

# The Florida High School Mock Trial

**Cameron Duncan**

**v.**

**Robin Hightower**

**Version 1.3, February 2009**

©2008 Florida Law Related Education Association, Inc.

*Permission to reprint this packet is granted for educational use only.*

*Any relationship of any character to an actual person, either living or dead, is completely coincidental and unintended.*

*Special thanks to the following for their contributions to the development of this year's case materials:*

*The Illinois State Bar Association*

*Janeia R. Daniels, Esq., FSU College of Law*

*M. Camila Tobón, Esq., Shook, Hardy, & Bacon, L.L.P.*

*Melina Buncome-Williams, Esq., Duval County Public Defender's Office*

*Justin C. Leto, Esq., Goldfarb & Gold, P.A.*

*Lynne Quimby-Pennock, Esq., Florida Department of Health*

*The Honorable K. Douglas Henderson, Twelfth Judicial Circuit*



*Improving Justice through Law and Citizenship Education Opportunities*

The Florida Law Related Education Association, Inc.

2874 Remington Green Circle, Suite A

Tallahassee, Florida 32308

Office (850) 386-8223 • Fax (850) 386-8292

E-mail: [TMcGlockton@flrea.org](mailto:TMcGlockton@flrea.org) • Web site: <http://www.flrea.org>

## TABLE OF CONTENTS

<b>I.</b>	<b>Trial Overview</b> .....	4
<b>II.</b>	<b>Code of Ethical Conduct</b> .....	5
<b>III.</b>	<b>2009 Mock Trial Case</b>	
	A. Complaint.....	6
	B. Answer .....	11
	C. Witness, Exhibit Lists .....	13
	D. Stipulations .....	14
	E. Witness Affidavits	
	<u>For the Plaintiff</u>	
	1. Cameron Duncan .....	16
	2. Leslie (Lee) Lane .....	19
	3. Pat Auerbach .....	24
	<u>For the Defendant</u>	
	1. Robin Hightower .....	28
	2. Kinsley (Ken) Rendleman.....	32
	3. Artis Michael .....	36
	F. Exhibit List	
	1. A: Crist High School Code of Conduct .....	39
	2. B: Florida High School Basketball Association Beliefs, Bylaws, and Code of Conduct.....	40
	3. C: <i>The Crist Digest</i> Newspaper Article .....	42
	4. D: Letter from Dr. Anthony Mathewson to Cameron Duncan .....	43
	G. Relevant Case Law .....	44
	H. Glossary of Terms.....	45
	I. Jury Instructions.....	47
<b>IV.</b>	<b>Rules of the State Competition</b>	
	Rule I: Team Composition/Presentation.....	49
	Rule II: The Case.....	49
	Rule III: Trial Presentation .....	50
	Rule IV: Student Attorneys.....	51
	Rule V: Swearing of Witnesses.....	52
	Rule VI: Case Materials.....	52
	Rule VII: Trial Communication.....	52
	Rule VIII: Trial Start Time.....	52
	Rule IX: Conduct/Attire.....	52
	Rule X: Videotaping/Photography .....	53

Rule XI:	Witnesses .....	53
Rule XII:	Jury Trial .....	53
Rule XIII:	Viewing a Trial .....	53
Rule XIV:	Decisions .....	53
Rule XV:	Time Limits.....	53
Rule XVI:	Judging.....	54
Rule XVII:	Dispute Settlement .....	55
Rule XVIII:	Reporting a Rules Violation Outside the Bar .....	56
Rule XIX:	Score Sheets/Ballot .....	57
Rule XX:	State Competition Power Matching/Seeding Model .....	57
Rule XXI:	Completion of Score Sheet .....	58
Rule XXII:	State Competition Team Advancement .....	58
Rule XXIII:	Effect of a Bye/Default .....	58
Rule XXIV:	Eligibility.....	59
Rule XXV:	State Competition Awards .....	59
Rule XXVI:	Interpretation of State Competition Rules .....	59
Rule XXVII:	Circuit Competition .....	59
<b>V.</b>	<b>Simplified Rules of Evidence and Procedure .....</b>	<b>61</b>
A.	Witness Examination/Questioning.....	61
B.	Objections .....	66
C.	Trial Motions .....	74
D.	Attorney Demeanor.....	74
<b>VI.</b>	<b>Guidelines for Teacher and Attorney Coaches .....</b>	<b>75</b>
<b>VII.</b>	<b>Guidelines for Judges</b>	
A.	Score Sheet/Ballot.....	77
B.	Explanation of Ratings Used on Score Sheet .....	78
<b>VIII.</b>	<b>Ballots and Forms</b>	
A.	Presiding Judge Ballot .....	79
B.	Most Effective Attorney Award Ballot.....	80
C.	Most Effective Witness Award Ballot .....	81
D.	Legal Professionalism Award Ballot .....	82
E.	Complaint Form.....	83
F.	Team Dispute Form .....	84
G.	Team Roster Form .....	85
<b>IX.</b>	<b>Professionalism.....</b>	<b>86</b>
<b>X.</b>	<b>Oath of Admission to The Florida Bar .....</b>	<b>87</b>

## TRIAL OVERVIEW

- I. The presiding judge will ask each side if they are ready for trial. Team rosters/roles should be presented to the judges.
- II. Presiding judge announces that all witnesses are assumed to be sworn.
- III. Opening Statements - no objections allowed; however, after each opening has concluded, the opposing counsel may raise his/her hand to be recognized and state that if they could have objected they would have objected to. The presiding judge does **not** need to rule on this. No rebuttals allowed.
- IV. Cases presented. See Rule XV for the trial sequence and time limitations.
- V. Closing Statements - no objections allowed; however, after each closing statement has concluded, the opposing counsel may raise his/her hand to be recognized and state that if they could have objected - they would have objected to...The presiding judge does **not** need to rule on this.
- VI. No jury instructions need to be read at the conclusion of the trial.  
  
Judges should complete score sheets **before** debriefing. This is crucial and ensures completed score sheets.
- VII. If a material rules violation is entered, scoring judges should exit the courtroom but stay in the vicinity. The presiding judge will follow the rules for this type of dispute. Scoring judges will return to the courtroom to determine if the presiding judge feels the dispute may be considered in scoring. Specific forms are needed. See Rule XVII - DISPUTE SETTLEMENT.
- VIII. **ALL DECISIONS OF THE JUDGES ARE FINAL.** Debrief/Critique ONLY.

**JUDGES DO NOT ANNOUNCE SCORES OR PERFORMANCE DECISIONS!**

## **CODE OF ETHICAL CONDUCT**

The purpose of the Florida High School Mock Trial Competition is to stimulate and encourage a deeper understanding and appreciation of the American legal system by providing students the opportunity to participate actively in the legal process. The education of young people is the primary goal of the mock trial program. Healthy competition helps to achieve this goal. Other important objectives include improving proficiency in speaking; listening, reading, and reasoning skills; promoting effective communication and cooperation between the educational and legal communities; providing an opportunity to compete in an academic setting; and promoting tolerance, professionalism, and cooperation among young people of diverse interests and abilities.

As a means of diligent application of the Florida High School Mock Trial Competition's Rules of the Competition, the Mock Trial Advisory/Policy Committee has adopted the following Code of Ethical Conduct for all participants.

1. Team members promise to compete with the highest standards of ethics, showing respect for their fellow team members, opponents, judges, evaluators, attorney coaches, teacher coaches, and mock trial personnel. All competitors will focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly, and with the utmost civility. Members will avoid all tactics they know are wrong or in violation of the rules, including the use of unfair extrapolations. Members will not willfully violate the rules of the competition in spirit or in practice.
2. Teacher coaches agree to focus attention on the educational value of the Mock Trial Competition. They shall discourage willful violations of the rules. Teachers will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the competition's rules and this Code of Ethical Conduct.
3. Attorney coaches agree to uphold the highest standards of the legal profession and will zealously encourage fair play. They will promote conduct and decorum in accordance with the competition's rules and this Code of Ethical Conduct. Attorney coaches are reminded that they are in a position of authority and thus serve as positive role models for the students.
4. All participants (including observers) are bound by all sections of this code and agree to abide by the provisions. Teams are responsible for insuring that all observers are aware of the code. Students, teacher coaches, and attorney coaches will be required to sign a copy of this code. This signature will serve as evidence of knowledge and agreement to the provisions of the code. Teams will receive scores on ethical conduct during each round.
5. Staff and Mock Trial Advisory Committee members agree to uphold the rules and procedures of the Florida High School Mock Trial Competition while promoting ethical conduct and the educational values of the program.



5. At all times material hereto, Plaintiff was a senior student at Douglas High School and captain of the Douglas High School basketball team.

6. At all times material hereto, the Defendant, Robin Hightower, was a resident of Crist County, Florida. At all times material hereto, Defendant was a senior at Crist High School and co-captain of the school's basketball team.

