



NORTH CAROLINA  
BAR FOUNDATION

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# **North Carolina Middle School Mock Trial**

## **Suggested Rules for Competition**

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## The North Carolina Bar Foundation

The North Carolina Bar Foundation is a 501(c)(3) nonprofit that was reorganized in 2017 to better meet the needs of the citizens across North Carolina.

### **Our Mission**

Uniting the talent and generosity of our profession to be a power of greater good for the people of North Carolina.

### **Our Vision**

A vibrant North Carolina where legal services are available to all, regardless of ability to pay; where members of the legal profession provide community service and leadership that profoundly impacts the public, thereby demonstrating the value of our profession to society; and where all North Carolinians understand and have confidence in a legal system that serves them.

### **Our Values**

We value ***access to justice***. We believe access is an intrinsic part of justice and are committed to ensuring equal access for all by giving generously to, and using our civic influence on behalf of, organizations that provide pro bono legal services.

We value ***service***. We are passionate about opportunities to use our education and experience to be of service to our fellow North Carolinians, and we are proud of our flagship pro bono and public service projects that allow volunteer lawyers, paralegals and law students to strengthen and improve their communities all across our state.

We value ***education***. We embrace our role as educators and are enthusiastic about helping our fellow North Carolinians – both schoolchildren and adults – understand and have confidence in the rule of law and our justice system.

We value ***professionalism***. We take to heart our professional obligations as lawyers to make a difference. We actively cultivate a culture of service by investing in training lawyer leaders and use innovative approaches to bring North Carolina lawyers together to work alongside one another for the common good.

## **Our Team**

The NC Bar Foundation's Civic Education and Community Engagement Committee works to support the professional obligation of legal professionals to engage in civic education in order to share information with the public about the structure of government, democracy, and rule of law, as well as to share about the legal profession and what it means to be a lawyer.

The Civic Education and Community Engagement Committee helps provide direction and volunteer support for these NCBF programs:

- Lawyers as Guest Speakers
- Career Fairs
- Lawyers for Literacy
- Middle School Mock Trial

The Middle School Mock Trial Sub-Committee ("MSMTC"): assists with implementation of middle school mock trial as an educational program where middle school students can gain firsthand knowledge of civil/criminal law and courtroom procedures.

Additional resources can be found by going to: <https://www.ncbarfoundation.org/our-programs/lawyers-in-schools/>

Questions or requests for additional resources may be directed to: [foundation@ncbar.org](mailto:foundation@ncbar.org)

## **SUGGESTED RULES OF MIDDLE SCHOOL MOCK TRIAL COMPETITION**

### **A. PROGRAM ORGANIZATION AND ADMINISTRATION**

#### **Rule 1.1 Rules**

All trials will be governed by the organizer of the local event, these Rules of Competition, and the Rules of Evidence (Mock Trial Version). Students are not required to know the rule numbers that apply to each rule but should be able to find the rule(s) in the materials.

Interpretations of these rules are within the discretion of the Judge presiding over a particular trial, whose decision is final and not subject to any appeal.

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

The Rules of Competition, as well as proper rules of courthouse and courtroom conduct and security (when applicable), must be followed. The Organizer possesses discretion to discipline, up to and including disqualification from the competition.

Parents and visitors are welcome to attend/view the competition as guests but are not allowed to participate in the trial in any way, including asking about time, raising disputes, or arguing on behalf of the student(s). Coaches shall follow the same participation rules as guests during a competition. If the competition is being held in a courtroom, all coaches and guests shall be seated in the gallery and shall remain seated during the trial. If it is necessary to enter or exit the courtroom during trial, guests should do so during a transition, such as in between witnesses or after any argument.

If the competition is being held via Zoom, no coach or guest may be in the same room as any student, and coaches and guests may not appear on screen. Further, while a host may be able to address background noise in some instances by use of the “mute” function, because certain parties may have to remain unmuted in order to participate (e.g. opposing counsel for objections) it is the responsibility of all parties to participate in a space that is free of background noises and distractions.

**Rule 1.3 Inappropriate Behavior.** The Organizer possesses discretion to impose sanctions up to and including, but not limited to, deduction of points, the team’s immediate eviction from the competition, suspension from competing in future competitions, and/or forfeiture of all fees and awards (if applicable) for any misconduct, flagrant rule violation, or breaches of decorum that affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge, or the mock trial program.

## **Rule 1.4 Roles**

**Team Coaches.** Every team must have at least one officially designated adult team advisor/coach, who is responsible to provide adult supervision of the team, ensure that all deadlines for forms are met, and communicate clearly the Code of Conduct to all team members and observers. Team coaches may include teachers, staff, volunteer attorneys, volunteer paralegals, or other qualified persons. Because the purpose of mock trial is to instill respect for the legal system and its ideals of justice, equality, and truth, coaches are expected to champion these ideals above winning.

**Organizer.** Each competition should have an individual or committee responsible for coordinating the volunteers, teams, and other local staff as necessary for a competition. Care should be taken to select a neutral individual or a fair balance of committee members from the respective schools involved in that particular competition, and also to ensure that such individual or committee members are not already serving as team coaches, presiding judges, or jury members in the same competition.

**MSMTC.** The NCBA and MSMTC does not facilitate the role of Organizer, but can assist in locating one, and assist the Organizer with obtaining resources (such as volunteers or materials) and addressing questions regarding rules and the case materials. The MSMTC primarily assists in the annual production of case materials, appropriate revisions of the Competition Rules, and assisting, as needed, in the connection of new Team Coaches with Organizers or other Team Coaches that wish to compete.

## **Rule 1.5 Emergencies**

During a trial, the presiding judge shall have discretion to declare an emergency and adjourn the trial for a short period of time to address the emergency.

In the event of inclement weather, contact the Organizer. The Organizer is responsible for notification procedures.

## **Rule 1.6 Team Codes/Identities**

The students' schools, to the extent possible, are to be kept confidential from the scoring judges. To ensure this, there shall be no school names, logos, or colors on any items brought into the courtroom or visible on-screen during a Zoom trial. Teams should only identify themselves by their assigned team codes for the duration of the competition.

