



NORTH CAROLINA  
BAR FOUNDATION

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## **2024-2025 Middle School Mock Trial Case**

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This case was adapted from the “State of California v. Adrian Vega” mock trial document created by the Constitutional Rights Foundation. Please note: “Statements of fact and opinions expressed are those of the participants individually and, unless expressly stated otherwise, do not reflect the views of the Constitutional Rights Foundation or its committees. The Constitutional Rights Foundation neither endorses nor approves, and assumes no responsibility for, the content, accuracy, or completeness of the information presented.”

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## **PROGRAM ORGANIZATION AND ADMINISTRATION**

### **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.

### **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.

### **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.

### **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.

### **Roles - 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.

### **Roles – 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.

### **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.

### **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. Teams should only identify themselves by their assigned team codes for the duration of the competition.

### **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.

Typically, the use of recording devices is not allowed in the courthouses and courtrooms. As such, rounds may not be videotaped, recorded or photographed.

### **Competition Forum - 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.

If a school/organization intends to bring two teams to the competition, this must be disclosed to the organizer prior to any decision made regarding the venue.

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.

## **TRIAL OVERVIEW**

- I. The presiding judge will ask each side if they are ready for trial.
  - a. Evidence will be marked for identification
  - b. All other preliminary matters will be addressed
  - c. Witnesses will be sworn in
  - d. No motions are allowed during trial
  
- II. Opening Statements
  - a. Maximum of four (4) minutes for each side
  - b. No objections allowed.
  - c. No rebuttals allowed.
  
- III. Prosecution puts on its case
  - a. Total of twenty (20) minutes for all Direct Examinations and Re-Direct Examinations
  - b. Must call all three (3) witnesses
  - c. Defense may Cross Examine all witnesses
  - d. Re-Direct and Re-Cross are permitted.
  - e. Total of fifteen (15) minutes for all Cross Examinations and Re-Cross Examinations
  
- IV. Defense puts on its case
  - a. Total of twenty (20) minutes for all Direct Examinations and Re-Direct Examinations
  - b. Must call all three (3) witnesses
  - c. Defense may Cross Examine all witnesses
  - d. Re-Direct and Re-Cross are permitted.
  - e. Total of fifteen (15) minutes for all Cross Examinations and Re-Cross Examinations
  
- V. Closing Statements
  - a. Maximum of six (6) minutes for each side
  - b. No objections allowed.
  - c. Prosecution is allowed a rebuttal with remaining time.
  
- VI. No jury instructions need to be read at the conclusion of the trial.

## **THE CASE MATERIALS AND RESTRICTIONS**

### **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.

### **Student Presentations**

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

### **Supplemental Material/ Costuming**

No illustrative aids of any kind may be used, unless provided in the case packet. Enlargements of the case materials will be permitted within the rules set forth. 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.

### **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 "Improper Invention of Fact").

### **Improper Invention of Fact**

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.

### **Definition of Improper Invention of Fact**

"Improper Invention of Fact" can occur in three 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; *or*
- iii. Any instance on cross examination or re-cross examination in which a witness attempts to deny material testimony that is in his or her affidavit.

### **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.

### **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 not attempt to challenge a witness’s credibility by demonstrating an omission through use of the witness’s affidavit.

### **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”).

### **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.



## **TEAM COMPOSITION AND ROLES**

### **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.

### **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. The forms (at least three) should be brought and delivered to the appropriate persons in court, immediately before each round begins.

### **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.

### **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.

### **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.

## **Team Composition**

Teams must have a minimum of six (6) members and a maximum of sixteen (16) members. Each team must present both the prosecution and the defense sides of the case. In any given round, teams must use a minimum of six (6) students (2 attorneys, 3 witnesses, 1 Bailiff / timekeeper) and a maximum of sixteen (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.

Teams who do not provide a bailiff or timekeeper shall be docked 5 points from each ballot.

## **The Bailiff**

When a team presents its Defense 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.

## **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)\*

\*The same attorney cannot do the Opening Statement and Closing Argument.

## **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, time permitting. 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. They may object to the court if the witness is non-responsive or the answer has become a narrative.

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. Unless stipulated, a witness cannot testify to the facts 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.

### **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 timecards and timesheets via email and the teams must bring their own stop watches on competition day. The prosecution 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 timecards 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 timecards 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.

Time records will be submitted to the presiding judge at the end of each round. For each round, each team will submit a paper copy of the Timesheet provided by the Organizer.

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. 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.

## **TRIAL PROCEDURES AND RULES**

### **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. Attorneys may not confer with other witnesses during trial. Attorneys may communicate among themselves, and with the Defendant if on Defense, during the trial within courtroom decorum. 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 between examinations.

### **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 may watch defense. If anyone associated with a team goes into a courtroom 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

### **Courtroom Setting**

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

### **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 "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.

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

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

admitted into evidence.

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

The fact situation, indictment, stipulations, and jury instructions are constructively considered part of the record and shall not be read aloud during trial.

### **Standing During Trial**

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.

Witnesses should remain seated while testifying.

### **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.

### **Use of Notes by Witnesses**

Witnesses may not use notes while testifying unless provided material (exhibit, sworn statement, etc.) by the questioning attorney during his/her examination. Use of notes during witness testimony shall result in a mandatory 5-point deduction per scoresheet.

### **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.

### **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.

### **Sequestration**

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

### **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.

### **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, 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. The use of blackboards, flip charts, books, and other physical items is not permitted.

### **Trial Sequence**

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 Fifth 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.

### **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 presenting their opening statement first. If the prosecution 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.

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

Except during the opening statement or closing argument, 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.

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.

### **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 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!). In this circumstance, foundation must still be laid prior to any witness testifying about an exhibit.

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.

## **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 describe 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].”

### **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. Re-Direct questions are subject to ‘asked and answered’ objections if the facts have already been elicited on Direct Examination. 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.

### **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 may use time left over after their closing argument to present a rebuttal, following the Defense’s closing arguments. The attorney giving the Prosecution 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.

1 **FACT SITUATION**

2 Hidden Valley is, for the most part, a calm and peaceful city. It boasts 90 acres of parks,  
3 sports fields, and trails - a much cherished relief from the urban congestion just 30 miles  
4 south. Its high school, Hidden Valley High, located on Skyline Drive, is renowned for its  
5 stellar swimming program.

6  
7 On the night of Friday, April 19, 2024, a large crowd congregated in front of the high school.  
8 The Hidden Valley Highlanders had claimed another victory, qualifying them for the State  
9 Championship. As the crowd celebrated the victory, a vintage 1961 Bueller GT left the  
10 school at approximately 10:30 p.m. and headed northbound on Skyline Drive. That night,  
11 shortly after 10:30p.m., Cameron Douglas was riding a bright turquoise bike from the  
12 northwest corner of Skyline and Grand toward the northeast corner of Skyline and Grand.  
13 The intersection is controlled by a two-way stop with stop signs facing north and south.

14  
15 As Cameron crossed the intersection of Skyline and Grand, an automobile struck Cameron  
16 with its left front bumper. Cameron was sent flying from the bike and landed several feet  
17 away in the street. Quinn Liu, who lives near the intersection of Skyline and Grand, saw  
18 the Bueller collide with Cameron's bicycle. Quinn ran inside to call 911. While waiting for an  
19 answer, Quinn wrote down part of the car's license plate number, SLC86.

20  
21 Officers Wright and Jackson arrived at the scene around 10:40 p.m. just as Cameron was  
22 loaded into an ambulance and then taken to a hospital. Cameron was treated at the  
23 hospital for several serious abrasions, a shattered right knee, a cracked collarbone, and a  
24 moderate concussion. At the scene, the officers began questioning witnesses. They  
25 described the vehicle and the driver's clothes and mentioned that there was a glow that  
26 appeared to emanate from a cell phone screen on the driver's side of the vehicle.

27  
28 Wright and Jackson questioned Dallas Decamp, who also witnessed the accident. Dallas  
29 confirmed Quinn's description of the vehicle. After the investigation at the scene concluded,  
30 a police dispatcher connected with a statewide computer system, searched all license  
31 plates with the information provided by Quinn. Of the two possible matches, only one was  
32 for a car registered in Hidden Valley. That car was registered to an address on Orion  
33 Boulevard to Oliver Vega, the mayor's spouse. Mayor Angelica Vega was an outspoken

1 politician and a supporter of FADD, Families Against Distracted Driving. The Vegas have  
2 only one child, named Adrian. Officers Wright and Jackson arrived at the Vega home at  
3 approximately 11:05 p.m. and found a black 1961 Bueller parked in the driveway with one  
4 of its tires over the front lawn. Wright verified that the license plate matched the partial  
5 plate provided by Quinn and felt the hood of the car, which was warm even though the air was  
6 cold. Wright noticed a couple of scrapes of turquoise paint on the driver's side of the front  
7 bumper.

8  
9 The officers approached the house, rang the doorbell, and knocked, but there was no answer.  
10 After a couple of minutes of ringing and knocking, Toni De Luca emerged from the side of the  
11 house wearing a light blue Hidden Valley Swim Team T-shirt. Wright and Jackson spoke to  
12 Toni about the accident. Toni explained that the mayor's child, Adrian, drove them both home  
13 from a swim meet earlier that night and may have hit something. After questioning Toni, the  
14 officers allowed Toni to go back to the guest house. Jackson resumed investigating the outside  
15 of the Bueller while Wright walked back to the police car to radio for a tow truck. It was  
16 approximately 11:25 p.m.

17  
18 Wright then noticed a figure walking toward the Vega home. It was Adrian, wearing a white T-  
19 shirt and a cardinal and gold cap. Adrian confirmed living in the Vega home and stated that the  
20 Bueller belonged to Adrian's father.