7. As a result of the forgoing, venue of this action is proper in Crist County, Florida.

8. On February 9, 2008, the Douglas High School basketball team and the Crist High School basketball team competed in the final game of the statewide high school basketball tournament.

9. During the game, Defendant did intentionally, and with reckless disregard for the safety of Plaintiff, cause bodily harm and permanent injury to Plaintiff.

10. As a direct result of the carelessness, negligence and gross negligence of the Defendant, Plaintiff has been permanently injured and suffered other damages.

### **Count I: Negligence**

Plaintiff re-alleges all allegations in paragraphs 1-9 and further alleges:

11. At all times material hereto, Defendant owed Plaintiff a duty of care in conducting him/herself with sportsmanlike conduct befitting a student athlete.

12. At all times material hereto, Defendant breached his/her duty of care by and through the acts committed on February 9, 2008 during the basketball game and was otherwise negligent.

13. That as a direct and proximate result of Defendant Robin Hightower's negligence, as hereinabove alleged, the Plaintiff, Cameron Duncan, was caused to suffer significant bodily injury, pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment. The losses are either permanent and/or continuing in their nature, and the Plaintiff will suffer these losses in the future.

WHEREFORE, Plaintiff Duncan hereby demands judgment against Defendant Hightower for damages, together with Court costs incurred in connection with the maintenance of this action and any other and further relief that this Court deems just and proper. Further, Plaintiff demands a trial by jury.

### **Count II: Gross Negligence**

Plaintiff re-alleges all allegations in paragraphs 1-9 and further alleges:

14. Given the rules of play for the game of basketball, Defendant should have known that his conduct went beyond what would be considered a "foul" or even a "hard foul."

15. Despite this knowledge, Defendant proceeded to shove Plaintiff to the ground with reckless disregard for Plaintiff's safety. Defendant's actions were willful, wanton, and grossly negligent.

16. That as a direct and proximate result of Defendant Robin Hightower's gross negligence, as hereinabove alleged, the Plaintiff, Cameron Duncan, was caused to suffer significant bodily injury, pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment. The

losses are either permanent and/or continuing in their nature, and the Plaintiff will suffer these losses in the future.

WHEREFORE, Plaintiff Duncan hereby demands judgment against Defendant Hightower for damages, together with Court costs incurred in connection with the maintenance of this action and any other and further relief that this Court deems just and proper. Further, Plaintiff demands a trial by jury.

**Count III: Intentional Tort: Battery**

Plaintiff re-alleges all allegations in paragraphs 1-9 and further alleges:

17. Defendant intentionally committed harmful or offensive contact on Plaintiff during the basketball game on February 9, 2008 when Defendant shoved Plaintiff to the ground.

18. Plaintiff's injuries, are herein described, were the direct result of the harmful or offensive contact committed by Defendant.

19. That as a direct and proximate result of Defendant Robin Hightower's intentional acts, as hereinabove alleged, the Plaintiff, Cameron Duncan, was caused to suffer significant bodily injury, pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment. The losses are either permanent and/or continuing in their nature, and the Plaintiff will suffer these losses in the future.

WHEREFORE, Plaintiff Duncan hereby demands judgment against Defendant Hightower for damages, together with Court costs incurred in connection with the maintenance of this action and any other and further relief that this Court deems just and proper.

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a trial by jury on all issues set forth herein which are so triable.

Dated this the 30th day of June, 2008.

Respectfully submitted,

**ATTORNEYS FOR PLAINTIFF**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by certified process server upon the Defendant named herein.

**ATTORNEYS FOR PLAINTIFF**



continued to play basketball and compete at the high school level. As a direct result, Plaintiff Cameron Duncan voluntarily and deliberately exposed him/herself to the danger complained of.

**WHEREFORE**, Defendant Robin Hightower respectfully requests that this Court dismiss the complaint against Defendant in its entirety, with prejudice, and that Defendant be awarded its reasonable attorneys' fees and costs.

DATED this 20 day of July, 2008.

Respectfully submitted,

**ATTORNEYS FOR DEFENDANT**

## **WITNESS LIST**

**Plaintiff:**

1. Cameron Duncan
2. Leslie (Lee) Lane
3. Pat Auerbach

**Defendant:**

1. Robin Hightower
2. Kinsley (Ken) Rendleman
3. Artis Michael

\* Each team must call all three witnesses for their respective party.

\*\* Witnesses may be male or female. Where an alternative name is not provided, assume the name is gender neutral.

## **EXHIBIT LIST**

<b>No.</b>	<b>Description</b>
A.	Crist High School Code of Conduct
B.	Florida High School Basketball Association Beliefs and Code of Conduct
C.	Newspaper clipping regarding the incident
D.	Dr. Anthony Mathewson's letter to Cameron Duncan

## STIPULATIONS

The parties have agreed to the following stipulations:

1. All witness affidavits and Exhibits contained in the case file are authentic and may not be disputed.
2. The requirements for venue have been met.
3. Whenever a rule of evidence requires that reasonable notice be given, it should be considered to have been given.
4. The Crist County School District is not a party to this action in any capacity.
5. Dr. Anthony Mathewson is a specialist in orthopedic medicine, a family friend of Cameron's, and has seen Cameron many times in the past for minor sports injuries.
6. Cameron has, during her/his high school sporting career, sustained a sprained wrist and a broken thumb, as well as routine cuts and bruises sustained in the normal course of play.
7. Plaintiff and Defendant were both 18-years-old at the time of the alleged incident. **For purposes of this competition, all basketball players are high school students, as indicated.**
8. All players on Robin Hightower's team signed and were considered to be bound by the Bylaws and Code of Conduct provided in the Mock Trial materials. **For purposes of the Mock Trial case materials, whether the student athletes signed an insurance form is not in issue and should not be addressed during the competition.**
9. Dr. Mathewson's letter to Cameron Duncan (Exhibit D) was made and kept in the regular course of the hospital's business and satisfies all the requirements of the business records exception to the hearsay rule. Contents of this letter are an accurate depiction of Cameron's injuries sustained at the basketball game in question.
10. Defendant Robin Hightower, in his/her Answer to Plaintiff Cameron Duncan's Complaint, alleges the Defense of Assumption of Risk.
11. The newspaper clipping (Exhibit C); letter from Dr. Mathewson (Exhibit D); the FHSBA Beliefs and Code of Conduct (Exhibit B); and the Crist High School Code of Conduct (Exhibit A) may be used as trial exhibits, subject to any and all relevant objections.
12. The Glossary of Terms is for informational purposes only.
13. No diagram of the basketball court will be provided.

14. Principal Rendleman's statement that he/she was "directly across from the court from the action," should be interpreted to mean that he/she was across the sideline (parallel to the action) rather than down court.

15. Stipulations cannot be contradicted or challenged.

**IN THE CIRCUIT COURT OF CRIST COUNTY, STATE OF FLORIDA  
GENERAL JURISDICTION DIVISION**

Case No. 01-111-99

CAMERON DUNCAN,	)
Plaintiff	)
	)
v.	)
	)
ROBIN HIGHTOWER,	)
Defendant.	)
_____ /	)

**SWORN STATEMENT OF CAMERON DUNCAN**

1           My name is Cameron Duncan. I am a freshman at Central University. I graduated in May  
2 2008 from Douglas High School, Crist County, Florida. I hereby recount my recollection of what  
3 happened on February 9, the day of the game where I was injured.

4           I guess I should start the night before the tournament game. There was a pep rally at Crist  
5 High School, and I went because my cousin, Leslie Lane asked me to be there. Leslie and I are  
6 best friends, as well as relatives. I didn't see anything unusual about attending the pep rally for  
7 our rival school. In fact, I really wanted to go and show Leslie the letter I'd received from the  
8 college I wanted to attend in the fall. I'd been keeping my fingers crossed that I'd get a  
9 scholarship. The letter said that I'd been accepted and had a full academic scholarship. I was  
10 incredibly excited and couldn't wait to share my good news with Leslie.

11           I guess Robin saw Leslie and me together and must have thought something strange was  
12 going on. Robin came over as I was showing Leslie the letter and made some pretty angry  
13 remarks about how Leslie and I were being pretty sneaky right before a big game. I didn't  
14 understand what Robin was getting at, but it was obvious there was a lot of anger in the remarks.

15 I didn't really think anything of it since Robin has a temper. The whole team knows it. Also, the  
16 teams were going to be under pressure to perform during the game because there were supposed  
17 to be scouts for some of the colleges and professional teams in the stands watching. I was glad I  
18 didn't have to worry any longer about an athletic scholarship. My grades were good, and I  
19 worked hard to make sure they were as good as I could get. Now I'm glad I did, because I won't  
20 be able to accept any athletic scholarship, or any offers at all to play in sports again.