### **Rule 1.7 Media Coverage**

Media coverage is normally allowed. Media or other representatives may use various media to document the mock trial rounds as approved by the organizer. Media or other representatives authorized by the organizer will wear identification badges during any courtroom trial.

### **Rule 1.8 Competition Forum**

All competitions shall be held either in a courtroom, or via Zoom, at the discretion of the Organizer. Generally, all of these Rules of Competition apply in either setting, except as where otherwise indicated. For additional rules applicable in a courtroom setting, see Rule 1.7, below. For additional rules applicable in a Zoom competition, see Rule 1.8.

### **Rule 1.9 In-Person Competition Site**

The competition will take place at a mutually agreed upon courthouse, office, or meeting space that satisfies the logistical needs of the event and accommodates the number of teams participating. Unless otherwise agreed upon, organizer will assign individual teams to rooms within the facility provided that all logistical needs are accommodated in the interest of fairness to all sides.

**Rule 1.9.a** If a school/organization intends to bring two teams to the competition (See Rule 3.1), this must be disclosed to the organizer prior to any decision made regarding the venue.

**Rule 1.9.b** In the event that a competition contains an odd number of competitive teams, bye rounds are an opportunity to stagger lunchtimes so that all of the students have a chance to eat.

### **Rule 1.10 Virtual Competitions**

Increasingly, state and federal courts are conducting hearings and trials via Zoom, Skype, WebEx, or similar online platforms. The MSMTTC has chosen Zoom as the preferred platform for online competitions. The MSMTTC has access to the Zoom platform that can be made available to Organizers. For virtual competitions, the following additional rules apply:

**Rule 1.10.a** Each team shall be responsible for ensuring it has available a sufficient number of computers, webcams, external microphones, and other equipment necessary to participate in a Zoom competition. Additionally, each team shall be responsible for downloading Zoom onto its computers for use in the competition. Each team will receive Zoom links for each trial, and all participants must sign into their Zoom room at least 10 minutes before their trial is scheduled to start.

**Rule 1.10.b** Students may use the webcams on their computers and/or one additional webcam. Use of external microphones as well as audio headsets or earbuds is permitted. Team members may not use virtual backgrounds other than a blank white wall unless such background is provided by the Organizer for approved use to all teams in advance of the trial.

**Rule 1.10.c** In addition to the duties outlined in Rule 3.7, below, the bailiff for each team should be familiar with the Zoom platform. If a team member experiences a technology problem, they must notify their bailiff and the presiding judge immediately. The presiding judge will pause the proceedings until the issue is resolved. The bailiff for the prosecution/plaintiff should be assigned a separate Zoom room for the proceedings, as well.

### **Rule 1.11 Team Preparation Timeline**

The Organizer, or in some cases, Team Coaches that have identified one or more teams to compete against, but do not at the onset have an Organizer for the trial, should set an Event Timeline to ensure all teams competing against each other have the same amount of time for preparation and that no team is disadvantaged by misunderstanding regarding the format. The MSMTC has a publicly posted Suggested Event Timeline that provides guidance around the selection of a competition date, but the Organizer, or initial Team Coaches, need to choose the specific dates.

## **B. THE CASE MATERIALS AND RESTRICTIONS**

### **Rule 2.1 Competition Case**

The competition case will be a fictional fact pattern and will provide a mandatory three witnesses per side. All witnesses may be played by students of either gender. The competition case may also contain any or all of the following: case summary, legal documents, summaries of case law, stipulations, jury instructions, and/or exhibits.

### **Rule 2.2 Student Presentations**

Student presentations must be the work product of the students themselves, guided by team coaches.

### **Rule 2.3. Supplemental Material/ Costuming**

No illustrative aids of any kind may be used, unless provided in the case packet. No enlargements of the case materials will be permitted unless provided to all teams by the MSMTC. Absolutely no props or costumes are permitted unless authorized specifically in the case materials. Costuming is defined as hairstyles, clothing, accessories, and make-up that are case-specific. The use of spoken accents to add witness characterization is permitted.

### **Rule 2.4 Witness Bound Statements**



Each witness is *bound by the facts* contained in his/her own witness statement and any exhibits or other documents with which the witness is familiar (as noted in the witness's statement). Teams must not create new facts or deny facts in the case in order to gain an advantage (*see* Rule 2.5, "Improper Invention of Fact").

### **Rule 2.5 Improper Invention of Fact**

Under Rule 1.2, teams have an ethical obligation to uphold the highest standards of fair play, honesty, and integrity in their portrayal of the case and characters. While the exclusive trial remedy for dealing with violations of this rule (impeachment) is explained below, an improper invention is cheating regardless of whether an opponent is successful in demonstrating the violation, and as such, it violates the spirit of the competition as enumerated in Rule 1.2.

#### **Rule 2.5.a. Definition of Improper Invention of Fact**

"Improper Invention of Fact" can occur in two instances:

- i. Any instance (on direct, cross, re-direct, or re-cross examination) in which a witness introduces testimony that contradicts his or her affidavit; or
- ii. Any instance on direct or re-direct examination in which a witness testifies to material facts not included in his or her affidavit.

#### **Rule 2.5.b. Additional Definitions**

- i. "Material facts": affect the merits or outcome of the case. If a fact is one that could reasonably be expected to be included in a party's closing argument, it would be a "material" fact.
- ii. "Reasonable inference": a conclusion that a reasonable person would draw from any particular fact(s) contained in the affidavit or documents with which the witness is familiar.

### **Rule 2.6 Clarification Concerning Cross-Examination**

On cross-examination, a witness *must be responsive* to the question posed. A witness commits no violation on cross-examination when he or she testifies to material facts not included in his or her affidavit *as long as* the answer is responsive to the question posed. Attorneys who ask questions on cross-examination to which the witness's affidavit does not provide an answer risk receiving an unfavorable answer in trial. In such an instance, the crossing attorney may still attempt to challenge a witness's credibility by demonstrating an omission through use of the witness's affidavit.