21  
22 Wright asked if Adrian wanted to talk about events from that evening. Adrian told Wright that  
23 Adrian had competed successfully in a swim meet that night at Hidden Valley High. Adrian also  
24 told Wright that a foreign exchange student named Toni drove both of them home in the  
25 Bueller and may have hit something. Shortly thereafter, Adrian made Toni stop the car, and the  
26 two switched places for the remainder of the ride to Adrian's house.

27  
28 After a few minutes of talking to Wright, Adrian was shivering in the cold air and said, "Don't  
29 you think it's cold out here?" Wright offered to let Adrian sit in the back seat of the patrol car  
30 and gestured to the open rear door. Officer Wright's patrol car was a cage car. Adrian sat on  
31 the edge of the rear bench seat, but Adrian's feet were outside on the ground. Wright stood by  
32 the open door, a few feet away. Officer Jackson stood in the yard, about 15 feet behind Officer  
33 Wright. Officer Jackson is a former college wrestler and shot putter standing 6 foot 5 inches tall

1 and weighing 250 pounds.

2  
3 Wright and Adrian exchanged pleasantries about swimming and Adrian's future. Wright then  
4 closed the rear door of the car and entered the driver's seat. The patrol car's back doors  
5 cannot be opened from the inside when shut. Wright asked Adrian to continue talking about  
6 what happened that night. Wright again asked what Adrian had done earlier that evening.  
7 Adrian repeated what Adrian had said before getting into the back seat of the car. By the time  
8 they finished their conversation, Adrian had been in the car for about half an hour. Officer  
9 Wright then said, "Well, we think that it's possible that you drove the car that struck the bicyclist  
10 on Skyline and Grand tonight." Adrian blurted: "It was a bicyclist?! I am so sorry. I - I could  
11 never forgive myself!"

12  
13 Wright believed that Adrian had been driving the Bueller that struck Cameron. Wright arrested  
14 Adrian for violation of G.S. 20-166 - Felony Hit and Run. At that point Wright recited *Miranda*  
15 warnings to Adrian. Adrian was taken to the police station and booked at approximately  
16 12:15a.m. on Saturday, April 20, 2024. After being there for an hour, Adrian called Taylor  
17 Berard, Adrian's high school swim coach, and asked for help to bail out of jail. The Bueller was  
18 taken to the police impound lot. As required by the Hidden Valley Police Department's  
19 inventory policy, the police conducted an inventory search of the vehicle. Among the things  
20 found in the car were a business card of the University of Los Angeles swimming scout under  
21 the driver's seat and Adrian's cell phone in the center console. No data was able to be  
22 recovered from the phone.

**CHARGING DOCUMENT**

In the name of and by the authority of the State of New Justice:

Megan T. Stallion, State Attorney for the Fifth Judicial Circuit of the State of New Justice, charges that in Hidden Valley County, New Justice, the Defendant, Adrian Vega, committed the following crimes.

**COUNT 1**

On or about April 19, 2024, Adrian Vega was, while driving a vehicle, involved in an automobile accident that caused the permanent, serious injury of Cameron Douglas. While the Defendant knew, or should have reasonably known, an accident had occurred where someone could have been injured, the Defendant willfully failed to immediately stop the vehicle, provide assistance to Cameron Douglas, or provide identifying information to law enforcement, all in violation New Justice G.S. 20-166 - Felony Hit and Run.

*Chance T. Rapper*

Chance T. Rapper  
Assistant State Attorney  
STATE OF NEW JUSTICE  
HIDDEN VALLEY COUNTY  
WILLIAM R. CYRUS, STATE ATTORNEY  
FIFTH JUDICIAL CIRCUIT

## **WITNESS LIST**

### **Prosecution**

1. Officer Kelly Wright
2. Toni De Luca
3. Cameron Douglas

### **Defense**

1. Adrian Vega
2. Aubrey Fox
3. Dallas Decamp

- Each team must call all three witnesses for their respective side.
- Witnesses may be called in any order as determined by each side.
- Witnesses may not be recalled.
- Witnesses are not gender specific and may be asked to self-identify gender.

## **PHYSICAL EVIDENCE**

Only the following physical evidence may be introduced at trial.

A. A diagram of the accident scene.

- Prosecution is responsible for providing exhibits for trial.
- Exhibits may not be highlighted, enhanced, or altered.
- All reproductions should be no larger than 22" x 28".
- Physical evidence may not be published to the jury until proper foundation has been laid and it is admitted.



## STIPULATIONS

Stipulations shall be considered part of the record prior to trial. Prosecution and Defense stipulate to the following:

1. Middle School Mock Trial Rules of Evidence and Procedure apply.
2. All witness statements were taken in a timely manner and were given under oath.
3. All charging documents were signed by proper parties with proper jurisdiction and venue.
4. When Adrian Vega was in the back of the police car being questioned by Officer Wright, Adrian Vega was not in custody and did not require *Miranda* warnings prior to the statements being made.
5. At the time of the arrest, there was sufficient probable cause to arrest Adrian Vega.
6. All physical evidence and witnesses not provided for in the case are unavailable and their availability may not be questioned.
7. Beyond what is provided in the witness statements, there was no other forensic evidence found in this case.
8. Due to a technical glitch, no messages or numbers could be retrieved from Adrian Vega's phone or the phones of Adrian's parents and friends.
9. As a result of the accident, Cameron Douglas' right knee is permanently damaged.
10. Exhibit A – Diagram of the Accident Scene is a fair and accurate representation of the scene at the time of the accident as depicted by Officer Wright.

1 **WITNESS STATEMENT - Prosecution Witness: Officer Kelly Wright**

2 My name is Kelly Wright. I am 37 years old and am a parent of two young children. I currently  
3 live in Hidden Valley and have served on the Hidden Valley Police Department for 12 years. I  
4 have extensive experience in investigating traffic collisions and hit-and-run incidents.

5  
6 On the night of Friday, April 19, 2024, I was on patrol with my partner, Officer Phoenix  
7 Jackson, and we responded to the intersection of Skyline and Grand on a traffic incident call.  
8 When we arrived at about 10:40 p.m., the victim, Cameron Douglas, was being loaded into an  
9 ambulance for transport to a hospital.

10  
11 At the scene, Officer Jackson and I questioned a witness named Quinn Liu, who described  
12 seeing a hit-and-run incident. Liu had told us a black vehicle heading north on Skyline Drive  
13 ran the stop sign at Skyline and Grand and struck a bicyclist. Although Liu was not able to  
14 identify the person driving the vehicle, we were told that there was the glow of a cell phone  
15 screen on the driver's side and that the driver was wearing a white T-shirt and cardinal and  
16 gold baseball cap. Liu also gave us a partial license plate number, SLC86.

17  
18 We interviewed another witness at the scene named Dallas Decamp. Decamp confirmed that  
19 the vehicle was a vintage black Bueller and also mentioned that the victim had white "earbud"  
20 headphones and was looking down when struck by the vehicle.

21  
22 Jackson radioed the partial plate information to dispatch for a search. Only one vehicle  
23 matching the partial plate belonged to a car registered in Hidden Valley. I immediately  
24 recognized the owner's name, Oliver Vega, the husband of the mayor, Angelica Vega.

25  
26 We drove to the mayor's house to look for the suspect vehicle. It was about 11:05 p.m. When  
27 we got there, we saw a black vintage Bueller parked in the driveway, but at an angle with one  
28 tire on the lawn. Because it was such a cold night, Jackson left the police cruiser engine  
29 running to operate the heater. We then checked the license plate on the vehicle: It was  
30 SLC8693 and it matched the partial Liu gave us. The hood was warm, which indicated that it  
31 had recently been driven. I spotted scratches of turquoise-colored paint on the Bueller's left  
32 front bumper. It appeared from the lack of dirt on the scratches of turquoise, compared to the  
33 dirt on the rest of the bumper, that the turquoise scratches were recent.

1  
2 The porch light was on, and we knocked on the door twice, but there was no answer. We then  
3 heard a noise and saw a teenager come out from the side of the house. The teenager was  
4 Toni De Luca. Toni explained to me that Toni was a foreign exchange student from Italy who  
5 lived in the mayor's guest house behind the main house. Toni was wearing a light blue Hidden  
6 Valley T-shirt. I asked about the car and about the accident. Toni said that the mayor's child,  
7 Adrian, drove them both home from the swim meet earlier that night. Furthermore, Toni said  
8 that Adrian was driving and may have struck something when they were on Skyline, on the  
9 way home. Toni was not exactly sure where on Skyline it occurred.

10  
11 After speaking with us, Toni went back to the guest house. I saw Jackson inspect the outside  
12 of the Bueller again while I went to the patrol car to call a tow truck. I opened the passenger-  
13 side rear door to the police car, obtained some paperwork that was in the backseat, and sat in  
14 the front seat to make the call on the police radio. The back door remained open as I made  
15 the call. When I finished, I looked up at the rearview mirror and saw someone walking toward  
16 us along the side of the road. That person was wearing a white T-shirt and cardinal and gold  
17 baseball cap, matching Liu's description of the suspect driver. It stood out in my mind as  
18 unusual that someone would be walking alone so late at night, especially in just a t-shirt and  
19 without a jacket.

20  
21 I signaled to Jackson that I would talk to this person, and Jackson remained in the front yard  
22 by the Bueller. I called out to the approaching figure and asked, "Are you all right?" The  
23 person said, "I live here" and gestured toward the house. I asked for a name, and the person  
24 told me "Adrian Vega." I asked if the car belonged to Adrian, and Adrian responded that the  
25 Bueller belonged to Oliver Vega, Adrian's father. Adrian had just come back from a walk and  
26 had lost Adrian's keys. I mentioned I was investigating an accident from earlier that night.