21 I think I may have made Robin even angrier during the fourth quarter of the game when,  
22 with the score tied, I accidentally elbowed Robin in the nose and made it bleed. The game was  
23 stopped; I apologized immediately and the referee issued me a personal foul for what had  
24 happened. I thought that would be the end of it. The doctor attended to Robin and s/he came right  
25 back into the game. Nose bleeds aren't all that unusual in basketball. It's not supposed to be a  
26 contact sport, but there are some fast plays that get in close and it is not impossible or strange to  
27 bump into someone who's guarding or trying to get around you to make a play. The refs saw  
28 what happened and didn't give me a technical foul. They realized it had been an accidental bump  
29 and not an intentional elbow to the face. If it had been intentional, I would have been tossed out  
30 of the game. I wasn't going to risk that during this game, believe me.

31 Anyhow, I could tell from Robin's face that there was a lot of anger and resentment  
32 building up. There was nothing I could do about it during the game, but I decided I'd go talk to  
33 Robin right after the final buzzer to see if I could straighten things out. I never got that chance.  
34 As I recall, during the last play of the game, I was under our basket waiting to see if a pass could  
35 get to me. I was in a great position. Robin had been guarding me during that quarter and I saw  
36 one of my team mates spot me and begin to pass in my direction. The next thing I remember is  
37 being pushed hard. Robin had hit me. I remember thinking to myself, for crying out loud, this is

38 basketball, not football; I'm not supposed to be tackled. I know Robin saw the surprise in my  
39 face. I made eye contact as Robin came right at me. I have to tell you, I was afraid, because  
40 Robin's face was ugly and twisted with anger. I don't remember hitting the ball rack, although  
41 that's what I've been told I hit. I don't remember them stopping the game, but I do remember  
42 sirens from the ambulance. I remember being told over and over again to hold still and not move.  
43 I was scared.

44 After getting to the hospital, I was given something for the pain and the doctors met with  
45 my parents and me. We were told that I'd sustained a fracture to my lower spine and, even  
46 though I had some pretty serious numbness in my legs right then, they hoped I'd regain full  
47 function. I am currently undergoing physical therapy. My doctor wrote a letter to me telling me I  
48 should never play sports again. And, the letter is pretty plain. I'll have to be careful for the rest of  
49 my life. If I have another trauma in the same area, I could lose the use of my legs.

50 I carry with me a copy of the letter from my doctor, Dr. Mathewson. Unless they discover  
51 some new technology to strengthen the weak spot on my spine, it looks to me like I'm not going  
52 to be playing sports any longer. My cousin Leslie has been telling me all about Robin's reaction  
53 to the lawsuit. I guess s/he's pretty scared right now too. I know I am. I hate the thought that I'll  
54 always have to worry about a fender bender in a car taking away my ability to walk. I keep  
55 wondering if someday in the future...will I be able to play with or carry my own children?

\_\_\_\_\_  
/s/  
Cameron Duncan

SIGNED AND SWORN to this 4th day of August 2008.

\_\_\_\_\_  
/s/  
Patricia Stratigas, Notary Public, State of Florida  
My Commission Expires: 11/02/09

FURTHER AFFIANT SAYETH NAUGHT.

**IN THE CIRCUIT COURT OF CRIST COUNTY, STATE OF FLORIDA**  
**GENERAL JURISDICTION DIVISION**

Case No. 01-111-99

CAMERON DUNCAN,	)
Plaintiff	)
	)
v.	)
	)
ROBIN HIGHTOWER,	)
Defendant.	)
_____ /	)

**SWORN STATEMENT OF LESLIE (LEE) LANE**

1           My name is Leslie Lane. I am 18 years old and I graduated in May 2008 from Crist High  
2 School. I am currently a freshman in college at Central University. I was co-captain of the  
3 basketball team along with Robin Hightower. I have known Robin since grade school, and we  
4 have played on the same basketball teams all through junior and high school.

5           On the night of our school’s pep rally, before the state championship game, I wanted to  
6 talk to Robin about the game. We’d been having a few disagreements about the way the team  
7 was approaching games, and I was concerned that things were getting pretty bad between us  
8 lately. The majority of the team was tired of Robin acting like a hotshot all the time. Ever since  
9 Robin got a few calls from pro basketball scouts, the game had changed. Robin started having a  
10 real attitude. The team had asked that I speak to Robin to express our concern. They didn’t want  
11 to deal with the attitude problems anymore and neither did I.

12           I went to the pep rally early specifically to meet with Robin when no one else would have  
13 seen her reaction if Robin didn’t take the criticism well. Cameron, who is my cousin and happens  
14 to be the team captain of Douglas High School’s basketball team, went with me to make sure

15 Robin didn't over react. We'd all been friends for a long time. I sort of had the feeling that Robin  
16 wouldn't like seeing me with Cameron so close to a game, but Cameron wanted to be there and I  
17 wanted Cameron there too. Sometimes two heads are better than one in dealing with sensitive  
18 issues.

19         While I was meeting with Cameron and waiting for Robin, Cameron showed me the  
20 letter she/he'd received from Central University. Cam applied there for a full scholarship and had  
21 just been accepted. Cameron wanted me to know because I was set to go there as well. We were  
22 thrilled, kidding around, laughing, and waving the paper around when Robin saw us and walked  
23 over.

24         Before I could even say hello to Robin, s/he spotted Cameron and me talking together.  
25 Robin looked pretty angry and started making some pretty nasty comments directed at Cameron.  
26 Robin had totally lost her/his cool...just because I had been standing and talking with my cousin,  
27 who happened to be the captain of the team we were going to play the next day. Even though my  
28 being with Cameron was totally appropriate, Robin was obviously angry.

29         It was just like Cameron to defend me. Cameron is loyal as all get out. S/He's a great  
30 person, a wonderful cousin, and a tremendous basketball player. I wish we had 6 just like  
31 Cameron on our team. Cameron and Robin got into a pretty heated discussion and I kept trying  
32 to intervene and keep things from getting out of hand. I thought for a few seconds at one point  
33 that Robin might actually get a little physical. Finally, I yelled at Cameron that we should just  
34 leave and they finally stopped fighting. Robin looked shocked, like s/he couldn't believe I was  
35 going to leave with Cameron. I told Robin that I was sorry, Cameron was my cousin and I  
36 couldn't condone the way s/he had been acting on and off the court anymore.

37           Just as Cameron and I turned to walk away, Robin told us that the score was going to be  
38 settled at the game or something like that. It honestly never occurred to me that Robin would  
39 completely lose control at a game. I didn't realize until later that Robin thought I was showing  
40 Cameron the plan for our new full court press. Cameron and I had an understanding about our  
41 sports. We were rivals on the court but not off. But we never shared team secrets. Nothing like  
42 that had ever entered our minds.

43           At first, during the game, I thought Robin had forgotten about the incident. The play was  
44 fast paced and really fun. We were all having a great time. There has always been an intense  
45 rivalry between our two teams. The teams were evenly matched and I didn't see any problems.  
46 During one of the time outs, we learned that a big time recruiter was in the stands watching the  
47 game. Coach told us that the recruiter had expressed interest in Robin and in Cameron. I  
48 immediately got a sinking feeling in my gut over that.

49           I worried that Robin would start showing off, and that Cameron would become a target. It  
50 turns out, that's pretty much what happened. However, It didn't happen until the final few  
51 seconds of the game, when the score was tied. Douglas High had the ball, and despite our full  
52 court pressure, Cameron broke free under the basket and stood wide open for a lay up that would  
53 have won the game. Robin, who was guarding Cameron, got beat, and s/he knew it. As Cameron  
54 was waiting for the pass, Robin ran full steam into her/him, colliding with her/him a split second  
55 before the ball got there. Even though Robin may have been trying to grab the ball, it really did  
56 look like there was an intentional push that made Cameron fall into the rack of balls and slide  
57 into the bleachers. I've seen quite a few really challenging and heated games and it's not at all  
58 rare for a player to get too aggressive. I think that's what happened with Robin. With the  
59 pressure of the recruiter watching, and the anger about Cam and me talking at the pep rally, and

60 the frustration of getting beat on that last second play, I think Robin crossed a line and went too  
61 far. Way too far. So far that Cameron will never be able to play basketball again.

62 I don't know if Cam was aware or would have even cared that a recruiter was watching. I  
63 do know that Cam has a full academic scholarship to Central University and doesn't need an  
64 athletic scholarship to get into a good school, but Robin does. Robin's grades aren't nearly as  
65 good as Cameron's. Robin has had to struggle for all s/he has achieved. Like I said, I have a full  
66 academic scholarship as does Cameron. While I'd love to continue playing basketball in the  
67 future at college and maybe beyond, it's not everything to me. I think it is to Robin. That's pretty  
68 much the reason Robin exists, to play basketball and win. Robin wants to be a star, and have all  
69 the money, fame, and attention it will bring.

