial using a telephonic connection, if possible.

In the event of a loss of connection for a timekeeper, that team shall defer to its opponent’s timekeeper for that trial segment. The team whose timekeeper lost connection may substitute another timekeeper for the remaining trial segments. See Online R.1.8. regarding timekeeping.

In the event that a technical emergency prevents an entire team from completing in part or all of a round, the presiding judges shall declare a recess of up to 15 minutes, to allow that team to reconnect, either via video or by connecting on audio-only via telephone. If reconnection is impossible, a forfeit shall be declared in favor of the team that maintains its connection.

No student or team may feign technical difficulty or invoke the technical difficulty rule for purposes other than a genuine technical difficulty. Such an act may be subject to point deductions or other means up to and including disqualification from the competition.

### **Online Rule 1.11. Trial Recording in Zoom**

If a team would like to record a trial, follow these instructions:

#### **Before the trial**

- Get permission from the competing team’s coach to record the trial. Both teams must agree to recording.
- Prior to the trial’s start, the recording coach will need to visit the Main Room to obtain Zoom permission to record. The Mock Trial Coordinator will set this up.

#### **Trial Recording Procedures**

- At the beginning of the trial, the recording coach will hit the record button.
- When the round finishes, the video is processed by Zoom and saved on the recording coach’s personal computer.

**Sharing the Recordings**

- It is the responsibility of the recording coach to upload the trial on YouTube (unlisted setting) and share the link with the other team's coach. The recordings may be viewed by coaches only.
- However, the recordings are NOT to be replayed or viewed in any manner by anyone else until AFTER the state season concludes, and only in compliance with the Code of Conduct in the Mock Trial Workbook.

**Online Rule 1.12. Swearing in of Witnesses**

- All witnesses are deemed to be sworn.



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## CIVICS

**CIVICS PUBLICATIONS** for elementary, middle and high school students (see reverse for a complete list)

**BLOGS** containing timely posts on social justice and/or civics issues for grades 5 and up, including *The Informed Citizen*, our civics blog. All blog posts include discussion questions and relevant glossary words for ready-made lesson plans that can be distributed to students

**THE LEGAL EAGLE**, a newspaper for elementary, middle and high school students

**RESPECT**, a newsletter about law and diversity for middle and high school students

**SPEAKERS BUREAU** covering many law-related topics

## MOCK TRIAL

**LAW FAIR COMPETITION** and programs for grades 3–6

**LAW ADVENTURE COMPETITION** and programs for grades 7 and 8

**VINCENT J. APRUZZESE HIGH SCHOOL MOCK TRIAL COMPETITION**

**MOCK TRIAL WEBINARS** for elementary, middle and high school teachers

**COURTROOM ART CONTEST** for high school students

## SEL AND ANTI-BIAS TRAINING

**WHY WE BULLY** addresses Unconscious Bias, Talking About Race and Understanding HIB Characteristics

**THE ROLE OF THE SCHOOL CLIMATE TEAM** focuses on how to be proactive in creating a positive climate

**CONFLICT RESOLUTION** introduces methods to address normal conflict among students

**PEER MEDIATION** for educators who believe students have agency to solve their own conflicts

**SOCIAL EMOTIONAL CHARACTER DEVELOPMENT** offers social and emotional skills and habits for educators to incorporate into their learning environments

**HOW TO TEACH THE HOLOCAUST** for educators who want to know effective pedagogy to teach the Holocaust

**BREAKING BIAS: LESSONS FROM THE AMISTAD** focuses on African American history through the lens of racial oppression

**ONLINE AND VIRTUAL WORKSHOPS AND WEBINARS**, such as:

- *Resilience: Getting Through Stressful Times*
- *Motivation: Keeping it Up*
- *Being an Antiracist*
- *Self-Awareness: A Boost for Ourselves and Our Students*

The New Jersey State Bar Foundation is a New Jersey professional development provider.



# FREE NJSBF PUBLICATIONS

The following FREE publications are available in single copies and in bulk and may be obtained by visiting the New Jersey State Bar Foundation's website at [njsbf.org](http://njsbf.org) or calling 1-800-FREE LAW. Some publications are available in alternate formats, including Spanish, Braille and CD.