27  
28 I asked Adrian what Adrian had done earlier that evening. Adrian told me that Adrian had just  
29 come home from competing in a swimming meet at the high school. Adrian explained that  
30 Toni drove both of them home from the meet. Then, Adrian told me that Toni was apparently  
31 upset and grabbed Adrian's hat and phone during the drive home. The two started bickering  
32 when Adrian tried to get the hat and phone back. Suddenly, Adrian felt a bump and feared  
33 they had hit something. Toni said that they didn't hit anything, and Adrian made Toni pull over.

1 Adrian was not sure of the exact location but it was somewhere on Skyline after Grand. Then,  
2 Adrian drove the rest of the way back home.

3  
4 Adrian shivered and complained about the cold. I offered that Adrian could sit in the patrol car,  
5 since there was apparently no way to get into the house or, for that matter, the Bueller. I  
6 pointed to the rear seat of the patrol car rather than the front, because it is against policy to  
7 have anyone but officers in the front seat in non-emergency situations.

8  
9 At that point, Adrian and I discussed Adrian's swimming and Olympic aspirations. I was a big  
10 fan of the Hidden Valley's team and knew that Adrian was the star swimmer. I congratulated  
11 Adrian on the win.

12  
13 After talking for a few minutes, I said, "It really is cold out here." I closed the back door. I  
14 moved to the front of the car and sat inside the driver's seat. I again asked Adrian what Adrian  
15 had done earlier that evening. Adrian repeated the same story that Adrian stated earlier.

16  
17 As our conversation continued, Adrian began answering questions with nothing more than  
18 quick shrugs of the shoulders. Adrian told me that Adrian was tired. I told Adrian that we  
19 thought that Adrian drove the car that struck the bicyclist on Skyline and Grand. Adrian said,  
20 "It was a bicyclist?! I am so sorry. I could never forgive myself!"

21  
22 I arrested Adrian. As I did so, the tow truck arrived. Jackson handled the impound of the  
23 Bueller. We transported Adrian to the station for booking. Later, during our inventory search  
24 of the car, I found a business card of a swimming scout from the University of Los Angeles  
25 under the driver's seat and a cell phone in the center console. I later learned the cell phone  
26 belonged to Adrian Vega. Due to a technical glitch, no messages or numbers could be  
27 retrieved from the phone. The Bueller was dusted for prints, but none of them were usable.

28  
29 The day after the arrest I was able to interview the victim, Cameron Douglas, at the hospital.  
30 Cameron stated that Cameron thought the driver of the vehicle was Adrian Vega and identified  
31 the car as a black Bueller. Cameron claimed to be able to identify Adrian after previously  
32 seeing Adrian speeding and driving recklessly through the city on numerous occasions prior to  
33 the accident. When I asked about any other interactions with the Vega family, Cameron

1 mentioned advocating for bikers' rights and been working with the previous mayor to provide  
2 more bike lanes and safety features for cyclists in the area. Cameron claimed that Adrian  
3 Vega's mother, the new mayor, once elected, stopped the plans to provide more bike lanes in  
4 Hidden Valley. Cameron blamed the mayor for car accidents involving bicycles nearly  
5 doubling since the mayor took office in 2020. Cameron claimed to have filed several petitions  
6 with hundreds of signatures without any response from the mayor.

7  
8 From my conversations with eyewitnesses and my own observations of the accident scene, I  
9 generated a diagram to recreate the accident scene at the time of the accident, as depicted in  
10 Exhibit A.

11  
12 A few days after the arrest, one of Adrian's friends, Aubrey Fox, came forward with information  
13 about Adrian. Aubrey was nearly positive that before Adrian and Toni left school, Toni was  
14 standing by the closed door on the driver's side of the Bueller.

1 **WITNESS STATEMENT - Prosecution Witness: Toni De Luca**

2 My name is Toni De Luca and I am 18 years old. I am originally from Treviso, Italy. I have  
3 studied the English language since I was a child. I came to the United States as a foreign  
4 exchange student in July of 2023. I came here because it's always been my dream to swim  
5 competitively for a university in America. My dream school is the University of Los Angeles.  
6 Its swim team is ranked number one in the country. My main goal is to one day compete in the  
7 Olympics for Italy.

8  
9 Swimming is a passion of mine, and I really feel I can be more successful here than back  
10 home. My parents have many contacts in the United States and made arrangements for me to  
11 live with the Vega family. The Vega family was generous to allow me to live in its guest house  
12 since July of last year. I would do anything to reach my goal, but I would never jeopardize my  
13 chances of going to school; I want to make my family proud of me.

14  
15 I came to Hidden Valley High School because of its swimming program. I soon became one of  
16 the fastest swimmers on the team. The coach has always been impressed with me.

17  
18 Adrian is one of my teammates and is the only child of the Vega family. We're friends - we go  
19 to school and swim in our free time together. We both want to swim on the team at the  
20 University of Los Angeles.

21  
22 The night that we won the State Championship qualifying meet, Adrian had the opportunity to  
23 speak with one of the scouts from the University of Los Angeles. Adrian began to act as if no  
24 one else on the team had any talent. It was insulting, but I put up with it the best that I could  
25 for as long as I could. I want to say I was happy for Adrian, but it's hard because I've been  
26 working just as hard all year to get the attention of that scout. I guess Adrian is the star and,  
27 after all, the child of the mayor. It's so unfair.

28  
29 Adrian was proud and extremely boastful to others at the gathering in front of the high school. I  
30 heard Adrian talking a lot about meeting the University of Los Angeles scout. I told Adrian that  
31 we had to go home because I had to get some sleep before volunteering at the hospital the  
32 next morning. As soon as we got in the car, Adrian could not stop texting while driving the  
33 Bueller, most likely bragging to everyone Adrian knew. I thought Adrian was being reckless

1 because of all the sharp turns. I told Adrian to stop texting, but Adrian just wouldn't stop.

2

3 Adrian kept talking swim times and getting an NIL (Name, Image and Likeness) deal. I couldn't  
4 stand listening to all of Adrian's self-centered comments and became annoyed. I wanted to

5 call my parents to tell them we had won the meet, but it was the middle of the night in Italy.

6 The only thing that could save me from all of Adrian's talking was to listen to music on my  
7 phone. I put my headphones on and closed my eyes to rest for a little bit.

8

9 All of a sudden, I felt a large bump and opened my eyes. I was worried, fearing that Adrian

10 had hit something. I couldn't tell if there was anything in front of us and asked Adrian what had  
11 happened. Adrian immediately told me that we didn't hit anything and continued driving home.

12 We both started arguing because I could have sworn we hit something, but Adrian told me that  
13 there were a lot of bumps on the road and that I was crazy for thinking that we struck

14 something.

15

16 By the time we got home, I was so sick of being around Adrian that I left to the guest house to

17 get some sleep. A little while later, I heard what sounded like a police radio in front of the

18 house and saw blue and red lights flashing in my window. I went outside to check it out.

19

20 When I saw the police outside, I told Officer Wright about all of the events from that night. I

21 guess Adrian wasn't around to talk them, but I had no idea why. I figured that Adrian had gone

22 to one of our teammate's parties down the street. Adrian is always hanging out with them.

23

24 After talking to Officer Wright, I told the officer I was very tired. Wright told me I could go back

25 inside if I wanted, but that Wright may need to talk to me again later. I went back inside and

26 fell fast asleep.

27

28 Just for the record, I was not driving the car the night of the accident. In fact, I have never

29 driven the Bueller. I do not have a driver's license to drive in the states, but I do have a valid

30 driver's license from Italy. I'm familiar with basic traffic laws and I even know how to drive a

31 stick shift. I have driven a couple of my friends' cars here in the U.S and I'm a very safe driver.

1 **WITNESS STATEMENT – Prosecution Witness: Cameron Douglas**

2 My name is Cameron Douglas, and I am 30 years old. For the past 12 years, I have competed  
3 worldwide in triathlons. I have lived in Hidden Valley for about 10 years. I own the only bike  
4 shop in town and have grown to know many of my customers. One is Aubrey Fox, a friend of  
5 Adrian Vega's from what Aubrey told me in the shop. I also am a member of the city's bike  
6 club, and I have read in the local paper that one of the members, Dallas DeCamp, is Adrian's  
7 swim coach.

8  
9 I remember everything from the night of the accident. I was on my bike that night after closing  
10 up the shop. I prefer to bike at night because of the cooler weather. Because some of the  
11 streetlights were out that night, I made sure I was wearing a working headlight. I was listening  
12 to my music and enjoying my ride. As I was halfway through the intersection of Skyline and  
13 Grand, I looked up and saw this car racing at me. It was terrifying, but there was nothing I  
14 could do to get out of the way. The whole event went by so quickly. I could only see the  
15 person in the car for a split second, but I'm pretty sure it was Adrian Vega. I know what Adrian  
16 looks like because I always see Adrian recklessly driving around the neighborhood in that  
17 same car.

18  
19 The car was a black Bueller, and I saw it speed away as I was lying on the ground. It never  
20 even stopped or even put on its brakes. One person came up to me for a second and left.  
21 Then, another person came and stayed by my side. I tried speaking, but I was in so much  
22 pain. I think I said at one point when I was on the ground that it was Adrian driving. When  
23 Officer Wright came to see me in the hospital after the accident, I told the officer I thought  
24 Adrian Vega was the driver of the car that hit me.

25  
26 I always see Adrian speeding and careening through sharp turns around the city in that car  
27 with no regard for pedestrians or bicyclists like myself. I actually don't think that this kid has  
28 ever been stopped by the police before, but I think that's because Angelica Vega is Adrian's  
29 mother. What's more is that the whole city adores Adrian for being the high school swim  
30 team's star. If you ask me, I think the special treatment should be put to an end.