70 Until this game, Robin had pretty much been in control of her/his temper on the court.  
71 There had been a few instances when I felt s/he had crossed the line and been a little too  
72 aggressive, but I don't think any of the play up until that day had been excessive. Coach  
73 wouldn't have put up with it. There's a zero tolerance rule at Crist High and it extends into the  
74 sports arena. We are taught that sportsmanship is all-important. That winning is important, but  
75 playing a good clean game is the best reward. I believe all that; I just don't think Robin does.  
76 Robin wants to win. Win the game, win the college scholarship, and win the chance to play  
77 professionally, or in the Olympics, or anywhere that will show her off and gain her/him access to  
78 the fame s/he craves.

79 Cameron told me that after s/he elbowed Robin in the face and bloodied her/his nose,  
80 Cameron had a sort of premonition that something bad was going to happen. Cameron told me  
81 that the elbow was inadvertent and that s/he never intended to hit Robin in the face or at all.  
82 Cameron got the foul for that elbow, but it wasn't a technical foul. The referees could obviously

83 tell that the elbow was an accident. If they had thought Cameron had intentionally thrown her/his  
84 elbow into Robin’s nose, Cameron would have gotten a technical foul and would have been  
85 tossed out of the game. Robin knows that. Everyone knows that.

86 I visited Cameron every day since the accident. It’s been very hard seeing Cam in traction  
87 and in pain, knowing that even though he/she can still walk, and may even be able to run again,  
88 that Cam won’t be able to play basketball ever again, and that another injury to his/her back may  
89 permanently paralyze her/him. I sure wish I could go back and do things differently —maybe  
90 find a way to have reached Robin that wouldn’t have caused as much friction and anger.

91 I feel just awful about what happened. I wish Robin had taken all those talks about non  
92 violence and tolerance more to heart. I remember hearing Robin laugh at some of the stuff the  
93 coaches and the refs were telling us about good sportsmanlike conduct. Robin used to always say  
94 stuff like, “all that goody-two-shoes sort of stuff isn’t going to help me become a millionaire and  
95 get me recognized.” I think Robin only knew one way to reach that particular goal, the whole  
96 fame and fortune thing. Basketball...it was the only way to the top for Robin and s/he almost  
97 killed someone to reach that goal.

\_\_\_\_\_/s/  
Leslie Lane

SIGNED AND SWORN to this 9th day of August 2008.

\_\_\_\_\_/s/  
Patricia Stratigas, Notary Public, State of Florida  
My Commission Expires: 11/02/09

FURTHER AFFIANT SAYETH NAUGHT.

IN THE CIRCUIT COURT OF CRIST COUNTY, STATE OF FLORIDA

GENERAL JURISDICTION DIVISION

Case No. 01-111-99

CAMERON DUNCAN,	)
Plaintiff	)
	)
v.	)
	)
ROBIN HIGHTOWER,	)
Defendant.	)
_____ /	)

**SWORN STATEMENT OF PAT AUERBACH**

1           My name is Pat Auerbach. I have been head coach of the Douglas High School basketball  
2 team for the past 10 years and was an assistant coach for six years previous to that. I have also  
3 coached junior high school and summer league teams since the 1970's. I used to referee in the  
4 1980's in our town's summer basketball league. Some of our best budding high school players  
5 were in that summer league.

6           I was also the starting point guard my senior year of college at State University in 1970.  
7 During that time I was actively recruited by a scout from a team in the old, now defunct  
8 Continental Basketball League, and was even contacted by a scout for an Italian team in the  
9 European League. I had a bit of bad luck at this point and my playing career was cut short when I  
10 suffered a leg injury during a pickup game the summer after college graduation. The injury was a  
11 result of a hard, but clean, foul, which would probably be classified as an intentional foul today.  
12 Those are the breaks though, and I still love the game and all the players and students I have  
13 come in contact with through the years.

14 I have known Cameron Duncan for over five years. S/he is a natural talent, team leader,  
15 excellent student, and all-around great kid. He/she's also a clutch player who actively seeks out  
16 the ball in tight game situations; a rare type of desire that most players only dream about. He/she  
17 was like having another coach on the floor, that the whole team relied upon. Cameron already  
18 had an academic scholarship to Central University, but I was certain that he/she also would have  
19 been offered an athletic scholarship and then maybe even a pro contract.

20 I also know Robin Hightower, Crist High's best player this year. I watched her/him play  
21 in both junior high school and summer league competition a few years back. Robin has what I  
22 call raw talent, based on pure athletic ability, but he/she was never a team player the way  
23 Cameron is. You could always tell when Robin was upset by the way he/she curled his/her lip  
24 after a ref made a call he/she didn't like. Robin's always been a bit of a showboat when things  
25 didn't go his/her way. Robin is still a kid on the inside, definitely not a polished player. When  
26 his/her team was behind he/she became a bit of a ball hog, which I'm sure his/her teammates  
27 noticed and didn't appreciate. Robin always appears to be in his/her own world during a game.  
28 During time-outs in the semi-finals game he/she kept staring at our huddle instead of listening to  
29 his/her own coach. Robin always seems to have a chip on his/her shoulder. I'm sure he/she knew  
30 there was a pro scout present during the game; all the kids were aware the scout was there. That  
31 fact alone would have had a big impact on a kid like Robin who would never have the options  
32 that Cameron would be offered.

33 The teams for this championship game were very well matched. The lead swung back  
34 and forth minute-to-minute. Earlier in the fourth quarter, Robin got hit in the nose, which was  
35 purely an accident, as a direct result of a spirited play under the basket. Even though Cameron  
36 got whistled for a personal foul, it was a clean play. After that, Robin's nose was reddened the

37 remainder of the game, and I could tell that he/she took the incident personally against Cameron,  
38 even though it was an accident.

39 In the final seconds of the game, as we were attempting to make the go-ahead bucket,  
40 Crist High put on a new variation of a full court press, a defense we hadn't seen before. Cameron  
41 was being guarded by Robin, but s/he was able to get free anyway, and was wide open under the  
42 basket for a lay up. Robin must have been beaten by a good five to ten feet. Our point guard,  
43 seeing that Cameron was open, threw a pass to Cameron. Robin, knowing that he/she had been  
44 beaten on the play, and obviously in total desperation, decided to take Cameron out with a head-  
45 first lunge. From where I was standing just feet from where the incident took place, I am sure  
46 that there was nothing for Robin to slip on as he/she claims. There was no water on the floor.  
47 That hothead Hightower just wanted to stop Cameron. He/she couldn't stand the thought of a  
48 loss due to his/her own defensive mistake. It was more than a personal foul more than an  
49 intentional foul based on the impact, as I witnessed it. It was a cheap shot, plain and simple,  
50 delivered with completely flagrant force. I'm no lawyer, but it was a classic mugging on the part  
51 of Robin Hightower. I haven't seen anything that bad on a basketball court since Rudy  
52 Tomjanovich was decked by Kermit Washington in the 1970s.

53 If that pro scout is interested in another immature player with a big ego in his/her league,  
54 I guess he/she will still offer Robin a contract. Something has to be done to address these  
55 aggressive, cheap-shot fouls in the modern game of basketball. If not, the game will suffer, just  
56 like hockey has experienced, due to all the unnecessary violence.

57 Sports can be incredibly motivational. They can lead to bigger and better things, which  
58 often is the case for most of the participants. But, every once in awhile, there is a student who  
59 believes that winning is everything. He or She tends to set aside the rules, bends them, and does

60 whatever it takes to bring the team to a level that will enable him or her to win consistently. That  
61 is not always a good thing. Most of the kids on these teams are there because they love the sport.  
62 They love the team, the exercise, and the challenges. It is my firm belief that Robin Hightower is  
63 the exception to this. I honestly believe that Robin crossed a line that should have never been  
64 crossed and, in doing so, jeopardized the safety of Cameron.

65 Now we are faced with how to manage this event in the media, the school, our  
66 community, and most importantly, in Cameron's life. I sent school counselors to meet with  
67 Cameron and her/his family, just in case there were issues that needed to be resolved. Cameron's  
68 health and well-being are my primary concern right now. As one of my students, I care deeply  
69 about Cameron and his/her future.

\_\_\_\_\_  
/s/  
Pat Auerbach

SIGNED AND SWORN to this 11th day of August 2008.

\_\_\_\_\_  
/s/  
Patricia Stratigas, Notary Public, State of Florida  
My Commission Expires: 11/02/09

FURTHER AFFIANT SAYETH NAUGHT.

**IN THE CIRCUIT COURT OF CRIST COUNTY, STATE OF FLORIDA**  
**GENERAL JURISDICTION DIVISION**

Case No. 01-111-99

CAMERON DUNCAN,	)
Plaintiff	)
	)
v.	)
	)
ROBIN HIGHTOWER,	)
Defendant.	)
_____ /	)

**SWORN STATEMENT OF ROBIN HIGHTOWER**

1           My name is Robin Hightower, I am 18 years of age, and a freshman in college. I  
2 graduated from Crist High School in May 2008. In high school, I played on and was co-captain  
3 of the varsity basketball team. I also played power forward.