### **Rule 2.7 Trial Remedy for Violations**

If the cross-examiner believes the witness has made an Improper Invention, the only available remedy in trial is to impeach the witness using the witness's affidavit. Impeachment may take the form of demonstrating either of the following:

- i. An inconsistency between the witness's affidavit and trial testimony ("impeachment by contradiction"); or
- ii. The introduction of material facts on direct or re-direct examination that are not stated in or reasonably inferred from the witness's affidavit ("impeachment by omission").

### **Rule 2.8 Judges' Scoring**

If a team demonstrates through impeachment that its opponent has made an Improper Invention, scoring judges **should** reflect that violation in their scores by penalizing the violating team, rewarding the impeaching team, or both.

## **C. TEAM COMPOSITION AND ROLES**

### **3.1 Team Eligibility**

Students who comprise a team must be from the same school. Schools **may enter a maximum of two teams in the** competition. At no time may any team for any reason substitute any other person for official team members unless notification is given.

Home school students may participate in competitions. The eligibility of home school students is at the discretion of the Organizer.

### **3.2 Score Sheet**

Each side/team will fill out scoring forms which identify the gender of each witness so that references to such parties will be made in the proper gender. Handwriting should be very clear for spelling purposes on certificates. For Zoom trials, a copy of the completed form should be emailed to the presiding judge, each scoring judge, and each team coach at least 3 days before the scheduled date for the trial. For courtroom competitions, the forms (at least three) should be brought and delivered to the appropriate persons in court, immediately before the trial begins.

### **3.3 School Information Sheet**

The lead team coach should submit a school information sheet with team specific information prior to the competition. The deadline for this submittal is on the Suggested Event Timeline . The school information sheet allows for a "current" listing of the team members, teachers, and team coaches so that the Organizer can prepare for the competition, including preparing certificates for each participant and team badges.

### **3.4 Accommodations for Students with Disabilities**

If special accommodations are needed for a student with a disability, the lead team coach must address this issue with the Organizer when registering for the competition or as soon as possible thereafter. The Organizer will work with the team coach, student, and the regional mock trial coordinator to make reasonable accommodations for the student to the extent fair for the participants, time constraints, and facilities. Documentation regarding a specific disability is required for special arrangements to be made. Confidentiality of information received shall be maintained except to the extent disclosure is necessary to make the appropriate accommodation.

### **3.5 Withdrawing from the Competition**

Teams should be notified by the Organizer of the date a team may withdraw without penalty. The procedure for withdrawal shall be established by the Organizer. *Withdrawal from a competition will usually result in extreme hardship to the other teams.*

### **3.6 Team Composition**

Teams must have a minimum of six members and a maximum of 16 members.

As a suggestion, and not a requirement, a team of 16 members and a team of 6 members would be divided as follows:

<b><u>Sixteen Members</u></b>	<b><u>Six Members</u></b>
3 prosecution/plaintiff witnesses	3 prosecution/plaintiff witnesses
3 defense witnesses	3 defense witnesses (played by same students who were the prosecution/plaintiff witnesses)
4 prosecution/plaintiff attorneys	2 prosecution/plaintiff attorneys
4 defense attorneys	2 defense attorneys (played by same students who were the prosecution/plaintiff attorneys)
1 bailiff	Bailiff and Timekeeper as one role
1 timekeeper	

Each team must present both the prosecution/plaintiff and the defense/defendant sides of the case. In any given round, teams must use a minimum of 6 students (2 attorneys, 3 witnesses, 1 bailiff/timekeeper) and a maximum of 16 (4 attorneys, 3 witnesses, 1 bailiff, and 1 timekeeper). Each team must have 2-4 attorneys per side. There must always be three witnesses per side.

Although every effort is made to prevent teams from the same school from competing directly against one another, occasionally two teams from the same school may be part of the same trial.

### 3.7 The Bailiff

When a team presents its prosecution/plaintiff side of the case, their bailiff will call the court to order and swear in all witnesses from both sides of the case at once, unless otherwise directed by the judge. The bailiff is responsible for asking for and stating the name of the judge prior to the start of trial.

### 3.8 Attorneys

Attorney team members are to evenly divide the eight attorney duties:

1. Opening Statement
2. Direct Examination of Witness #1
3. Direct Examination of Witness #2
4. Direct Examination of Witness #3
5. Cross Examination of Witness #1
6. Cross Examination of Witness #2
7. Cross Examination of Witness #3
8. Closing Argument (including rebuttal)

Below are suggested ways to evenly divide attorney duties. Note that the **opening statement and closing argument cannot be done by the same attorney:**

Four Attorneys: Two attorneys will conduct one direct and one cross examination. One attorney will do the opening statement and either a cross examination or a direct examination. The remaining attorney will do the closing statement and either a cross examination or a direct examination.

Three Attorneys: Each attorney will conduct one direct and one cross examination. In addition, one attorney will present the opening statement, and another will present the closing argument.

Two Attorneys: One attorney will present the opening statement and perform cross examination on two witnesses and direct examination on one witness. The other attorney will present the closing argument and perform two cross examination on one witness and direct examination on two witnesses.

### **3.9 Witnesses**

All witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any student may portray the role of any witness of either gender. All witnesses must be called. The witnesses may be called in any order. Teams that do not call all of their witnesses will automatically forfeit. Each witness must be cross-examined by the opposing side. Witnesses may not be recalled.

Cross examining attorneys cannot interrupt/cut off the witness if they are answering the questions asked with a reasonable explanation that goes beyond the simple yes or no that the questioning attorney is trying to illicit.

Each witness is bound by the facts contained in his/her witness statement/affidavit, the agreed to facts of the case (stipulations) and any exhibits (See Rule 2.4). A witness is not bound by facts contained in other witness statements.

Reasonable inferences may be allowed, provided the inferences are reasonably based on the witness statement. If, in direct examination, an attorney asks a question that calls for information not clearly stated in the witness statement, the question is subject to objection for the creation of material fact.

During the trial, **witnesses may NOT use notes** or read from any documents unless questioned or cross-examined about a witness statement or an exhibit.