31  
32 I never voted for Mayor Vega, you know. She has never implemented any legislation that  
33 provided bikers, like myself, with bike lanes throughout the city. For the past 10 years or so, I



1 have been an incredibly active advocate for bikers' rights. Before Mayor Vega was voted into  
2 office, I was working with the previous mayor to create a plan to make bike lanes throughout  
3 the city. I even worked long hours on that mayor's re-election campaign. I became extremely  
4 frustrated to see all that hard work go down the drain when Vega won the election and became  
5 mayor. The amount of car accidents involving bicyclists has nearly doubled since she took  
6 office in 2008, and Vega has yet to do anything about it. It seems as though biker safety is not  
7 a priority for her.

8

9 As a result of the accident, I suffered a shattered right knee, a cracked collarbone, many  
10 serious abrasions, and a moderate concussion. Although I might look all right, the doctors  
11 confirmed that I will never compete in triathlons anymore, as my right knee is permanently  
12 damaged.

1 **WITNESS STATEMENT - Defense Witness: Adrian Vega**

2 My name is Adrian Vega and I am 18 years old. I am a senior at Hidden Valley High. I am the  
3 Captain of the Hidden Valley Highlanders Swim Team. Swimming is my life. I practice hard  
4 every day and dream of getting a scholarship to compete at the university level. My dream  
5 school is the University of Los Angeles. Both of my parents went there, and both were  
6 swimmers, so I'm hoping to continue the tradition.

7  
8 On the night of April 19, the State Championship qualifying meet was hosted at Hidden Valley  
9 High. It was an even more important meet because everyone knew that a scout for the  
10 University of Los Angeles would be there. Everyone on the team was trying to get the scout's  
11 attention, especially Toni. You could say that we were competitive with each other. I think  
12 Toni's a great swimmer; I just think that I have more experience and skill. Regardless, it was  
13 obvious that we were both trying to shine throughout the meet to get that scout's attention.

14  
15 Our team won the most races that night. It was such an amazing feeling as I put on that white  
16 championship t-shirt. What made it even better was that the scout for the University of Los  
17 Angeles approached me after the meet and told me that I had solid talent. I was given a  
18 business card with the scout's personal line and a cardinal and gold baseball cap with the  
19 school's logo. I was ecstatic, but I couldn't say the same for Toni. Toni had been trying to get  
20 the attention of the scout for the entire season but unfortunately didn't.

21  
22 Toni and I left the meet together. Toni drove my car because I was just too excited to drive. I  
23 was in a good mood. I kept texting my parents and friends about my meeting with the scout.  
24 We only live about five miles from Hidden Valley High, off Skyline Drive, so I figured it was OK  
25 for Toni to drive the Bueller. The car is a vintage 1961 Bueller with a manual transmission.  
26 Unlike today's cars, there are no screens or displays that light up. Looking back, I feel stupid  
27 about letting Toni drive my car. My dad doesn't let anyone but me drive that car, and he gave  
28 me explicit instructions not to let anyone else drive it. It's a vintage model and worth a lot of  
29 money. It was a huge mistake on my part.

30  
31 I soon realized that Toni was driving too fast. I was worried because Skyline is a really twisty  
32 road. Toni was completely killing my good vibes. I figured that Toni must have been a little  
33 upset and just wanted to go home quickly or something. I tried to break the awkward silence

1 by talking about the meet and about how Toni may be able to speak with the scout in the  
2 future. All of a sudden, Toni snatched my hat and put it on, saying how I didn't look good in the  
3 school colors. I was annoyed. Toni kept talking about how I didn't even swim that well during  
4 the meet and didn't understand why the scout went up to me. I was not about to argue so I just  
5 kept texting, just trying to block all that negativity out. Then Toni grabbed my phone and  
6 started acting like Toni was taking selfies and texting, mocking me about how I'm so attached  
7 to my phone and how I don't listen to anyone. By this time, I was upset and tried to get it back.

8  
9 Before I knew it, I heard this loud crash in front of the car. It all happened so fast, I wasn't able  
10 to make out anything in front of the car. Also, the street seemed a little dark, like the street  
11 lights weren't all working or something. I asked Toni if we hit something, but Toni just said  
12 nothing.

13  
14 I demanded that we stop, but Toni just kept going. After about a minute, I finally made Toni  
15 stop somewhere on Skyline but north of Grand. We switched places, and I grabbed my hat  
16 back. I do not know exactly where we pulled over. When we got home, I parked the car hastily  
17 and might have parked it kind of crooked; I was in a hurry to get away from Toni. Toni just  
18 went straight to the guest house behind our main house, not saying a word to me. I looked at  
19 the scratches on the bumper of the car and started panicking because it looked like we did hit  
20 something. I didn't know what to do. My parents were gone for the weekend and left me in  
21 charge of everything. I knew they would be furious.

22  
23 I had to get myself together, so I took a quick walk to collect my thoughts. Somewhere along  
24 the street, I noticed my keys were missing. They must have fallen out of my pocket. I was  
25 trying to retrace my steps to find them. That's when I saw the police at my house.

26  
27 One of the officers, Officer Wright, told me they were investigating an accident from that  
28 evening. Wright started asking me questions about what I did that evening. I told the officer  
29 everything stated above about swimming in the meet, Toni's driving, our arguing, the loud  
30 crash, and then switching places before coming home. I told Wright about wanting to clear my  
31 head by taking a walk. I was tired and cold from the meet and my walk so all I wanted to do  
32 find my keys and go to sleep.

33

1 I complained about the cold night air, and the officer suggested that I sit in the back seat of the  
2 cruiser, so I did. I talked to the officer for a few minutes about swim team. I could see the front  
3 yard while sitting there in the backseat. I could see the other officer there, the only other one  
4 besides Officer Wright. He was huge! I would guess six foot four or five - and big, too, like a  
5 wrestler. I noticed that the officer kept staring at me, too, which made me so uncomfortable. I  
6 was scared. I remember thinking, I wouldn't want to get on that officer's bad side. I wondered  
7 if they were going to let me go home that night.

8  
9 While Officer Wright was asking me questions, suddenly, Wright shuts my door and gets in the  
10 car. I didn't know if the doors were locked or not, but it didn't matter, I felt like I was already in  
11 big trouble. This is where I started to get even more nervous. Wright started asking more  
12 about that night, and even though I was really tired, I explained what had happened again.  
13 When the officer told me that a bicyclist was hit, I felt horrible. I felt so awful that my car had  
14 been involved in an accident. I knew right then and there that if I had been driving, this would  
15 not have happened. I felt the need to say how sorry I was that someone did get injured, after  
16 all. I told the officer, "It was a bicyclist?! I am so sorry. I could never forgive myself!"

17  
18 Before I knew it, I was under arrest and in a cell at the station. I had to call my coach to bail  
19 me out. Do you know how embarrassing that is? I said it before, and I'll say it again: I didn't  
20 do anything wrong; Toni was driving.

1 **WITNESS STATEMENT - Defense Witness: Aubrey Fox**

2 My name is Aubrey Fox and I'm 18 years old. I go to Hidden Valley High School and I am a  
3 member of the swim team. I'll be attending the University of Notre Dame in the coming fall on  
4 a swimming scholarship. I've known Adrian since we were 5 years old. We've swum together  
5 for years.

6  
7 On the night of Friday, April 19, I was celebrating with the student body about our swim team's  
8 win at the State Championship qualifying meet. There were so many people everywhere and  
9 so much noise, too. There were streamers, loud music; it was chaos. You know, a lot of the  
10 residents in Hidden Valley complain about the rowdiness that occurs at these celebrations, and  
11 I don't really blame them. But we are usually harmless.

12  
13 I had been looking for Adrian and Toni because I invited both of them to my house to celebrate  
14 the win. I live a couple blocks down the street from the Vega's. I then saw Adrian and Toni by  
15 Adrian's father's car, a black Bueller. They were approximately 50 feet away. Adrian was  
16 standing near the front right bumper of the car and Toni was standing right next to the closed  
17 driver's side door. I noticed Toni was wearing our usual light blue swim team shirt, not the  
18 white ones we got for winning the championship. Toni had been pouting most of the night and  
19 still appeared to be rather upset. I'm guessing it was jealousy over the scout's talking to Adrian;  
20 it didn't look to me like Toni was in the mood to celebrate.

21  
22 It looked to me like Toni was going to drive Adrian's car home. I was taken by surprise that  
23 Adrian would let anyone else drive the Bueller. Adrian had told me that if anyone else drove it,  
24 then Mr. Vega, Adrian's father, would flip out. I was distracted by a friend for a few minutes  
25 and when I looked up again, Toni and Adrian were gone. I did not see either of them for the  
26 rest of the evening.

27  
28 Toni is a terrible driver, by the way. One day earlier this season, Toni drove one of our  
29 teammate's cars to a nearby school for a swim meet. Toni wanted to prove to everyone that  
30 driving in the United States was easier than driving in Italy. Four people, including Toni and  
31 myself, were in the car. We almost got into a serious car accident because Toni has a habit of  
32 running stop signs. The car had a manual transmission and Toni really had trouble shifting  
33 gears and was constantly over revving the engine. I will never get into a car with Toni driving

1 ever again. If I go anywhere with Toni, I make sure someone else like Adrian is driving.

2  
3 Adrian became the captain of the swim team not just for being the top swimmer, but also  
4 because of a reputation for honesty, good sportsmanship, and responsibility. I remember when  
5 we went to Westside High School for the tri-city swim meet in the fall. I was driving and  
6 without thinking, pulled out my phone when I got a notice of a text message. Immediately,  
7 Adrian got upset with me and told me to put my phone away. Adrian reminded me of the  
8 dangers of distracted driving. This is why I am shocked that Adrian is caught up in this  
9 situation where a bicyclist got injured.