4           Both Crist High and our archrival, Douglas High School, had progressed to the state  
5 championship game in the spring of 2008. Cameron Duncan, the person I accidentally injured, is  
6 both a power forward and team captain for Douglas. He/she and I have been friendly rivals since  
7 we first met six years ago at Hoops Basketball Camp. We both really enjoy basketball, and  
8 we're both very good at it. In many ways we are alike. We are both from humble means and  
9 view sports as a way to improve our lives and give us an opportunity for college, success, and  
10 wealth.

11           The night before the tournament game, Crist High School held its traditional pep rally.  
12 When I arrived, I was surprised to see Leslie Lane, my co-captain, with Cameron. I must admit I  
13 was unable to contain my emotions at that time. I was mad. I saw Cameron and Leslie looking

14 at a piece of paper and my instincts told me that Leslie was showing Cameron, her/his cousin,  
15 our secret game plan. Strong words were spoken, but no physical exchange took place.

16 Rumors are circulating that there was shoving and hitting, but there was just words. As I  
17 turned to leave I remember telling Cameron that I was disgusted and that the best team would  
18 win, but I knew it was going to be my team. Things would be settled on the basketball court.  
19 There was no threat. I meant nothing by it, other than that I was confident that our team would  
20 prevail. Even if Leslie had let our secret game plan out of the bag, I certainly did not mean my  
21 comments as a threat to do bodily harm.

22 The minute the championship game started, competition was fierce. Our teams were  
23 pretty evenly matched, and, as usual, I was told to guard Cameron. In the fourth quarter, with the  
24 score tied, I was tied up with Cameron going for a rebound, and Cameron hit me squarely in the  
25 nose with his/her elbow, obviously intending to hurt me, which it did. S/He came up to me and  
26 apologized and denied that s/he was trying to hurt me, but it was pretty obvious to me that the  
27 elbow was intentional. The referees called a foul on Cameron. Our coach called a time out to  
28 permit the team doctor the opportunity to attend to my nosebleed. Although I was encouraged by  
29 my coach to leave the game and stay on the bench, I refused and insisted that I could continue to  
30 play. I felt like the team needed me, and there was just too much at stake.

31 The game started again, and after a few points were scored by each side, the coach told us  
32 to set up the formation for our new, secret full court press that was specifically designed to put  
33 pressure on Cameron and keep him/her from getting the ball. This is the plan I thought that  
34 Leslie Lane had showed to Cameron, and I could hardly wait to see if I was right. Sure enough,  
35 with just a few seconds left, Cameron was trying to get open and got open under the basket. I  
36 needed to intercept the pass intended for Cameron, and I was in position to do it. Unfortunately, I

37 slipped on a wet spot on the court and slid into Cameron. The weight of my body falling forced  
38 Cameron into the ball rack and the bleachers behind him/her. I tried to grab for Cameron to help  
39 break the fall, but I didn't manage to grab hard enough.

40 I know Cameron saw me coming because s/he looked me right in the eye a fraction of a  
41 second before I slid. At the moment of impact, neither Cameron nor I was in possession of the  
42 ball. All at once I heard Cameron yell, the noise of the balls scattering on the court, and the  
43 buzzer. I knew we were close to the end of the game, but I didn't realize we were that close. The  
44 referees whistled me for a personal foul. One of Cameron's teammates took the foul shot and  
45 won the game for Douglas.

46 The team doctor examined Cameron on the basketball floor and later diagnosed a fracture  
47 to the spinal cord. Ambulances were called; and Cameron was carefully lifted off the court and  
48 taken to the hospital. Later I learned that Cameron would still be able to walk, and even run, but  
49 the doctor said s/he probably wouldn't be able to play basketball again, since another injury to  
50 her/his back might give her/him permanent paralysis.

51 I think it's tremendously unfortunate that the game wasn't being videotaped. I think an  
52 actual tape of the play would show that I had tried to help Cameron, not cause harm. I swear I  
53 never intended to cause Cameron harm. I only wanted to intercept that pass. That's all that  
54 happened. I know there are rumors that I had it in for Cameron, but that's just not true.

55 The school authorities have declined to take corrective action on their own. I know that  
56 the Florida High School Basketball Association (FHSBA) is reviewing the matter, but their  
57 review will not be complete until months from now. Yes, it is true that I have been in contact  
58 with professional basketball scouts since my senior year in high school and I am being  
59 considered for the 2009 NBA draft. My motto has always been, "let the best person win, let the

60 best team win.” I may be on my way to a professional career, so it does not make sense that I  
61 would have done anything to intentionally hurt another team’s player.

\_\_\_\_\_/s/  
Robin Hightower

SIGNED AND SWORN to this 10th day of September 2008.

\_\_\_\_\_/s/  
Patricia Stratigas, Notary Public, State of Florida  
My Commission Expires: 11/02/09

FURTHER AFFIANT SAYETH NAUGHT.

**IN THE CIRCUIT COURT OF CRIST COUNTY, STATE OF FLORIDA**  
**GENERAL JURISDICTION DIVISION**

Case No. 01-111-99

CAMERON DUNCAN,	)
Plaintiff	)
	)
v.	)
	)
ROBIN HIGHTOWER,	)
Defendant.	)
_____ /	)

**SWORN STATEMENT OF KINSLEY (KEN) RENDLEMAN**

1           My name is Kinsley Rendleman. I have been the head principal at Crist High School for  
2 the past ten years. During my tenure at Crist, I have never witnessed a turn of events like those  
3 that occurred the night in question.

4           The night of the state final championship game began just like any other game night.  
5 There was an air of excitement as two equally talented, equally matched, and equally competitive  
6 teams engaged in a game of basketball. I had heard no talk of cross-town rivalries or any hints  
7 that there could have been an undercurrent of anger. That’s never been a problem in Crist. Crist  
8 High School and Douglas High School have a friendly rivalry and when the teams aren’t playing  
9 each other, they support each other like township schools should. We’re striving for a family-like  
10 atmosphere, and we’ve cultivated that attitude carefully for years. Unfortunately, I missed most  
11 of the action as I spent the best part of the night walking around the gymnasium and the  
12 bleachers, chatting with parents, community leaders and school personnel. I do this at every  
13 game, because it helps keep the fans under control. In the past, we had experienced some  
14 troublesome activities from over-zealous parents and students that seemed to encourage bad

15 behavior on the basketball court. I implemented a series of meetings with staff, parents,  
16 community leaders and students that explained the zero tolerance for excessive violence in sports  
17 and the absolute zero tolerance for violence on school grounds.

18 Crist High School and all the teachers and staff have been trained to encourage and  
19 support good sportsmanlike behavior and we encourage our students to participate in a broad  
20 range of activities. All of us strive toward one goal--giving each student the best possible  
21 opportunity to become a responsible, well-rounded citizen. Sports are a tremendous outlet for  
22 pent-up energy, both for the players and for the spectators. However, that energy can get out of  
23 hand unless it is controlled. We have tried to teach that there is a difference between hard play  
24 and overly aggressive or abusive play.

25 Because I was in the stands, I did not witness the rough-housing that occurred between  
26 the two star players, although I strongly believe no harm was intended by either incident. Bloody  
27 noses on the court, or the field, are fairly common and are usually considered one of the hazards  
28 of hard play. It did not surprise me that a technical foul was not called on Cameron when s/he  
29 bloodied Robin's nose during the fourth quarter. The referees obviously felt that the action was  
30 not the result of any over-zealous or mean-spirited act. A foul was called and that was sufficient.

31 I think the referees and the coaches do a remarkable job of policing the players. They are  
32 a consistently professional group of people who find ways of dealing with some pretty stressful  
33 situations. Competitions can become emotional, but with consistent adult supervision, things stay  
34 calm and fun for the players and the fans alike. I did witness the incident at the end of the game,  
35 when Robin lost balance during a last second attempt to intercept a pass intended for Cameron,  
36 and accidentally knocked Cameron into the rack of balls and, ultimately, the bleachers.

37           From where I was standing, directly across the court from the action, it clearly looked  
38 like Robin slipped and began to fall, realized that Cameron would fall along with her/him, and  
39 appeared to reach forward to help Cameron avoid crashing into the rack of balls. That act of  
40 trying to help Cameron has turned into what some people are calling the fatal push.