### **3.10 Timekeeping**

Time limits are mandatory and will be enforced. Each team is required to provide one student who will serve as the official timekeeper for that team and will use timekeeping aids. The Organizer will provide time cards and timesheets via email and the teams must bring their own stop watches on competition day. The prosecution/plaintiff timekeeper will be the official timekeeper of the two timekeepers provided between the two teams. Timekeepers are responsible for fairly and accurately reporting and keeping the time during the trial.

Time keeping begins when the judge instructs the attorneys to begin. Time runs from the beginning of witness examination, opening statement, or closing argument until its conclusion. Introduction of counsel or witnesses prior to the opening statement shall not be included in the time allotted for opening statements. However, if counsel or witnesses are introduced once the opening statement has commenced, such time shall be included in the time allotted for the opening statement. Time only stops for objections, questioning from the judge, or the administration of the oath. Time does not stop for the introduction of exhibits or for attorneys to confer with co-counsel.

If a speaker runs out of time, the speaker may request for the presiding judge's permission to conclude his/her presentation, with the understanding that the scoring judges may penalize for using excessive time. If time has expired and an attorney continues without permission from the court, the scoring judges may discount points. However, if an attorney secures a time extension from the court before time expires, no penalty for a time overrun will be assessed against the team requesting the extension, so long as that team does not exceed the extension.

Timekeepers can only use the official time cards provided by the Organizer and no others. The timecards are provided in the following increments: 20:00, 15:00, 10:00, 5:00, 4:00, 3:00, 2:00, 1:00, 0:40, 0:20, and STOP. Timekeepers should display the applicable time cards simultaneously and silently, and modification of the intervals is not permitted unless the Organizer authorizes the use of "countdown" timers for Zoom competitions. Timekeepers may not verbalize or use any hand gestures other than raising the ones provided by the Organizer.

For Zoom competitions, each timekeeper will be signed into Zoom for displaying timecards, and they will be properly identified (e.g., "Timekeeper – Prosecution/Plaintiff" or "Timekeeper – Defense/Defendant"). The Organizer may, in its discretion, authorize the use of a "countdown" timer for each team to be displayed on the Zoom screen.

Time records will be submitted to the presiding judge at the end of each round. For "in court" competitions, each team will submit a paper copy of the Timesheet provided by the Organizer; for Zoom trials, each team will display a completed Timesheet for on-screen view unless the Organizer authorizes the submission of time records via another method (text, email, etc.).

At the end of each task during the trial (i.e., at the end of each opening statement), the timekeepers for each school/organization will compare time records. If the competition is being held via Zoom, each timekeeper will display his/her time records for on-screen view in the Timekeeper's Zoom room, unless the Organizer authorizes the submission of time records via another method (text, email, etc.). Whether the completion is being held in court or via Zoom, if there is more than a 15 second discrepancy between the timekeepers, the timekeepers must notify the presiding judge of the discrepancy who will make a ruling. Any discrepancies of less than 15 seconds will not be considered. No time disputes will be entertained after the trial concludes. The decisions of the presiding judge regarding the resolution of time disputes are final.

## **D. TRIAL PROCEDURES AND RULES**

### **4.1 Trial Communication**

Team coaches, teachers, alternates, and observers shall not talk to, signal, communicate with, or coach their teams during trial. This rule remains in force during any emergency recess that may occur. Except when a witness is testifying, team members may communicate among themselves during the trial within courtroom decorum, which for Zoom trials only, may include texts, online messaging, etc. However, in no case is disruptive communication allowed. Signaling of time by the teams' timekeepers shall not be considered a violation of this rule. Student attorneys are permitted to ask the judge for permission to inquire as to how much time is remaining.

### **4.2 Viewing a Trial**

If a tournament is organized (i.e. any format in which there are multiple rounds and where a team may compete more than once) team members, alternates, team coaches, teachers, parents, visitors, and any other persons directly associated with a specific mock trial team, except for those authorized by the Organizer are not allowed to view other teams' performances so long as their team remains in the tournament.

Each team may watch its own team, e.g., prosecution/plaintiff may watch defense. If anyone associated with a team goes into a courtroom or enters a Zoom session to watch a trial that does not involve their own team, then the offending team will be eliminated from the tournament. All such decisions will be within the discretion of the Organizer

### **4.3 Courtroom Setting**

The prosecution/plaintiff team shall be seated closest to the jury box. No team shall rearrange the courtroom without prior permission from the presiding judge.

### **4.4 Zoom Set-Up**

All attorneys, witnesses, and coaches must be in separate rooms during any round. During trial, no two team members may be in the same room as each other, or in a room with a coach or guest.

**Team members and coaches may be in the same building.**

#### **4.5 Scoring**

Each trial will be presided over by a judge, who will either be an actual judge, an attorney or a law student that has extensive mock trial experience.

Each round will be scored by a three member “jury” panel serving as the scoring judges that may consist of attorneys, law students, paralegal, or experienced high school mock trial teachers. Teams may address the scoring judges as members of the jury.

Presiding and scoring judges will be provided with copies of the mock trial manual prior to the competition.

#### **4.6 Agreed to Facts (Stipulations)**

Agreed upon facts (stipulations) of the case shall be considered part of the record and already admitted into evidence.

#### **4.7 Reading into the Record Not Permitted**

The complaint, answer, indictment, and the charge to the jury are not read into the record.

#### **4.6 Standing During Trial**

For “in court” trials, unless excused by the presiding judge, attorneys should stand while giving opening statements, closing arguments, and for all objections, but remain seated during cross and direct examinations. A good general rule is that an attorney should stand when addressing the judge or the jury directly but remain seated when examining a witness.

For Zoom trials, attorneys should remain seated during the trial.

Witnesses should remain seated while testifying.

#### **4.7 Use of Notes by Attorneys**

Attorney may use notes in their presentations although they are encouraged to rely as little as possible on notes. Attorneys may quietly consult with each other at counsel table orally or through the use of notes. Remember, scoring judges are judging the overall performance of the students and effective use of notes is considered when scoring.