10  
11 I bike frequently, and my parents always tell me to be careful of vehicles. I frequently go to the  
12 bike shop in town to conduct the proper maintenance of my bike. Every time I go to the shop, I  
13 always strike up a conversation with the store owner, Cameron Douglas. Cameron is part of a  
14 local bike club. I see Cameron riding around all over town. Cameron is an activist for bikers'  
15 rights and is always criticizing the mayor for not being sensitive to the needs of bikers in the  
16 city. During one conversation between both of us, Cameron mentioned doing absolutely  
17 anything to get the mayor out of office. Hidden Valley seems to be a nice place for bicycling  
18 already; sometimes I think that Cameron gets carried away.

19

1 **WITNESS STATEMENT - Defense Witness: Dallas Decamp**

2 My name is Dallas Decamp and I'm 25 years old. I am a graduate student at the  
3 University of Hidden Valley, studying finance. I am also an assistant coach for the Hidden  
4 Valley High School swim team and I also work as a private swim coach for young athletes like  
5 Adrian. I have been Adrian's coach for the past 5 years and recently was an alternate for the  
6 2024 US Olympic Swim Team in Paris.

7  
8 I live near the intersection of Skyline and Grand. On the night of the accident, April 19, I had  
9 just come home from our swim meet where Adrian led our team to victory. I parked my car in  
10 my driveway. When I closed the door of my car, I happened to look up at the intersection of  
11 Skyline and Grand. I saw the bicyclist looking down, peddling, with white 'earbud' headphones  
12 on. I could see the cyclist was wearing a headlamp attached to a helmet. As the bike got  
13 under a streetlight, I could clearly see the bike was bright turquoise – I remember thinking to  
14 myself it was a bit late for Cameron to be out riding.

15  
16 I did not hear the car coming, but I did hear Quinn, my next-door neighbor, yell "Look out!"  
17 Unfortunately, the bicyclist didn't hear the warning and was hit by a fast-moving car.

18  
19 Everything went by so fast. I saw Cameron fly through the air and hit the pavement. I also  
20 thought I saw the vehicle slow down a bit, but the brake lights never came on – maybe it was  
21 just changing gears. It just revved its engine and continued really fast down Skyline and  
22 disappeared. I would say 35 to 40 miles per hour even though the speed-limit signs on Skyline  
23 all say 25 miles per hour. And there's a stop sign there, too.

24  
25 I stood there almost in disbelief and saw Quinn race to the bicyclist and stay for a moment.  
26 The next thing I knew, Quinn ran back into the house, saw me, and shouted something about  
27 calling 911. My instinct kicked in and told me to run across Quinn's lawn. As I got there,  
28 reality kicked in as it was Cameron Douglas laying there in a mangled heap. I remained by  
29 Cameron's side until the ambulance and police showed up. I felt so horrible for Cameron;  
30 Cameron just looked dazed and in pain. He started to mumble something that sounded like  
31 "Vega". I can only assume Cameron was blaming the mayor for another bike accident. I just  
32 told Cameron to stay still because help was on its way.

33  
39

1 I was interviewed by two police officers. I felt kind of bad that I didn't see the car's license  
2 plate, but I did see that the driver was wearing what looked like a white t-shirt and a red and  
3 yellow baseball cap; I did not see the driver's face. I also told the police that the car was a  
4 black Bueller GT. I know a thing or two about cars, and even though it was dark, I could tell  
5 very clearly from the detail of the side molding that the Bueller was a vintage model, probably  
6 from the early 1960s.

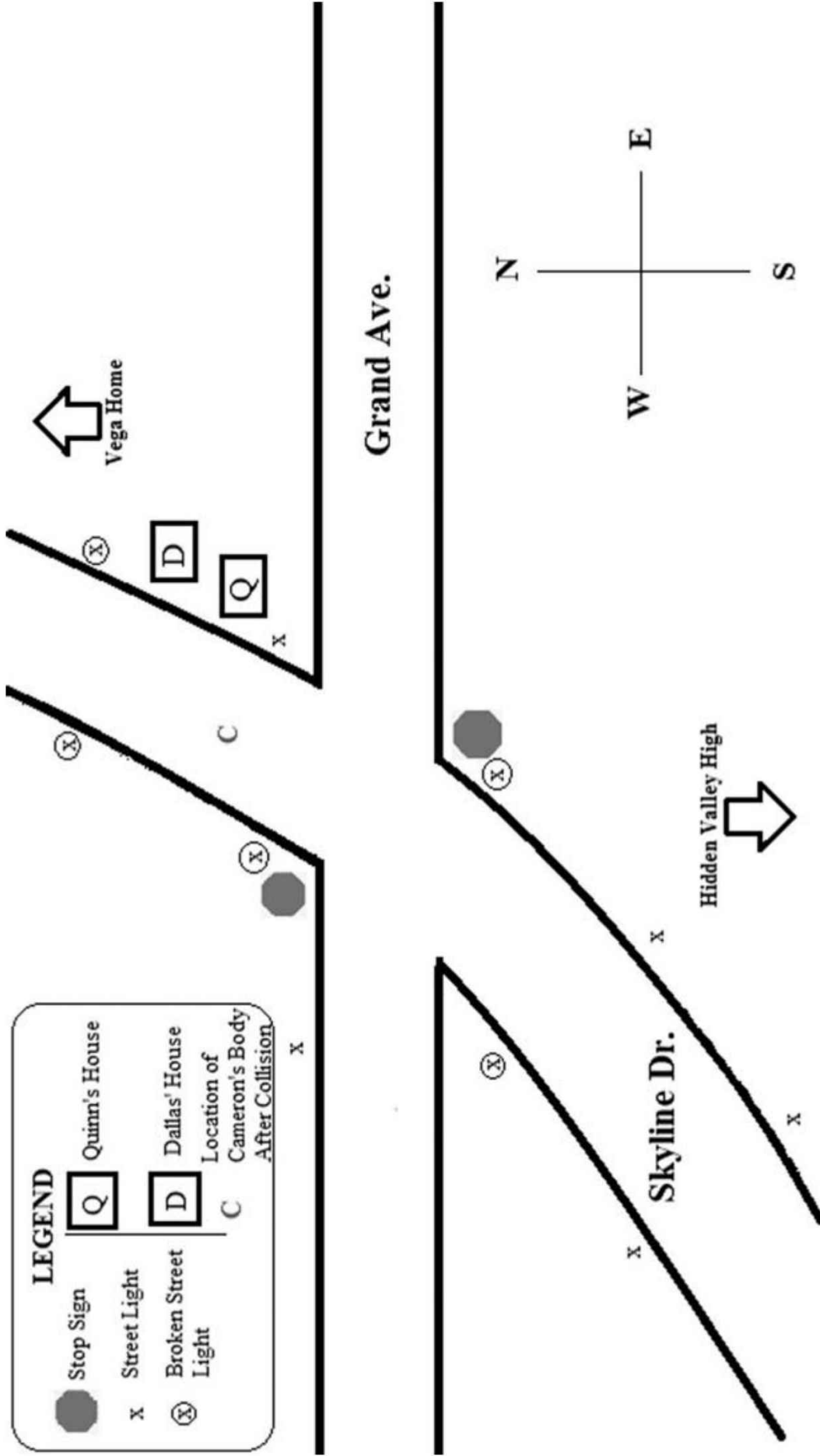
7  
8 As a swimmer, Adrian has shown great progress over the past few years. The fact that the  
9 University of Los Angeles wants Adrian on its swim team further solidifies Adrian's potential. I  
10 plan to get Adrian ready for the 2028 Olympics. Adrian could do very well as an accomplished  
11 swimmer, especially with endorsements and NIL (Name, Image, and Likeness) money, (think  
12 Michael Phelps or Katie Ledecky), and I really think as a coach, I could get Adrian there.

13  
14 I happen to know Cameron Douglas personally. Not only do I frequent the shop that Cameron  
15 owns, but we are also members of the same bike club. Cameron is very passionate about  
16 bikers' rights and it seems at every meeting that we have, Cameron has something negative to  
17 say about Mayor Vega. At our most recent meeting, Cameron ranted to me about how our  
18 club should conduct a large protest by taking over the lanes of Grand Avenue. Cameron said  
19 that drastic measures needed to be taken so that Mayor Vega would take bikers' rights  
20 seriously. If you ask me, it was a bit much. There's no need for such drama when a simple  
21 petition will do.



# EXHIBIT A

## Diagram of Accident Scene



## APPLICABLE STATUTES

### **§ 20-166. FELONY HIT AND RUN - Duty to stop in event of a crash; furnishing information or assistance to injured person, etc.**

(A) The driver of any vehicle who knows or reasonably should know:

- (1) That the vehicle which he or she is operating is involved in a crash; and
- (2) That the crash has resulted in, or could have reasonably resulted in, serious bodily injury, as defined in G.S. 14-32.4, or death to any person;
  - (a) Shall immediately stop his or her vehicle at the scene of the crash.
  - (b) The driver shall remain with the vehicle at the scene of the crash until a law-enforcement officer completes the investigation of the crash or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.
  - (c) Prior to the completion of the investigation of the crash by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment, or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this subsection, then the driver must return with the vehicle to the accident scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer.

A willful violation of subsection (A) shall be punished as a Class F felony punishable by up to 5 years in prison and a \$10,000 fine.

(B) In addition to complying with the requirements of subsections (A) of this section, the driver as set forth in subsections (A):

- (1) Shall give his or her name, address, driver's license number and the license plate number of the vehicle to the person struck or the driver or occupants of any vehicle collided with, provided that the person or persons are physically and mentally capable of receiving such information, and

- (2) Shall render to any person injured in such crash reasonable assistance, including the calling for medical assistance if it is apparent that such assistance is necessary or is requested by the injured person.