41           I must say again that Crist High School prides itself on its reputation for zero tolerance  
42 for any exhibition of unsportsmanlike behavior. Our school policy mirrors that of the Florida  
43 High School Association, which strongly discourages violence in school sponsored sporting  
44 events. The FHSBA Beliefs, which Crist High has adopted fully, include the belief that  
45 sportsmanship is a core value and its promotion and practice is essential. We have also adopted  
46 our own Code of Conduct, which clearly states that players will not participate in or encourage  
47 unsportsmanlike or disruptive conduct, or excessive violence, either on or off the playing field.  
48 The student-athletes sign it, their coaches sign it, the parents are given a copy, and it is posted  
49 throughout the school as a reminder.

50           I was aware that a well-known professional basketball recruiter was in the stands that  
51 night. I believe Robin had received a few indications of interest from this recruiter and others  
52 prior to this game. I hadn't witnessed any great change in Robin's demeanor or play, other than  
53 there was a certain increase in his/her concentration and focus. Robin hadn't been paying as  
54 much attention to the fans in the stands and had really been working hard in practice and on the  
55 courts. I firmly believe that Robin Hightower will achieve great things in life, especially in  
56 basketball at the professional level. I would certainly hate to see this tragedy grow in scope and  
57 ruin Robin's chances at such a bright future.

58           Every player and every parent out there knows that there are risks involved in sports. In  
59 some sports, like in basketball, a certain level of contact is expected. While players are

60 encouraged to play fairly, they are also taught to be aggressive and competitive. I think if there  
61 are problems that arise during a sanctioned high school game, it is entirely appropriate for the  
62 school to take corrective action, rather than the police. I don't want our players looking over their  
63 shoulders wondering if something they do on the court could land them in jail or in court. I have  
64 heard in the past that there have been instances like this particular one in professional sports, and  
65 that no legal action was taken. It seems like the kids playing in recreational or school games are  
66 being hauled into court. I'm not at all sure that's fair. Is the threshold for what is tolerated  
67 different for kids than adults?

68 I have known Robin since s/he first entered middle school and I have never known  
69 her/him to be in trouble before, but quite the opposite in fact. Robin has always been a good  
70 student, often helping in tutoring other students and helping those less fortunate. S/He was one of  
71 the first athletes to sign the Code of Conduct and worked hard to make sure that all the other  
72 athletes at Crist High School understood and signed the document. I wish Crist High School had  
73 more students with the work ethic and standard of behavior that Robin routinely displays. This  
74 was a tragic incident, but it was an accident. I am absolutely certain that the act was entirely  
75 unintentional. I am also absolutely certain that no high school player on our team would  
76 purposely maim or cause permanent harm to another player. Absolutely certain.

\_\_\_\_\_  
/s/  
Kinsley Rendleman

SIGNED AND SWORN to this 11th day of September 2008.

\_\_\_\_\_  
/s/  
Patricia Stratigas, Notary Public, State of Florida  
My Commission Expires: 11/02/09

FURTHER AFFIANT SAYETH NAUGHT.

IN THE CIRCUIT COURT OF CRIST COUNTY, STATE OF FLORIDA

GENERAL JURISDICTION DIVISION

Case No. 01-111-99

CAMERON DUNCAN,	)
Plaintiff	)
	)
v.	)
	)
ROBIN HIGHTOWER,	)
Defendant.	)
_____ /	)

**SWORN STATEMENT OF ARTIS MICHAEL**

1           My name is Artis Michael. I am a sports agent for several college and professional  
2 basketball players. I have been working as a professional agent for over fifteen years. Over my  
3 career, I've seen hundreds of high school basketball games. I attended the game in which  
4 Cameron Duncan was hurt.

5           Robin Hightower was a hot prospect. S/He had the athleticism to achieve professional  
6 status with the W/NBA after only one year in college. It's what we in the business call the "one  
7 and done."

8           At the state final championship game where the accident occurred, I was sitting in the  
9 scouting section, right behind the press table. The coach of one of the local universities, Bobby  
10 Day, and I were discussing how hard play, especially on the boards, was becoming routine with  
11 high school players. Especially in tournament play, all the players are rougher, partially because  
12 they know coaches, scouts, and agents are looking for and watching recruits. Both team's

13 coaches introduced themselves to me before the game, telling me about their current team and  
14 upcoming prospects.

15 Coaches know that many of these kids have their futures on the line during state  
16 championships. A good showing from a top prospect can cement his/her future. A player with  
17 borderline talent, if he/she can show something in a big game, can often better his/her chances of  
18 going to a good school or getting some financial assistance. Tournament games are often  
19 showcases for the coaches to let us see what we need to see.

20 At the time of the collision between Hightower and Duncan, the score was tied, and  
21 Douglas High had the ball with just a few seconds left. If Duncan couldn't get open, or if s/he  
22 couldn't get off a last second shot, the game would go into overtime. It seemed to me that if the  
23 game went into overtime, Crist would probably win because they had the momentum, in large  
24 part due to Hightower's defensive play during the fourth quarter. It almost seemed as though  
25 being hit in the face by Duncan's elbow earlier in the fourth quarter woke up Hightower, and  
26 s/he and the Crist High team were playing much more aggressively.

27 I was watching when Hightower ran into Duncan, and I had a clear view of Hightower's  
28 face and hands. I've seen hundreds of collisions over my career. While this one was hard, it was  
29 not unfair or malicious, and I think it was provoked earlier when Hightower took that elbow to  
30 her/his nose. Given what was on the line in those last few seconds of the game, I was surprised  
31 that Duncan did not get up right away and finish the game. Only later did I learn that s/he was  
32 seriously injured.

33 There was certainly a foul. Games at this level are physical. Was it a hard foul? Sure it  
34 was. Hard charge? Yes. Was it reckless? Definitely not. It was a high school championship

35 basketball game and the players were simply playing as aggressively and as professionally as  
36 they could.

37           There's always talk after an accident about how violent sports have gotten. People start  
38 saying that sports have a "dark side" and that there are big problems with how competitive the  
39 teams have become. People start worrying that winning is becoming all-important and that  
40 sportsmanship and camaraderie is falling in importance. I don't think that's true. I think students  
41 should have a creative outlet for their energy. Besides, we live in an incredibly competitive  
42 society. Why not teach and prepare the students for what to expect when they enter the real  
43 world? Competition builds character. Even when players get hurt, it's an opportunity to build  
44 character. I'm not saying that I think it's good that a player was hurt, or that s/he will never be  
45 able to play the game again. I'm saying that sports and the competition probably prepared that  
46 student to face the possibility of failure and the real challenges of life.

47           I certainly didn't see anything in the play that I would consider to have been overly  
48 aggressive, threatening or intimidating. The coaches had those kids well in hand. This was an  
49 accident, plain and simple.

\_\_\_\_\_  
/s/  
Artis Michael

SIGNED AND SWORN to this 12th day of September 2008.

\_\_\_\_\_  
/s/  
Patricia Stratigas, Notary Public, State of Florida  
My Commission Expires: 11/02/09

FURTHER AFFIANT SAYETH NAUGHT.

**EXHIBIT "A"**

**CRIST HIGH SCHOOL CODE OF CONDUCT**  
*Athletic and Scholastic Competition Participants*  
Crist County, Florida

- \* I will treat my teammates, coaches and referees with respect.
- \* I will treat opponents with respect: shake hands prior to and after contests.
- \* I will respect the judgment of contest officials, abide by rules of the contest and display no behavior that could incite fans.
- \* I will cooperate with officials, coaches or directors and fellow participants to conduct a fair contest.
- \* I will accept seriously the responsibility and privilege of representing school and community; and display positive public action at all times.
- \* I will live up to the high standard of sportsmanship and citizenship established by my coaches.
- \* I will take no illegal or performance enhancing drugs...
- \* I will not drink alcoholic beverages...
- \* I will not smoke...
- \* I will not participate in or encourage unsportsmanlike or disruptive conduct or excessive violence either on the playing field or off.

Signature of Student \_\_\_\_\_

Dated: \_\_\_\_\_

Signature of Coach/ Sponsor \_\_\_\_\_

Dated: \_\_\_\_\_

## EXHIBIT “B”

### FLORIDA HIGH SCHOOL BASKETBALL ASSOCIATION

#### BELIEFS

1. FHSBA believes equal opportunity and access must be provided for all it serves.
2. FHSBA believes that interscholastic athletics and activities are an integral component of secondary education.
3. FHSBA believes in respect, appreciation, and acceptance of diversity.
4. FHSBA believes each individual’s involvement and acceptance of personal responsibility is critical to achieving outcomes.
5. FHSBA believes that sportsmanship is a core value and its promotion and practice are essential.
6. FHSBA believes that each member school is equal and equally important to the association’s existence.
7. FHSBA believes that equality and fairness must be safeguarded at all cost.
8. FHSBA believes that all persons involved in interscholastic activities need to be positive role models.
9. FHSBA believes each individual is important and that striving to reach one’s full potential is the measure of success.
10. FHSBA believes effective communication promotes knowledge, understanding, and collaboration.
11. FHSBA believes in the pursuit of excellence.
12. FHSBA believes that to remain effective it must be a self-governing organization where each member school must take responsibility for the enforcement of all rules and regulations.
13. FHSBA believes integrity and honesty are non-negotiable.