#### **4.8 Creation of Material Fact**

Teams may not use the physical characteristics of a student playing a role in the case (such as gender, race, height, etc.) as part of the evidence in the case. To do so constitutes the creation of a material fact and is a violation of these rules. Example: “I saw a short female and this witness is a tall male.”

For mock trial purposes, a “material fact” is one that gives one side in the case a significant legal advantage. For example, in the trial of a person for underage drinking, the fact that the defendant is 30 years old is material, because it automatically establishes the defendant’s innocence. That the defendant is 30 years old would usually be immaterial in a case for breach of contract. In a murder trial, the fact that the defendant had taken out a large insurance policy on the life of the victim prior to the murder is material because it suggests a motive for the crime. The fact that the defendant graduated from Duke would usually be immaterial, but if the murder occurred in the parking lot of Duke’s football stadium after UNC beat Duke 45-0, the fact suggests motive and would be material.

When determining whether a fact is material, teams should use common sense. Ask whether the creation of the fact significantly helps either side’s case. If the answer is yes, then the fact is material.

If a team creates a material fact, it is best exposed and attacked through impeachment of witness and included in closing arguments as a way to discredit the opposing side. A team that deals with the creation of material facts by impeaching the witness will generally be considered by the scoring judges to be more sophisticated, accomplished, and experienced than a team that simply objects to “creation of material facts” without trying first to impeach the witness.

#### **4.9 Motions (Requests of the Court)**

No motions may be made except in the event of an extreme emergency, i.e., a health emergency or threat of danger, in which case a motion for a recess may be made. To the greatest extent possible, team members are to remain in place. Should a recess be called, teams are not to communicate with parents, visitors, coaches, or instructors regarding the trial.

If any substitutions are made, a pre-trial motion must be made UNLESS a participating team member becomes medically unable to proceed with trial.

#### **4.10 Sequestration**

Teams may not mention the rule of sequestration – having the scorers hidden from the public.

#### **4.11 Bench Conferences**

Teams will not be permitted to request bench conferences during a trial. However, if a presiding judge requests a bench conference, the teams should respect the judge’s instructions.

#### **4.12 Supplemental Material/Costuming**

Teams may only refer to materials included in the case materials. No illustrative aids of any kind may be used, unless provided in the case materials. No alteration of the exhibits is permitted, including, but not limited to, highlighting, enlarging, or laminating. Absolutely no props are permitted unless authorized specifically in the case materials.

For “in court” proceedings, you may make additional copies of the exhibits to hand out as needed. For Zoom hearings, copies of all proposed exhibits should be emailed to the presiding judge, the scoring judges, and team coaches at least 3 days before the date that the trial is scheduled.

For Zoom hearings, copies of all exhibits, having already been shared as a part of the case materials, need only be ready by the team intending to reference for sharing within the Zoom platform.

The use of blackboards, flip charts, books, and other physical items is not permitted. Likewise, costuming is NOT allowed.

#### **4.13 Trial Sequence and Time Limits**

The time limits should be used by all teams in preparing the cases for trial. Presiding and scoring judges will be notified of these limits and may use their discretion as to the enforcement of the limits:

Opening Statements	4 minutes, per team
Direct Examinations (optional re-directs, time permitting)	20 for all direct examinations, an average of 7 minutes per witness, per team
Cross Examinations (optional re-cross, time permitting)	15 minutes for all cross examinations, an average of 5 minutes per witness, per team
Closing Arguments	6 minutes, per team

When opening court, the bailiff should announce the name of the case and name of the presiding judge as soon as the jury is seated. The bailiff will say: *“All rise. The Court of General Sessions Fortieth Judicial Circuit is now in session. The Honorable Judge X is presiding.”*

The presiding judge will then ask the bailiff to swear in all witnesses from both sides of the case, all at one time. For Zoom trials, the presiding judge may require that each witness be sworn in separately.

#### **4.14 Opening Statements**

The presiding judge will call the case, introduce the teams, review the rules, and swear in the witnesses, then will recognize the prosecution/plaintiff and the defense attorneys for opening statements.

Opening statements must be given by both sides at the beginning of the trial with prosecution/plaintiff presenting their opening statement first. If the prosecution/plaintiff does not use all of his/her time in the opening statement, he/she may NOT request the remainder of the time to be used for a rebuttal.

No objections may be raised during or following opening statements. Opening statements are not evidence. If a team believes that opposing counsel raises an improper issue during the opening statement, it should be addressed during the presentation of the evidence or within the closing argument.

#### **4.15 Examination of the Witnesses: Objections**

Except during the opening statement (see Rule 5.6 herein) or closing argument (see Rule 5.11 herein), an attorney may object any time the opposing attorney has violated a rule of evidence. The attorney who wants to object should stand up and do so at the time of the violation, e.g. “objection, your Honor. The testimony/counsel is \_\_\_\_.” When an objection is made, the presiding judge will ask the reason for the objection. Then the presiding judge will ask the attorney conducting the examination and that attorney will have a chance to explain why the objection should not be accepted (“sustained”) by the presiding judge. The presiding judge will then decide whether a question or answer must be discarded because it was violated a rule of evidence (“objection sustained”) or whether to allow the question or answer to remain on the trial record (“objection overruled”).

Students are NOT scored based on the rulings of the presiding judge but rather on how they regroup based on the presiding judge’s ruling. Below are eight reasons for objecting under the mock trial rules of evidence: /For the State Finals you may use additional relevant objections-

Objection	
Argumentative Question	An attorney shall not ask argumentative questions.
Assuming Facts Not in Evidence	An attorney may not ask a question that assumes unproven facts; however, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by the evidence (sometimes called a “hypothetical question”).
Irrelevant Evidence	
Leading	
Hearsay	
Opinion	
Lack of Personal Knowledge	
Narrative	When a person goes on and on for no real reason -

**The attorney who conducts the direct examination of a witness is the only person who may make objections to the opposing attorney’s questions during that witness’ cross-examination. The attorney who cross-examines a witness is the only one permitted to object during the direct examination of that witness.**

#### **4.16 Examination of the Witnesses: Introducing Exhibits**

The case materials include a predetermined number of proposed exhibits that either team may use. Each side will be scored on its attempt to introduce evidence and the opposing side based on its objections. The teams must determine which witnesses (either on the team’s own direct examination or during the cross examination of the other team’s witnesses) are the best and/or proper witnesses to initiate the exhibits. Exhibits may not be duplicated, enlarged, or otherwise altered.