A violation of subsection (B) is a Class 1 misdemeanor punishable by up to 9 months in prison and a \$2,000 fine.

- (C) The Division of Motor Vehicles shall revoke the driver's license of a person convicted of violating subsection (A) for a period of one year, unless the court makes a finding that a longer period of revocation is appropriate under the circumstances of the case. If the court makes this finding, the Division of Motor Vehicles shall revoke that person's driver's license for two years.

**§ 14-32.4. Serious Bodily Injury**

"Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

## JURY INSTRUCTIONS

*New Justice G.S. 20-166 – (Felony Hit and Run)* Duty to stop in event of a crash that results in serious bodily injury; Duty to furnish information or assistance to injured persons.

The Defendant is charged with failure to perform a duty following an accident. To prove that the Defendant is guilty of this crime, the Prosecution must prove, beyond a reasonable doubt, the following:

1. While driving, the Defendant was involved in a vehicle accident;
2. The accident caused the death of or permanent, serious injury to someone else;
3. The Defendant knew he/she had been involved in an accident that injured another person **OR** the Defendant should have reasonably known from the nature of the accident that it was probable that another person had been injured;

### **AND**

4. The defendant willfully failed to perform one or more of the following duties:
  - a. To stop immediately at the scene of the accident;
  - b. To provide reasonable assistance to any person injured in the accident;
  - c. Wait until law enforcement completes the investigation of the crash or authorizes the driver to leave;
  - d. Provide his/her name, address, driver's license number and the license plate number of the vehicle to the person struck or law enforcement

Someone commits an act *willfully* when that person does it willingly or on purpose. It is not required that the person intend to break the law, hurt another, or gain any type of advantage.

The duty to *stop immediately* means that the driver must stop his or her vehicle as soon as reasonably possible under the circumstances.

To *provide reasonable assistance* means that the driver must determine what assistance, if any, the injured person needs and make a reasonable effort to provide that assistance (provided either by the

driver or someone else).

*Reasonable assistance* includes the following: transporting any injured person for medical treatment or arranging the transportation for treatment if it is apparently necessary or if requested by the injured person. The driver is not responsible to provide unnecessary assistance or assistance already being provided by someone else. However, the driver is not excused from providing assistance because there are bystanders on the scene or because those bystanders could provide assistance.

The driver of the vehicle must perform the listed duties regardless of who was injured or how/why the accident occurred. It does not matter if someone else caused the accident or the accident was unavoidable.

A *permanent, serious injury* is one that permanently impairs the function or causes the loss of any organ or body part. An accident causes death or permanent, serious injury if the death or injury is the direct, natural, and probable consequence of the accident and the death or injury would not have happened without the accident.

### **Direct and Circumstantial Evidence**

Facts may be proved by direct or circumstantial evidence or by a combination of both. *Direct evidence* can prove a fact by itself. For example, if a witness testifies he saw it raining outside before he came into the courthouse, that testimony is direct evidence that it was raining.

*Circumstantial evidence* also may be called indirect evidence. Circumstantial evidence does not directly prove the fact to be decided, but is evidence of another fact or group of facts from which you may logically and reasonably conclude the truth of the fact in question. For example, if a witness testifies that he saw someone come inside wearing a raincoat covered with drops of water, that testimony is circumstantial evidence because it may support a conclusion that it was raining outside.

Both direct and circumstantial evidence are acceptable types of evidence to prove or disprove the elements of a charge, including intent and mental state and acts necessary to a conviction, and neither is necessarily more reliable than the other. Neither is entitled to any greater weight than the other. You must decide whether a fact in issue has been proved based on all the evidence.

## **Circumstantial Evidence: Sufficiency of Evidence**

Before you may rely on circumstantial evidence to conclude that a fact necessary to find the defendant guilty has been proved, you must be convinced that the People have proved each fact essential to that conclusion beyond a reasonable doubt.

Also, before you may rely on circumstantial evidence to find the defendant guilty, you must be convinced that the only reasonable conclusion supported by the circumstantial evidence is that the defendant is guilty. If you can draw two or more reasonable conclusions from the circumstantial evidence and one of those reasonable conclusions points to innocence and another to guilt, you must accept the one that points to innocence. However, when considering circumstantial evidence, you must accept only reasonable conclusions and reject any that are unreasonable.

## **The Elements of a Criminal Offense**

The penal (or criminal) code generally defines two aspects of every crime: the physical aspect and the mental aspect. Most crimes specify some physical act, such as firing a gun in a crowded room, and a guilty, or **culpable**, mental state. The intent to commit a crime and a reckless disregard for the consequences of one's actions are examples of a culpable mental state. Bad thoughts alone, though, are not enough. A crime requires the union of thought and action.

The mental state requirement prevents the conviction of an insane person. Such a person cannot form **criminal intent** and should receive psychological treatment rather than punishment. Also, a defendant may justify his or her actions by showing a lack of criminal intent. For instance, the crime of burglary has two elements: (1) entering a dwelling or structure (2) with the intent to steal or commit a felony. A person breaking into a burning house to rescue a baby has not committed a burglary.

## **The Presumption of Innocence**

Our criminal justice system is based on the premise that allowing a guilty person to go free is better than putting an innocent person behind bars. For this reason, defendants are presumed innocent. This means that the prosecution bears a heavy burden of proof; the prosecution must convince the judge or jury of guilt beyond a **reasonable doubt**.

## **The Concept of Reasonable Doubt**

Despite its use in every criminal trial, the term "reasonable doubt" is hard to define. The concept of reasonable doubt lies somewhere between probability of guilt and a lingering possible doubt of guilt. A defendant may be found guilty "beyond a reasonable doubt" even though a possible doubt remains in the mind of the judge or juror. Conversely, triers of fact might return a verdict of not guilty while still believing that the defendant probably committed the crime. Reasonable doubt exists unless the triers of fact can say that they have a firm conviction of the truth of the charge.

Jurors must often reach verdicts despite contradictory evidence. Two witnesses might give different accounts of the same event. Sometimes a single witness will give a different account of the same event at different times. Such inconsistencies often result from human fallibility rather than intentional lying. The trier of fact (in the Mock Trial competition, the jury) must apply their own best judgment when evaluating inconsistent testimony.

A guilty verdict may be based upon circumstantial (indirect) evidence. However, if there are two reasonable interpretations of a piece of circumstantial evidence, one pointing toward guilt of the defendant and another pointing toward innocence of the defendant, the trier of fact is required to accept the interpretation that points toward the defendant's innocence. On the other hand, if a piece of circumstantial evidence is subject to two interpretations, one reasonable and one unreasonable, the trier of fact must accept the reasonable interpretation even if it points toward the defendant's guilt. It is up to the trier of fact to decide whether an interpretation is reasonable or unreasonable.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.

## **SIMPLIFIED RULES OF EVIDENCE AND PROCEDURE**

Simplified Rules of Evidence are provided for informational purposes and may be used at the discretion of the teacher and/or coach. They are provided as an outline for the trial process but should not complicate the instructional process.

In American courts, elaborate rules are used to regulate the kind of proof (i.e., spoken testimony by witnesses or physical evidence) that can be used in trials. These rules are designed to ensure that both parties receive a fair hearing. Under the rules, any testimony or physical objects deemed irrelevant, incompetent, untrustworthy, or unduly prejudicial may be kept out of the trial.

If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. Usually, the attorney stands and says, "I object, your honor," and then gives the reason for the objection. Sometimes the attorney whose questions or actions are being objected to will then explain why he or she thinks the rule was not violated. The judge then decides whether the rule has been violated and whether the testimony or physical items must be excluded from the trial.

Official rules of evidence are quite complicated. They also differ depending on the kind of court where the trial occurs. For purposes of this mock trial competition, the rules of evidence you will use have been made less complicated than those used in actual courts. The ideas behind these simplified rules are similar to actual rules of evidence.

### **A. Direct Witness Examination / Questioning**

1. Direct Examination - Attorneys call and question their own witnesses using direct as opposed to leading questions. For example, Elyse Roberts is called by her attorney to explain the events leading up to her filing suit against Potomac County.

- "Ms. Roberts, where do you work?"
- How long have you worked there?
- Please describe your working relationship with Mr. Kevin Murphy during the first month of employment.
- Why did you meet with your supervisor, Fran Troy?
- What, if any, advice did you seek from a therapist during this time?"

Questions such as the above do not suggest the answer. Instead, they introduce a witness to a particular area of importance, leaving the witness free to relate the facts, typically one fact per question. Obviously, the witness will have been prepared to answer such questions in a particular way. But the question by its terms does not "lead" to the answer.

#### **a. Leading Questions**



A leading question is one that suggests the answer. It does not simply call the witness' attention to a subject. Rather, it indicates or tells the witness what the answer should be about that subject. Leading questions are not permitted on direct examination, but questions on cross-examination should be leading.

- “Mrs. Roberts, despite repeated invitations, you chose not to participate in office social functions, correct?”
- “Isn't it true, that due to all the stress from work you decided to go to a therapist?”

These questions are obviously in contrast to the direct examination questions in the preceding section. Leading questions suggest the answer to the witness. This is not proper for direct examination when a party is questioning its own witness.

*To object to leading on direct / re-direct examination, opposing counsel would stand and say “Objection Your Honor, opposing Counsel is leading the witness / leading question.”*

### **b. Narrative**

While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions must not be so broad that the witness is allowed to wander or "narrate" a whole story. At times, the witness' answer to a direct question may go beyond the facts asked for by the question asked. Narrative questions and answers that become narrative are objectionable.