## SCHOOL-BASED PUBLICATIONS

*BILL OF RIGHTS BULLETIN* is a newsletter packed with articles on the Bill of Rights, as well as crossword puzzles, word searches, constitutional trivia, facts about our founding fathers and much more. This publication is geared to elementary and middle school students.

*BEYOND THE BILL OF RIGHTS* is a 24-page newsletter that explains the 17 amendments added to the U.S. Constitution after the Bill of Rights was ratified in 1791. This publication is geared toward middle and high school students.

*HIGH SCHOOL MOCK TRIAL WORKBOOK* contains the procedures, rules and mock trial case for the annual Vincent J. Apruzzese High School Mock Trial Competition. **ONLINE ONLY**

*MINI-COURT TEACHER'S GUIDE* provides two mock trial lesson plans and related classroom activities and resources. Designed to introduce age-appropriate legal concepts to children in kindergarten through second grade.

*MOCK TRIAL EXERCISE BOOKLETS* are available for grades three through six and for grades seven and eight. The booklets feature the winning Law Fair and Law Adventure original mock trial cases from previous competitions. **ONLINE ONLY**

*LAW FAIR AND LAW ADVENTURE COMPETITION BOOKLETS* provide rules and procedures for these mock trial contests for grades three to six and seven and eight respectively. **ONLINE ONLY**

*STUDENTS' RIGHTS HANDBOOK* was written by the American Civil Liberties Union of New Jersey and addresses the responsibilities and rights affecting students in school today. **ONLINE ONLY**

*HISTORICAL DOCUMENTS OF NEW JERSEY AND THE UNITED STATES* contains the Declaration of Independence, The Articles of Confederation, as well as the U.S. and New Jersey Constitutions. **ONLINE ONLY**

*WHAT YOU NEED TO KNOW ABOUT PLAGIARISM* discusses different forms of plagiarism including copying out of encyclopedias and cutting and pasting information directly from the Internet.

*CONSTITUTIONALLY NEW JERSEY* is a 12-page newsletter devoted to the New Jersey Constitution, and companion piece to the Bill of Rights Bulletin. **ONLINE ONLY**

*TURNING 18 IN NJ* covers issues relevant to becoming an adult, including establishing credit, being a good citizen and much more. **ONLINE ONLY**

## PUBLICATIONS FOR ADULTS

*AIDS AND THE LAW IN NEW JERSEY* (second edition) covers such topics as confidentiality, discrimination, insurance and referrals.

*CONSUMER'S GUIDE TO NEW JERSEY LAW* gives an overview of 24 areas of law, including wills, divorce, auto insurance and much more.

*DISABILITY LAW: A LEGAL PRIMER* (sixth edition) helps individuals with disabilities and their advocates understand their legal rights. Among the topics the booklet examines are Medicaid, guardianship, Social Security, workers' compensation, Medicare, special education and estate planning.

*DOMESTIC VIOLENCE: THE LAW AND YOU* (third edition) examines the Prevention of Domestic Violence Act and the legal process for obtaining temporary and permanent restraining orders. The publication includes a domestic violence checklist provided by the NJ Division on Women to assist victims in documenting their abuse.

*EDUCATIONAL GUIDE FOR TRIAL JURORS* (third edition) explains the important role of jurors within our judicial system and how lawsuits are tried. The guide was produced with assistance from the Administrative Office of the Courts.

*LAW POINTS FOR SENIOR CITIZENS* (third edition) is published in a question-and-answer format, and outlines several topics of interest to seniors, including Medicare, Social Security and guardianship.

*RESIDENTIAL CONSTRUCTION AND RENOVATION: A LEGAL GUIDE FOR NEW JERSEY HOMEOWNERS* helps homeowners navigate the laws surrounding home repair contracts and renovations. **ONLINE ONLY**

*STARTING AND SUCCEEDING WITH A NEW BUSINESS* examines everything an entrepreneur needs to know when starting a new business. **ONLINE ONLY**

*A BASIC GUIDE TO PERSONAL BANKRUPTCY* (second edition) explains the different types of personal bankruptcy options available and the advantages and disadvantages of each.

*YOUR GUIDE TO MUNICIPAL COURT* is a 12-page pamphlet that highlights your basic rights when appearing in municipal court.

*HOW TO BECOME A LAWYER* outlines the general requirements for becoming a lawyer in New Jersey. **ONLINE ONLY**



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