In the presiding judge’s discretion, he/she may make a ruling prior to the opening statements that all exhibits are deemed admitted. If the judge so makes such a ruling, then the attorneys may use any of the exhibits without first having them admitted into evidence (***but remember to always ask the presiding judge’s permission before approaching a witness!***).

If the presiding judge does not deem all exhibits admitted, then, as an example, the following steps will effectively introduce evidence (in-person trial):

1. Ask for permission to approach the witness: “Your Honor, may I approach the witness with what has been marked as Exhibit \_\_\_?”
2. Before approaching the witness, show the exhibit to opposing counsel.
3. Ask the witness to identify the exhibit: “Would you please identify this document?” The witness should answer to identify only.

4. Ask the witness a series of questions that are offered for proof of the admissibility of the exhibit. Such questions lay the foundation for admissibility, including the questions of relevance and materiality of the exhibit.
5. Offer the exhibit into evidence: “Your Honor, we offer Exhibit \_\_\_ into evidence.
6. Presiding Judge: “Is there an objection?” If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at that time.
7. Opposing counsel: “No, Your Honor” or “Yes, your Honor.” If the answer is “yes”, then the objection will be stated on the record. The presiding judge will ask if there is a response to the objection.
8. Presiding Judge “Exhibit \_\_\_ is/is not admitted.” If admitted, questions on the content of the exhibit may be asked.

#### **4.16b Special Process to Enter Exhibits Into Evidence During an Online Competition**

During a virtual competition:

All witnesses shall have all case materials available and in their possession during their testimony but may only refer to them when prompted by an examining attorney.

1. Attorneys will not physically approach witnesses. Instead, attorneys will identify the exhibit they wish to show the witness and request the Court’s permission for the witness to view it.
2. Attorneys will not be required to confirm that they have shown the exhibit to opposing counsel.
3. Instead of the language in Step 4, above, the attorney will say words to the effect of “I now show you what has been marked for identification as Exhibit No. . Would you identify it please?” Witness should answer to identify only.
4. When an exhibit – or, during impeachment or refreshment of recollection, some other document – is shown to a witness, a member of the examining attorney’s team can make that document available to all participants via “screen sharing” or similar technology. The member of the team responsible for posting the exhibit must be a team member competing in the round or the timekeeper for the round. If screen sharing isn’t preferred, a team can assume all parties have access to the exhibits in front of them.

5. Exhibits or other documents posted in this manner will be deemed not to have been shown to the jury unless they are admitted into evidence and formally published to the jury. Publication to the jury is at the presiding judge's discretion.

6. Teams may use technology to mark exhibits electronically only to the extent that marking physical exhibits would have been permitted by Rule 3.3. Any marked electronic exhibits may only be used as provided in Rule 3.3.

#### **4.17 Expert Witness**

To testify as an expert, a witness must be qualified by reason of knowledge, skill, experience, training, or education. It is adequate to show that the witness possesses some qualification and that the witness is able to apply that qualification to the issues in the case. Thus, minimal qualifications for an expert might be established as follows:

QUESTION: [Witness Name] could you please tell us something about your [education or other qualifications]?

ANSWER: Certainly, I have an undergraduate degree in [degree] from the [University Name] and [higher level degree] in [field] from [University Name].

QUESTION: What work have you done since receiving your [degree]?

ANSWER: I was a [job description and general history].

QUESTION: Do you have a specialty within the field of [field type – i.e. Economics]?

ANSWER: Yes, my specialty is [narrower field type – e.g. business valuation].

QUESTION: Has [business valuation] been your specialty at [prior work experiences]?

ANSWER: Yes.

QUESTION: What is the field of [business valuation]?

ANSWER: [Description of business]

QUESTION: Have you been able to familiarize yourself with [this case]?

ANSWER: Yes.

QUESTION: How are you familiar with [this case]?

ANSWER: [Describe.]

Then to the court you need to “tender” the witness as an expert in a specific field, i.e.:

“Your Honor, we tender [Expert Witness Name] as an expert in [specific field, i.e. business valuation].”

#### **4.18 Re-direct/Re-cross examinations**

Witness examination will consist of direct and cross examinations of each witness. Each team is allowed one re-direct and one re-cross examination per witness. These are not opportunities to bring up new issues and are limited to addressing and clarifying prior testimony given during direct and cross examinations. As stated in **Rule 4.4 Witnesses** - Cross examining attorneys cannot interrupt/cut off the witness if they are answering the questions asked with a reasonable explanation that goes beyond the simple yes or no that the questioning attorney is trying to illicit.

#### **4.19 Closing Arguments**

Closing arguments must be based on the actual evidence and testimony presented during the trial. If evidence was not presented during the trial, it cannot be used in the closing arguments. Attorneys delivering the closing arguments should take notes during trial to ensure that everything they say in their closing arguments was in fact entered into evidence.

Prosecution/Plaintiff may use time left over after their closing argument to present a rebuttal, following the Defense’s closing arguments. The attorney giving the Prosecution/Plaintiff closing must ask for permission to allot left over time to rebut the Defense’s closing argument **before they sit down**. They may ask for permission before they give their closing or when they are finished, but before sitting down.

No objections may be raised during closing arguments. If a team believes an objection would have been proper during the opposing team’s closing argument, one of its attorneys may, following the closing argument, stand to be recognized by the judge and may say, “If I had been permitted to object during closing arguments, I would have objected to the opposing team’s statement that \_\_\_\_.” The attorney who delivered the closing argument that is the subject of the “objection” may then stand, after being recognized by the presiding judge, and deliver a brief rebuttal limited solely to the scope of the “objection.” The presiding judge will not rule on this exchange, but the scoring judges will weigh the “objection” and rebuttal individually.