- “Ms. Roberts, please tell the court about the events that contributed to your decision to sue the county.”
- “It all began the night I found out that it was the county that was dumping on my land. At first I thought it was my neighbors, but they denied having any part in the dumping. I decided to watch my vacant lot and see if I could catch the person responsible. I drove down to my lot the night of the 13th and parked in a place where I could see the lot but no one could see me...”

*To object, opposing counsel would stand and say, “Objection Your Honor, Counsel’s question asks for a narrative. Objection Your Honor, the witness’s answer has launched into a narrative.”*

### **c. Scope of Witness Examination**

Direct examination may only cover facts relevant to the case of which the witness has first-hand knowledge. This would include all of their witness statement as well as parts of the fact situation, and potentially exhibits. Attempts to elicit facts and testimony from a witness outside of their first-hand knowledge is objectionable.

*To object to a question asking for information outside the witness’s knowledge, “Objection Your Honor, lack of personal knowledge.”*

Should a witness testify outside their known fact pattern, opposing Counsel should attempt to

Impeach the witness. (see 2.b.)

#### **d. Character**

For the purpose of this mock trial, evidence about the character of a party may not be introduced unless the person's character is an issue in the case. There are two methods of proving character:

1. Reputation: When evidence of the character of a person or of a trait of his/her character is admissible, proof may be made by testimony about his/her reputation.
2. Specific Instances of Conduct: When character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may be made of specific instances of his/her conduct.

#### **e. Refreshing Recollection**

When a witness uses a writing or other item to refresh his/her memory while testifying, an adverse party is entitled to have such writing or other item produced at the hearing to inspect it, to cross-examine the witness thereon, and to introduce it, or in the case of writing, to introduce those portions which relate to the testimony of the witness, in evidence.

### **2. Cross Examination (questioning the opposing side's witnesses)**

Cross-examination should involve leading questions. In fact, it is customary to present a witness with a proposition and ask the witness to either agree or disagree. Thus, good cross-examination calls only for a yes or no answer.

- "Mr. Roberts, in direct examination you testified that litigation was very stressful for you, correct?"
- In fact you were so stressed that you did work at home or called in sick. Isn't this true?"
- "As an assistant district attorney, you knew that trying only three cases while settling 75 cases was not a job performance your supervisor would rate highly, didn't you?"
- "Thus given the stress you felt, your poor attendance at work and poor job performance, it was not unusual for your supervisor to transfer you to another Bureau, was it?"

Leading questions are permissible on cross-examination. Questions tending to evoke a narrative answer should be avoided.

#### **a. Scope of Witness Examination**

Cross-examination is not limited. Attorneys may ask questions of a particular witness that relate to matters brought out by the opposing side on direct examination of that witness, matters relating to the credibility of the witness, and additional matters otherwise admissible, that were not covered

on direct examination. Attempts to elicit facts and testimony from a witness outside of their first-hand knowledge is objectionable.

*To object to a question asking for information outside the witness's knowledge, "Objection Your Honor, lack of personal knowledge."*

Should a witness testify outside their known fact pattern, opposing Counsel should attempt to impeach the witness. (see 2.b.)

## **b. Impeachment**

On cross-examination, the attorney may want to show the court that the witness should not be believed. A witness' credibility may be impeached by showing evidence of the witness' character and conduct, prior convictions, and prior inconsistent statements. If the witness testifies differently from the information in their sworn affidavit, it may then be necessary to "impeach" the witness. That is, the attorney will want to show that the witness previously said something that contradicts the testimony on the stand.

### **i. Impeachment Procedure**

Impeachment may be done by comparing what a witness says on the witness stand at trial to what is contained in the witness' affidavit. By pointing out the differences between what a witness now says and what the witness' affidavit says, the attorney shows that the witness has contradicted himself or herself.

### **ii. Who May Impeach?**

Any party, including the party calling the witness, may attack the credibility of a witness by:

1. Introducing statements of the witness which are inconsistent with his/her present testimony;
2. Showing that the witness is biased;
3. Attacking the character of the witness in accordance with the state mock trial competition rules of evidence and procedure;
4. Showing a defect of capacity, ability, or opportunity in the witness to observe, remember, or recount the matters about which he/she testified; and
5. Proof by other witnesses that material facts are not as testified to by the witness being impeached.

### **iii. Conviction of Certain Crimes as Impeachment**

A party may attack the credibility of any witness, including an accused, by evidence that the witness has been convicted of a crime if the crime was punishable by death or imprisonment in excess of 1 year under the law under which he was convicted, or if the crime involved

dishonesty or a false statement regardless of the punishment, with the following exceptions:

1. Evidence of any such conviction is inadmissible in a civil trial if it is so remote in time as to have no bearing on the present character of the witness.
2. Evidence of juvenile adjudications is inadmissible under this subsection.

#### **iv. Prior Statements of Witness**

1. When witness is examined concerning his prior written statement or concerning an oral statement that has been reduced to writing, the court, on motion of the adverse party, shall order the statement to be shown to the witness or its contents disclosed to him.
2. Extrinsic evidence of a prior inconsistent statement by a witness is inadmissible unless the witness is first afforded an opportunity to explain or deny the prior statement and the opposing party is afforded an opportunity to interrogate him on it, or the interests of justice otherwise require. If a witness denies making or does not distinctly admit that he has made the prior inconsistent statement, extrinsic evidence of such statement is admissible. This subsection is not applicable to admissions of a party-opponent.
3. Re-direct and re-cross examination/questioning. If the credibility or reputation for truthfulness of the witness has been attacked on cross-examination, the attorney whose witness has been damaged may wish to ask several more questions. These questions should be limited to the damage the attorney thinks has been done and should be phrased so as to try to "save" the witness' truth-telling image in the eyes of the court. Re-direct examination is limited to issues raised by the attorney on cross-examination. Re-cross examinations follows re-direct examination but is limited to the issues raised on re-direct only and should avoid repetition. The presiding judge may exercise reasonable control over questioning so as to make questioning effective to ascertain truth, avoid needless waste of time, and protect witnesses from harassment.

### **B. Objections**

An attorney can object any time the opposing attorneys have violated the rules of evidence. The attorney wishing to object should stand up and do so at the time of the violation. When an objection is made, the judge may ask the reason for it. Then the judge may turn to the attorney whose question or action is being objected to, and that attorney usually will have a chance to explain why the judge should not accept the objection. The judge will then decide whether a question or answer must be discarded because it has violated a rule of evidence or whether to allow the question or answer to be considered as evidence. The legal term "objection sustained" means that the judge agrees with the objection and excludes the testimony or item objected to. The legal term "objection overruled" means that the judge disagrees with the objection and allows the testimony or item to be considered as evidence.

#### **1. Standard Objections on Direct and Cross Examination**

1. *Irrelevant Evidence / Testimony*: “I object, Your Honor. This testimony is irrelevant to the facts of this case.”
2. *Leading Questions*: “Objection. Counsel is leading the witness.” Remember, this is only objectionable when done on direct examination (Ref. Section A1.a).
3. *Narrative Questions and Answers*: may be objectionable (Ref. Section A1.b).
4. *Improper Character Testimony*: “Objection. The witness’ character or reputation has not been put in issue or “Objection. Only the witness’ reputation/character for truthfulness is at issue here.”
5. *Hearsay*: “Objection. Counsel’s question / the witness’ answer is hearsay.” If the witness makes a hearsay statement, the attorney should also say, “and I ask that the statement be stricken from the record.”
6. *Opinion*: “Objection. Counsel is asking the witness to give an opinion.” (Non-expert witnesses cannot give opinions and experts can only give opinions on matters within their area of expertise.)
7. *Lack of Personal Knowledge*: “Objection. The witness has no personal knowledge that would enable him/her to answer this question.”
8. *Lack of Foundation*: Prior to eliciting testimony and evidence, attorneys must have the witness explain “how” they have such knowledge. For example, that they were at a particular location at a specific time. Exhibits will not be admitted into evidence until they have been identified and shown to be authentic (unless identification and/or authenticity have been stipulated). Even after a foundation has been laid, the exhibits may still be objectionable due to relevance, hearsay, etc.
9. *Ambiguous Questions*: An attorney shall not ask questions that are capable of being understood in two or more possible ways.
10. *Non-responsive Answer*: A witness’ answer is objectionable if it fails to respond to the question asked.
11. *Argumentative Question*: An attorney shall not ask a question which asks the witness to agree to a conclusion drawn by the questioner without eliciting testimony as to new facts. However, the Court may, in its discretion, allow limited use of argumentative questions on cross-examination.
12. *Unfair Extrapolation/Beyond the Scope of the Statement of Facts*

Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting an unfair extrapolation. Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the

trial. A fair extrapolation is one that is neutral.

Note: Fair extrapolations may be allowed, provided reasonable inference may be made from the witness's statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection Outside the Scope of the Problem. If in CROSS examination, an attorney asks for unknown information, the witness may or may not respond, so long as any response is consistent with the witness' statement or affidavit and does not materially affect the witness' testimony.

13. *Asked and Answered*: During Direct Examination, a question attempting to elicit a fact may only be asked once. Additionally, if a question asking for testimony was asked in Direct Examination, it cannot be asked again during Re-Direct. There is no objection for "asked and answered" on Cross Examination, although repeated attempts to get the same answer could be considered Argumentative or Badgering. "Objection. Your honor, the question has already been asked and answered."
14. *Compound Question*: A question that asks for two separate facts. "What time did you leave and what time did you arrive?" "Objection, Your Honor, compound question."
15. *Objections Not Recognized in This Jurisdiction*: An objection which is not contained in these materials shall not be considered by the Court. However, if counsel responding to the objection does not point out to the judge the application of this rule, the Court may exercise its discretion in considering such objection.

Note: Attorneys should stand during arguments on objections and opening/closing statements. No objections should be made during opening/closing statements but afterwards the attorneys may indicate what the objection would have been. The opposing counsel should raise his/her hand 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 presiding judge will not rule on this objection individually and no rebuttal from the opposing team will be heard.