#### **[FHSBA BYLAWS, excerpted.]**

##### 2.040 Sportsmanship of School Representatives

2.0401 Students, school staff, boards of education, spectators and all other persons connected directly or indirectly with a member school shall practice and promote the highest principles of sportsmanship and the ethics of competition in all interscholastic relationships. The Executive Director shall have authority to investigate allegations and incidents of unsportsmanlike conduct or conduct which adversely affects the ethics of competition in connection with interscholastic contests. The Executive Director shall also have full authority to invoke penalties, in the context of the provisions of Division 6.000 of these Bylaws, against a member school and/or individuals whose conduct in connection with an interscholastic contest violates these principles or ethics.

2.0402 Member schools shall maintain proper crowd control and enforce the principles of good sportsmanship and ethics for all interscholastic activities. The Executive Director shall have authority to investigate reported incidents of unsportsmanlike conduct or conduct which adversely affects the ethics of competition in connection with interscholastic contests and shall have full authority to invoke penalties, in the context of Division 6.000 of

these Bylaws, against a member school which fails to fulfill its obligations as provided in this section.

### 3.150 Misbehavior During Contests

3.151 Students participating in interscholastic athletic contests in violation of the Bylaws, or other persons found to be in gross violation of the ethics of competition or the principles of good sportsmanship, may be barred by the Board of Directors from interscholastic contests.

### 6.010 Penalty for Violating Rules

Any violation of the Constitution and/or Bylaws, Terms and Conditions, FHSBA Policies and Guidelines, and/or other rules of the Association shall be reported to the Executive Director, who shall have authority to investigate all alleged violations. The findings of the investigation shall be made known to the school (or schools), person (or persons), alleged to have committed a violation. The Executive Director shall then have full authority to invoke penalties against such school or persons found to have committed violations. Penalties shall include, but not be limited to, written warning or reprimand, requisite affirmative corrective action, up and including suspension and/or expulsion. Failure to take the corrective action required by any penalty shall be the basis for further action, up to and including suspension and/or expulsion.

### 6.011 Players Ejected for Unsportsmanlike Conduct

Any player ejected from a contest for unsportsmanlike conduct shall be ineligible for the next interscholastic contest at that level of competition, and all other interscholastic contests at any level in the interim, in addition to other penalties the FHSBA or the school may assess.

## CODE OF CONDUCT

It is recommended by the FHSBA Board of Directors that, in the context of FHSBA Bylaw 2.040, every member school establish and maintain a local Code of Conduct, dealing with the problem of the use of tobacco products, alcohol and other illegal, mood-altering and/or performance enhancing drugs or chemicals by students who participate in school athletic and activity programs.

The FHSBA also endorses the statement regarding steroid use, contained in all National Federation of State High School Basketball Association sports playing rules publications. This statement points out, in part, that “while steroid use is not rivaling the use of alcohol and other drugs in schools, it is a concern. The use of steroids in sports is cheating. We stand opposed to the use of steroids by athletes and all members of the student body because of health and ethical concerns.”

## EXHIBIT "C"

Section C1

Sports

### *The Crist Digest*

Wednesday, February 13, 2008

Page 1

#### **DOUGLAS H.S. STAR SERIOUSLY INJURED DURING STATE CHAMPIONSHIP GAME**

By Chris Chambers

Douglas High School basketball star, Cameron Duncan, was seriously injured last Saturday night during the state high school championship basketball game after s/he was hit by Crist High School's star basketball player, Robin Hightower.

The coach from Douglas High School, Pat Auerbach, and one of Hightower's teammates, Leslie Lane, have alleged that Hightower's conduct was "intentional violence" inflicted on Duncan because of a prior argument between the two players.

Lane, a senior at Crist, recounts a heated exchange between

Hightower and Duncan outside Crist's pep rally Friday night, in which Hightower allegedly threatened Duncan. "Robin said 'the score would be settled between them at Saturday night's game,'" recalls Lane. Visibly shaken, Lane contends, "Robin crossed the line and went too far. Way too far. Cam (Duncan) will never play basketball again."

Lane isn't the only person to be visibly shaken by Saturday night's incident. The assault on Duncan was viewed with concern from the stands. Hightower appeared angry with the Douglas star at times during the game. After the tragic contact, it was impossible for

Duncan to regain balance.

As Duncan lay motionless on the court, teammates and coaches rushed to her/his aid. Hightower seemed unfazed by the screams of onlookers and didn't move until Crist's principal, Dr. Kinsley Rendleman, escorted Hightower to the locker room.

Paramedics and police arrived minutes later. Duncan was rushed to Community Hospital, where s/he is in stable condition with a spinal cord injury. Hospital staff declined to offer a prognosis for full recovery at this time.

**EXHIBIT "D"**

**Anthony Mathewson, M.D.**

1 Medical Drive, Suite 500

Crist City, Florida 11112

(123) 987-6543

February 14, 2008

Dear Cameron,

Please be advised that your injury, sustained at last week's basketball game, should be taken seriously. I am **not**, and will **not**, release you to return to the basketball court and strongly advise against any additional trauma to your lower lumbar (back) region. At this time, I am quite certain that with continued physical therapy, you will be able to walk with little or no discomfort or danger to your physical wellbeing. However, should another similar trauma be sustained, due to sports, traffic accident, or other stress to the injured area, you may sustain permanent, debilitating injury that could cause you to lose the function and feeling in both legs and your lower torso.

As your physician, I strongly encourage you to remember this and take great care in protecting the injured region.

By copy of this letter, I am advising your parents, school principal and team coach that you will be unable to finish this basketball season.

Should you feel compelled to participate in any sport in the future, I would recommend swimming as a wonderful way to gain muscle strength in the injured area without straining the area. However, having said that, I would recommend that you not dive from any great height.

If you have any questions or concerns, please feel free to contact me at any time.

Sincerely,

/s/

Anthony Mathewson, M.D.

cc: Parents  
School Principal  
Team Coach

## **RELEVANT LAW**

*Kuehner v. Green*, 406 So. 2d 1160 (Fla. 5<sup>th</sup> DCA 1981)

*Van Tuyn v. Zurich American Ins. Co.*, 447 So. 2d 318 (Fla. 4<sup>th</sup> DCA 1984)

*Ashcroft v. Calder Race Course, Inc.*, 492 So. 2d 1309 (Fla. 1986)

*This is merely a list of suggested readings, and should not be viewed as a mandatory or comprehensive list to be relied upon for purposes of this competition.*

## **GLOSSARY OF TERMS**

Blocked shot:	The successful deflection of a shot by touching part of the ball on its way to the basket, thereby preventing a field goal
Blocking:	The use of a defender's body position to legally prevent an opponent's advance; the opposite of charging
Charging:	An offensive foul which occurs when an offensive player runs into a defender who has established position
Double team:	When two teammates join efforts in guarding a single opponent
Drive to the basket:	To move rapidly toward the basket with the ball.
Elbowing:	It is a violation if a player vigorously or excessively swings his/her elbows, even if there is no contact; it is a foul if contact is made, and an automatic ejection if that contact is above shoulder level.
Flagrant foul:	Unnecessary or excessive contact against an opponent
Floor violation:	A player's action that violates the rules but does not prevent an opponent's movement or cause him/her harm; penalized by a change in possession.
Foul:	Actions by players which break the rules but are not floor violations; penalized by a change in possession or free-throw opportunities: see personal foul or technical foul.
Foul shot:	See free throw
Free throw:	An unguarded shot taken from the foul line by a player whose opponent committed a personal or technical foul: it is worth 1 point.
Full-court press:	Defenders start guarding the offense in the backcourt.
Guarding:	The act of following an opponent around the court to prevent him/her from getting close to the basket, taking an open shot or making an easy pass, while avoiding illegal contact.
Incidental contact:	Minor contact usually overlooked by officials.
Officials:	The crew chief, referee and umpire who control the game, stop and start play, and impose penalties for violations and fouls.
Open:	When a player is unguarded by a defender.

Out of bounds:	The area outside of and including the end lines and sidelines.
Pass:	When a passer throws the ball to a teammate; used to start plays, move the ball down court, keep it away from defenders and get it to a shooter.
Passer:	The player who passes the ball to a teammate.
Personal foul:	Contact between players that may result in injury or provide one team with an unfair advantage; players may not push, hold, trip, hack, elbow, restrain or charge into an opponent; these are also counted as team fouls.
Possession:	To be holding or in control of the ball.
Rebound:	When a player grabs a ball that is coming off the rim or backboard after a shot attempt.
Scoring opportunity:	When a player gets open for a shot that is likely to score.
Sidelines:	2 boundary lines that run the length of the court.
Team fouls:	Each personal foul committed by a player is also counted against hi/her team; when a team goes over the limit, its opponent is awarded free-throw opportunities.
Technical foul:	An infraction of the rules during the course of play between players on the court that generally does not involve physical contact, or a foul by a non-player. The most common technical foul is for unsportsmanlike conduct.
Timeout:	When play is temporarily suspended by an official or at the request of a team to discuss strategy or respond to an injured player.
Turnover:	When the offense loses possession through its own fault by passing the ball out of bounds or committing a floor violation.