The “objection” should generally be used only to challenge a closing argument that is not based on evidence properly admitted at trial. Teams should not use this rule merely to challenge the strength

or logical force of their opponent's arguments. Scoring judges should consider such use of this rule improper and may, in their sole discretion, adjust scores accordingly.

**No attorney may do both the opening statement and closing argument.**

#### **4.20 Critique/Feedback**

The presiding judge is allowed five minutes for debriefing after the conclusion of the trial. Judges will not decide guilt or innocence. Judges may not inform the students of score sheet results.

### **E. JUDGING AND TEAM ADVANCEMENT**

**5.1 Finality of Decisions** - All decisions of the scoring judge panel are FINAL.

#### **5.2 Composition of Judging Panels**

The judging panel will consist of at least three individuals. The composition of the judging panel and the role of the presiding judge will be at the discretion of the Organizer, with the same format used throughout the competition:

1. One presiding judge and two scoring judges (all three of whom complete score sheets); or
2. One presiding judge and three scoring judges (scoring judges only complete score sheets).

Each presiding and scoring judge will have mock trial coaching or scoring experience or will be licensed attorneys, experienced Paralegals or Law Students. Each scoring panel will have at least one attorney.

Prior to the competition, each judge will receive a copy of these rules, a memorandum outlining the case, and orientation materials.

#### **5.3 Score sheets/Ballots**

The term "ballot" will refer to the decisions made by the scoring judge as to which scored the highest in a given round. The term "score sheet" is used in reference to the form on which the speaker and team points are recorded.

Scores will **NOT** be announced at the end of each round. However, tabulated score sheets should be mailed to the team coach by the Organizer after the competition and only after scores have been verified and rankings confirmed.



#### **5.4 Completion of Score sheets**

Each scoring judge records a number of points (1-10) for each presentation of the trial. A scoring matrix is found on each score sheet provided to the scoring judges. At the end of trial, each scoring judge totals the sum of each team's individual points, assesses an overall team performance score, places the sum in the columns total box, and circles the team ("P" or "D") that receives their votes for the best team of the round. This vote should coincide with the team that scored the highest number of points.

The scoring judges circle the letter "P" or "D" in case of a mathematical error. This also serves as a tiebreaker. In the event of mathematical error in tabulating the scores that, when corrected, results in a tie, the circled letter shall determine award of the ballot.

#### **5.5 Certificate and Awards**

Awards for best attorney and witness on each side by peers will be given out after each trial, unless by Zoom hearing in which case each team should mail the awards to the Team Coach of the opposite team. The Awards for best attorney and witness by the scoring judges will be given out at the end of the day or mailed to the appropriate team coach/student.

## Use of Features During Virtual Competition

	Student Attorney	Student Witness	Student Timekeeper	Judge	Juror	Room Liaison
<b>Video</b>	OFF until speaking role. ON for objections. <sup>1</sup>	OFF until speaking role	ON always	ON always	ON always	OFF always
<b>Microphone</b>	OFF until speaking role	OFF until speaking role	OFF until speaking role if any	ON always	OFF always	OFF always
<b>Virtual Background</b>	Option to select white background or Organizer approved	Option to select white background or Organizer approved	Option to select white background or Organizer approved	May use courtroom scene	Option to select white background or Organizer approved	Option to select white background or Organizer approved
<b>Recording privilege</b>	NONE	NONE	NONE	NONE	NONE	YES
<b>Re-name on Zoom</b>	Ex: Team A (region) Atty (P) – Jane Doe	Ex: Team A (region) W (P) – Jane Doe playing Lee Jones	Ex: Team A (region) Timekeeper (P) – Jane Doe	Ex: Judge (room #) Jane Doe	Ex: Juror (room #) Jane Doe	Ex: Courtroom Liaison (room #) Jane Doe
<b>*</b>						

<sup>1</sup> During the examination of a witness, the witness, direct exam attorney, and cross exam attorney shall have their videos ON during both the direct and cross examinations of the witness. This way the objecting attorney is already on video when raising an objection.

\*We REQUIRE that you re-name yourself on Zoom -- following the naming protocol listed above -- **BEFORE** joining the Zoom call on competition day. See instructions at the end of this book.

Following the naming protocol will allow you to move from the waiting room into the Zoom call on competition day without delay.

### **Virtual Regional Competition – How to Use Zoom Effectively**

Indirect light is recommended during any video conference to avoid washing out images with high luminance. Don't have light coming from behind you or you will appear in shadow. We suggest having light come from the side or front of you.

#### **SETTING THE SCENE ON ZOOM:**

Turn your camera on before competition to review what is in your shot. Choose carefully – nothing too busy or personal. Students are prohibited from having anything in their shot that would identify their school or team. If preferred, students can use a plain white or plain black virtual background; no other virtual backgrounds are allowed.

#### **COMMUNICATION:**

Students are allowed to communicate with co-counsel via phone texting; please keep your phone on silent. Coaches are not allowed to communicate with students at any point during competition.

#### **HOW TO RE-NAME YOURSELF BEFORE JOINING THE COMPETITION:**

We require that you re-name yourself on Zoom – by following the naming protocol listed in Rule 4.3 -- BEFORE joining the Zoom call on competition day. This will allow you to move from the waiting room into the Zoom call on competition day without delay; steps to follow:

Log into Zoom

Click the 'Profile' heading on left side of page. Click 'Edit' in the first section of your Profile.

Edit the First Name and Last Name field and click Save Changes.

If you need to adjust your name AFTER joining the Zoom room, click on the "Participants" button at the top of the Zoom window. Next, hover your mouse over your name in the "Participants" list on the right side of the Zoom window. Click on "More". Click on "Rename" Enter your new name and click "OK". See Rule 4.3 for naming protocol for competition.