## 16. *Opinion Testimony*

### **A. Expert Opinion**

1. Testimony by Experts - If scientific, technical, or other specialized knowledge will assist the trier of fact in understanding the evidence or in determining a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify about it in the form of an opinion; however, the opinion is admissible only if it can be applied to evidence at trial.
2. Opinions on Ultimate Issue - Testimony in the form of an opinion or inference otherwise admissible is objectionable because it included an ultimate issue to be decided by the trier of fact.

3. Basis of Opinion Testimony by Experts - The facts or data upon which an expert bases an opinion or inference may be those perceived by, or made known to, him at or before the trial. If the facts or data are of a type reasonably relied upon by experts in the subject to support the opinion expressed, the facts or data need not be admissible in evidence.
4. Expert Opinion (additional information) - An expert shall not express an opinion as to the guilt or innocence of the accused.

## **B. Lay Opinion**

1. Opinion Testimony of Lay Witnesses - If a witness is not testifying as an expert, his testimony about what he perceived may be in the form of inference and opinion when:
  - a. The witness cannot readily, and with equal accuracy and adequacy, communicate what he has perceived to the trier of fact without testifying in terms of inferences or opinions and his use of inferences or opinions will not mislead the trier of fact to the prejudice of the objecting party; and
  - b. The opinions and inferences do not require a special knowledge, skill, experience, or training.
2. Lay Opinion (additional information) - All witnesses may offer opinions based on the common experience of laypersons in the community and of which the witnesses have first-hand knowledge. A lay opinion may also be obtained. For example, Sandy Yu, as the personnel director, would know of other complaints of sexual harassment in the office and any formal reprimands, even though he is not an expert in sexual harassment. They may be asked questions within that range of experience. No witness, not even an expert, may give an opinion about how the case should be decided.

The cross-examination of opinions proceeds much like the cross-examination of any witness. Questions, as indicated above, may be based upon the prior statement of the witness. Inconsistencies may be shown. In addition, the witness may be asked whether he or she has been employed by any party, to show bias or interest. Or a witness giving an opinion may be asked the limits of certainty in that opinion, as follows:

- "Dr. Isaacs, please read this portion of your sworn statement to the court."
- "I have studied the records of this case, and have conducted two one-hour interviews with Elyse Roberts on March 29 and 31st. In those interviews, she described to me her family history, her work environment, the actions of her co-workers and supervisor and her resulting feelings."

- “This is your statement, is it not, Dr. Isaacs? Ms. Roberts selected you because of your expertise in sexual harassment in the workplace, correct?”
- During your two-hour interview you were only concerned with evaluating Ms. Roberts’ working environment and not other psychological factors that may have caused her problems, do I have that right?
- So you really can't say that Ms. Roberts' difficulty on the job was only caused by the actions of Mr. Murphy, can you?”

The point of these questions is not to discredit the witness. Rather, the objective is simply to treat the witness as a responsible professional who will acknowledge the limits of her or his expertise and testimony. If the witness refuses to acknowledge those limits, the witness then is discredited.

It is always important in cross-examination to avoid arguing with the witness. It is particularly important with an expert. Thus, the cross-examination should be carefully constructed to call only for facts or to draw upon statements the witness has already made.

3. Lack of Personal Knowledge - A witness may not testify to any matter of which the witness has no personal knowledge. The legal term for testimony of which the witness has no personal knowledge is "incompetent."

17. *Relevance of Testimony and Physical Objects* - Generally, only relevant testimony may be presented. Relevant evidence is physical evidence and testimony that makes a fact that is important to the case more or less probable than the fact would be without the evidence. However, if the relevant evidence is unfairly prejudicial, may confuse the issues, or is a waste of time, it may be excluded by the court. Such relevant but excludable evidence may be testimony, physical evidence, or demonstrations that have no direct bearing on the issues of the case or do not make the issues clearer.

### **Introduction of Documents, Exhibits, Items, and Other Physical Objects Into Evidence**

There is a special procedure for introducing physical evidence during a trial. The physical evidence must be relevant to the case, and the attorney must be prepared to lay the foundation for its use on that basis. Below are the basic steps to use when introducing a physical object or document for identification and/or use as evidence.

1. Ask the judge if you can approach the witness. “Your Honor, may I approach the witness with what has been marked for identification as Exhibit ”
2. Show the exhibit to opposing counsel for possible objection. Ask the witness to identify the exhibit. “I now hand you what is marked as Exhibit \_\_\_\_\_. Do you recognize this document?”
3. At this point the attorney may proceed to ask the witness a series of questions about the



exhibit.

4. If the attorney wishes to place the document into evidence, say, “Your Honor, I offer this marked as Exhibit \_\_\_ into evidence and ask the Court to so admit it.”

Court: “Is there any objection?”

Opposing Counsel: “No, your Honor.” or “Yes, your Honor.” (then state objection). Court: “Exhibit \_\_\_ is (is not) admitted.”

NOTE: A witness may be asked questions about his/her statement without its introduction into evidence; but to read from it or submit it to the judge, it must first be admitted into evidence. For purposes of this Mock Trial the Exhibit is pre-marked as Exhibit A and shall not be designated as either a Prosecution or Defense Exhibit.

## **Hearsay and Exceptions to this Ruling**

### **1. What is Hearsay?**

Hearsay evidence is normally excluded from a trial because it is deemed untrustworthy. “Hearsay” is a statement other than one made by the witness testifying at the trial, offered in evidence to prove that the matter asserted in the statement is true. An example of hearsay is a witness testifying that he heard another person saying something about the facts in the case. The reason that hearsay is untrustworthy is because the opposing side has no way of testing the credibility of the out-of-court statement or the person who supposedly made the statement. Thus, for example, the following questions would be objectionable as “hearsay” if you are trying to prove that the color of the door was red:

- “Mr. Edwards what color did Bob say the door was?”

This is hearsay. Mr. Edwards is using Bob's statement for him to prove the color of the door. Instead, Bob or someone who saw the door needs to be called to testify as to the color of the door.

### **2. Reasons for Prohibiting Hearsay**

Our legal system is designed to promote the discovery of truth in a fair way. One way it seeks to accomplish this goal is by ensuring that the evidence presented in court is “reliable”; that is, we can be fairly certain the evidence is true. Hearsay evidence is said to be “unreliable” for four reasons:

1. The hearsay statement might be distorted or misinterpreted by the witness relating it in court.
2. The hearsay statement is not made in court and is not made under oath
3. The hearsay statement is not made in court, and the person who made it cannot be

observed by the judge or jury (this is important because the judge or jury should be allowed to observe a witness' behavior and evaluate his/her credibility).

4. The hearsay statement is not made in court and the person who made it cannot be challenged by cross-examination.

### **3. When Can Hearsay Evidence Be Admitted?**

Although hearsay is generally not admissible, there are certain out-of-court statements that are treated as not being hearsay, and there are out-of-court statements that are allowed into evidence as exceptions to the rule prohibiting hearsay.

Statements that are not hearsay are prior statements made by the witness himself and admissions made by a party opponent.

Exceptions - Hearsay is not admissible, except as provided by these rules. For purposes of this mock trial, the following exceptions to the hearsay rule will be allowed; even though the declarant is available as a witness.

1. *Spontaneous Statement* - A statement describing or explaining an event or condition made while the declarant perceived the event or condition, or immediately thereafter, except when such statement is made under circumstances that indicate its lack of trustworthiness.
2. *Excited Utterance* - A statement or excited utterance relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
3. *Medical Statements* - Statements made for the purpose of medical diagnosis or treatment by a person seeking the diagnosis, or made by an individual who has knowledge of the facts and is legally responsible for the person who is unable to communicate the facts, which statements describe medical history, past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof, insofar as reasonably pertinent to diagnosis or treatment.
4. *Recorded Recollection* - A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made by the witness when the matter was fresh in his memory and to reflect that knowledge correctly. A party may read into evidence a memorandum or record when it is admitted, but no such memorandum or record is admissible as an exhibit unless offered by an adverse party.
5. *Records of a Regularly Conducted Activity*
  1. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinion, or diagnosis, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted

business activity and if it was the regular practice of that business activity to make such memorandum, report, record, or data compilation, all as shown by testimony of the custodian or other qualified witness, unless the sources of information or other circumstances show lack of trustworthiness. The term “business” as used in this paragraph includes a business, institution, association, profession, occupation, and calling for every kind, whether or not conducted for profit.

2. No evidence in the form of an opinion or diagnosis is admissible under paragraph (a) unless such opinion or diagnosis would otherwise be admissible if the person whose opinion is recorded were to testify to the opinion directly.

6. *Admission by Party Opponent / Statement Against Interests* – Any statements made by the Defendant are considered an Admission by Party Opponent and are admissible as an exception to hearsay. An admission or statement made by any party that is against their own pecuniary, proprietary, or penal interest, is admissible as a statement against interest.

7. *Then Existing Mental, Emotional, or Physical Condition*

1. A statement of the declarant’s then existing state of mind, emotion, or physical sensation, including a statement of intent, plan, motive, design, mental feeling, pain, or bodily health, when such evidence is offered to:

Prove the declarant’s state of mind, emotion, or physical sensation at that time or at any other time when such state is an issue in the action.

Prove or explain acts of subsequent conduct of the declarant.

2. However, this subsection does not make admissible:

An after-the-fact statement of memory or belief to prove the fact remembered or believed, unless such a statement relates to the execution, revocation, identification, or terms of the declarant's will.

### **C. Trial Motions**

No trial motions are allowed except for special jury instructions as permitted in these case materials.

*Exception* - Motion for Recess may only be used in emergency situations.