## **HOW TO ENSURE YOUR ZOOM ACCOUNT HAS NO IMAGE/MASCOT SAVED**

Log into Zoom

Click the 'Profile' heading on left side of page. Click 'Edit' in the first section of your Profile. Delete any image that is included with your profile

## **HOW TO ASK FOR TECHNICAL HELP AFTER IN YOUR ZOOM BREAKOUT ROOM**

To request help from the meeting host when in a breakout room click the Ask for Help button at the bottom of the screen. When prompted, click 'invite host'. Or click "Leave" to return to the Main Room and speak to the Organizer.

**Emergencies during Virtual Competitions.** In the event of technical difficulties during the trial in a virtual competition, the presiding judge 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 judge 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." Teams shall advise the Organizer of any emergency substitution following the round of competition. 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 judge determines 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. If the technical difficulty is resolved, the impacted participant may return and participate in his or her other roles, if any. For purposes of this rule, a witness examination consisting of direct, cross, any re-direct and any re-cross is one role, so that a participant who requires an emergency substitution for a witness examination may not return and participate until the entire witness examination is completed.

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 qualified under Rule 4.7 for the remaining trial segments. The timekeepers shall confer consistent with Rule 4.7 regarding time remaining at the beginning of each trial segment.

Technical emergencies resulting from the loss of the connection of a presiding or scoring judge shall be handled in accordance with Rule 5.2.d.

**Expectations Regarding Internet Access & Devices Used at Competition.** At virtual competition, each participant will log into the virtual competition platform from a personal computer, tablet, cellular phone, or similar device with working webcam and audio, unless permission is granted by the

Board or its designee to do otherwise. At a minimum, each participating attorney, witness, and timekeeper shall utilize an individual device and with reliable internet connection during the time of their role. Each participant shall use a screen name formatted according to the protocol established and announced for the competition (Rule 4.3).

If following all state- and county-mandated guidelines regarding crowd size, a team may gather in the same geographic space during competition days, but should take into account the potential for 'feedback' if various computers are accessing Zoom in the same geographic area. Some distance between computers may be recommended; teams are required to test their set up before competition to ensure no feedback occurs.

Once the trial begins, only participants who are competing in a particular trial segment will have their camera turned on. All team members who are not actively participating in that trial segment must have their cameras turned off, except for timekeepers keeping on their cameras turned on to display remaining time consistent with Rule 4.7. For purposes of this rule, the witness, direct- examining attorney and cross-examining attorney must have their cameras turned on for the entire witness examination.

## Timekeeper/Bailiff Duties and Script

Both teams will provide a timekeeper for trial, so each team should bring and use 2 stopwatches or dual-event digital timer (recommended). The Prosecution/Plaintiff timekeeper will also serve as bailiff, calling court to order and swearing in the witnesses if the Presiding Judge does not do so.

### **To open Court, Bailiff will stand and say:**

~~“All rise. The U.S. District Court for the Mock District of \*\*Utopia is now in session. The Honorable Judge \_\_\_\_\_presiding.” All participants and observers remain standing until the judge is seated. Then say, “Be seated.”~~

### **Bailiff should swear in all witnesses at the judge’s request:**

Witnesses should be sworn in at the beginning of the trial. If the judge asks you to swear in the witnesses, have the witnesses turn on their Zoom videos and raise their right hands.

~~“Please stand and raise your right hand. Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?”~~

~~When they respond, “I do,” say, “You may return to your seats.” say, “You have been sworn in.”~~

### **Exhibits:**

All exhibits are pre-numbered, and should be left with the Presiding Judge after being entered/used.

### **Both timekeepers: Keep time and know timekeeping guidelines:**

You must each have 2 stopwatches or a dual-event digital timer to enforce time. Time does **not stop** for the introduction of physical evidence (exhibits). Time **does** stop for other interruptions in the presentation. Do not count time when witnesses are sworn in, witnesses walk to/from the stand, attorneys make objections, or the judge rules on objections.

Please print the provided

large time cards marked with “15”, “12”, “10”, “8”, “5”, “4”, “3”, “2”, “1”, “40 sec”, “20 sec”, “Stop.” Show these cards to the jury panel and to the judge at the appropriate times.

### **Bailiff only: Call Court recess for jury deliberation:**

When the judge has left the bench say, “Court is in recess.”

Time Keeping Sheet

**(you will receive this as separate sheet to fill and retain for your records)**

**Middle School Mock Trial  
Timekeeper Record Form**

**P**
**D**  

v.

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

	<b>Time Allotment</b>	<b>Prosecution/ Plaintiff Team Code [    ]</b>	<b>Defense Team Code [    ]</b>
<b>Opening Statements</b>	<b>4</b> Minutes Each Side		
<b>Direct Examinations</b>	<b>20</b> minutes Total Per Side		
	<b>Total Direct Examination Time</b>		
<b>Cross Examinations</b>	<b>15</b> minutes Total Per Side		
	<b>Total Direct Examination Time</b>		
<b>Closing Arguments</b>	<b>6</b> Minutes Each Side		
<b>Total Trial Time:</b>	<b>90</b> Minutes Total		

Timekeeper's Signature \_\_\_\_\_ Team Code \_\_\_\_\_

## TIMECARD GUIDELINES

### For **Direct** Examination

#### When your stopwatch says

#### Hold up the timecard that says

5:00	15:00
8:00	12:00
10:00	10:00
12:00	8:00
15:00	5:00
16:00	4:00
17:00	3:00
18:00	2:00
19:00	1:00
19:20	0:40
19:40	0:20
20:00	STOP

### For **Cross** Examination

#### When your stopwatch says

#### Hold up the timecard that says

3:00	15:00
6:00	12:00
8:00	10:00
10:00	8:00
13:00	5:00
14:00	4:00
15:00	3:00
16:00	2:00
17:00	1:00
17:20	0:40
17:40	0:20



18:00

STOP

For **Opening** Statements & **Closing** Arguments

**Opening**

**Closing**

**stopwatch**

**timecard**

**stopwatch**

**timecard**

1:00

3:00

1:00

4:00

2:00

2:00

2:00

3:00

3:00

1:00

3:00

2:00

3:20

0:40

4:00

1:00

3:40

0:20

4:20

0:40

4:00

STOP

4:40

0:20

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5:00

STOP