## **JURY INSTRUCTIONS**

### **Florida Pattern Jury Instructions – Negligence**

The issues for your determination of the claim of Plaintiff against Defendant are:

- Whether Defendant was negligent by failing to conduct him/herself with sportsmanlike conduct during the February 9, 2008, basketball game; and if so, whether such negligence was a legal cause of the injury sustained by Plaintiff.
- Whether Defendant was grossly negligent because his/her conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of Plaintiff; and if so, whether such gross negligence was a legal cause of the injury sustained by Plaintiff.

If the greater weight of the evidence does not support the claim of Plaintiff, then your verdict should be for Defendant.

If, however, the greater weight of the evidence does support the claim for Plaintiff, then you shall consider the defense raised by Defendant.

If the greater weight of the evidence does not support the defense of Defendant and the greater weight of the evidence does support the claim for Plaintiff, then your verdict should be for Plaintiff against Defendant.

“Greater weight of the evidence” means the more persuasive and convincing force and effect of the entire evidence in the case.

Negligence is the failure to use reasonable care. Reasonable care is that degree of care that a reasonably careful person would use under like circumstances. Negligence may consist of either doing something that a reasonable careful person would not do under like circumstances or in failing to do something that a reasonably careful person would do under like circumstances.

Negligence is a legal cause of injury if it directly and in natural and continuous sequence produces or contributes substantially to producing such damage that it reasonably can be said that, but for such negligence, the injury would not have occurred.

A person is liable for negligence only if injury to another was a reasonably foreseeable consequence of the negligence.

“Gross negligence” means that the conduct of Defendant was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.

On the Defendant's affirmative defense, the issues for your determination are whether Plaintiff knew of the existence of the danger complained of; realized and appreciated the possibility of injury as a result of such danger; and, having a reasonable opportunity to avoid it, voluntarily and deliberately exposed himself/herself to the danger complained of.

### **Florida Pattern Jury Instructions – Battery**

Plaintiff claims that Defendant committed a battery against him/her on February 9, 2008. Plaintiff claims that as a result of this battery, he/she suffered injury and damages. Plaintiff seeks to recover compensation for the injury/damages from Defendant in this proceeding.

A battery is an intentional infliction of harmful or offensive contact on the person of another.

In order to find that Defendant has committed a battery, you must find that Plaintiff has shown by the greater weight of the evidence that:

- (1) Defendant intended to touch Plaintiff's person;
- (2) Defendant actually touched Plaintiff;
- (3) The contact was harmful or offensive; and
- (4) The contact directly or indirectly caused an injury to Plaintiff.

## **RULES OF THE STATE COMPETITION**

### **Rule I: Team Composition/Presentation**

- 1) The competition is open to students currently enrolled in grades 9-12 in Florida schools. All students on a team must be enrolled in the same school in the district they are representing.
- 2) **Only one team may represent a high school at any level of competition.**
- 3) Teams shall consist of six to eight students including alternates to be used in any manner deemed appropriate by the teacher and coach, as long as the distribution of duties does not conflict with competition Rule IV. For each trial round, teams shall use three students as attorneys and three students as witnesses.
- 4) Students may switch roles for different **rounds** of trials (i.e. a student may be an attorney for the defense and a witness for the plaintiff during separate rounds).
- 5) Each team must be fully prepared to argue both sides of the case. (Prosecution/Plaintiff and Defense/Defendant) using six team members.
- 6) Students of either gender may portray the role of any witness. The competition will strive to make roles gender neutral. However, some cases will warrant a specific gender role. In such cases, students of either gender may portray the role but the gender of the witness may not change from the case as presented.
- 7) Team Roster/"Roll" Call

Copies of the Team Roster form must be completed and returned prior to arrival at the competition site. Teams should be identified by the code assigned at registration.

Before beginning a trial, teams will be asked to prepare a "Roll Call" list to identify the students participating in each round and their corresponding roles. No information identifying team origin should appear on the list.

- 8) All teacher coaches and students must attend the mandatory general assembly/orientation. Attorney coaches who accompany their team must also be present.
- 9) Immediately following the mandatory general assembly, all teachers and attorney coaches affiliated with participating Mock Trial teams must attend a Teacher and Coaches Meeting, which will include a review of the rules and power matching system.

### **Rule II: The Case**

- 1) The case may contain any or all of the following stipulations: documents, narratives, exhibits, witness statements, etc.

- 2) The stipulations (and fact statements, if any) may not be disputed at the trial. Witness statements may not be altered.
- 3) All witnesses must be called.

### **Rule III: Trial Presentation**

- 1) The trial proceedings will be governed by the Florida Mock Trial Simplified Rules of Evidence. Other more complex rules may not be raised at the trial. Questions or interpretations of these rules are within the discretion of the State Mock Trial Advisory Committee, whose decision is final.
- 2) Each witness is bound by the facts contained in his/her own witness statement, the Statement of Facts, if present, and/or any necessary documentation relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' 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, on 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.

Adding facts that are inconsistent with the witness statement or with the Stipulated Facts and which would be relevant with respect to any issue in the case is not permitted. Examples include, but are not limited to (a) creating a physical or mental disability, (b) giving a witness a criminal or bad record when none is suggested by the statements, (c) creating facts which give a witness standing as an expert and (d) materially changing the witness' profession, character, memory, mental or physical ability from the witness' statement by testifying to "recent changes."

- 3) If certain witnesses are stipulated to as experts, their expert qualifications may not be challenged or impeached by the opposing side. However, their testimony concerning the facts of the case may be challenged.
- 4) On direct examination, the witness is limited to the facts given. If a witness testifies in contradiction to the facts given in the witness statement, that testimony may be impeached on cross-examination by the opposition through the correct use of the affidavit. The procedure is outlined in the Rules of Evidence.
- 5) On cross-examination, no restrictions will be made on the witness or the cross-examination, except that the answer must be responsive and the witness can be impeached.

If the attorney who is cross-examining the witness asks a question, the answer to which is not contained in the stipulations or affidavit then the witness may respond to that question with any answer as long as the answer **does not contradict or materially change** the affidavit.

If the answer by the witness is contrary to the stipulations or the affidavit, the cross-examination attorney may impeach the witness.

- 6) Use of **voir dire** examination of a witness is not permitted.

#### **Rule IV: Student Attorneys**

- 1) Team members are to evenly divide their duties. During any single round, each of the three attorneys will conduct one direct and one cross; in addition, one will present the opening statements and another will present closing arguments. In other words, the attorney duties for each team will be divided as follows:
  - a) Opening Statements
  - b) Direct/Re-direct Examination of Witness #1
  - c) Direct/Re-direct Examination of Witness #2
  - d) Direct/Re-direct Examination of Witness #3
  - e) Cross/Re-cross Examination of Witness #1
  - f) Cross/Re-cross Examination of Witness #2
  - g) Cross/Re-cross Examination of Witness #3
  - h) Closing Arguments
  - i) Prosecution's/Plaintiff's optional closing rebuttal (**see Rule XV**)

Opening statements must be given by both sides at the beginning of the trial.

**The attorney who will examine a particular witness on direct examination is the only person who may make the objections to the opposing attorney's questions of that witness on cross examination, and the attorney who will cross-examine a witness will be the only one permitted to make objections during the direct examination of that witness.**

Each team must call the three witnesses listed in the case materials. Witnesses must be called only by their own team and examined by both sides. Witnesses may not be recalled.

- 2) Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial.
- 3) To permit judges to hear and see better, attorneys will stand during opening and closing statements, direct and cross-examinations, all objections, and **whenever addressing the presiding judge**. Students may move from the podium only with the permission of the presiding judge.

#### **Rule V: Swearing of Witnesses**

The presiding judge will indicate that all witnesses are assumed to be sworn.

#### **Rule VI: Case Materials**

Students may read other cases, materials, and articles in preparation for the mock trial. **However, students may cite only the case materials given, and they may introduce into evidence only those documents given in the official packet.** In addition, students may not use, even for demonstrative purposes, any materials that are not provided in the official packet. **The following are not permitted: props, costumes, enlargements, computers, phones, or electronic devices of any kind.**

#### **Rule VII: Trial Communication**

Instructors, alternates, and observers shall not talk to, signal, communicate with, or coach their teams during trial. This rule remains in force during any recess time that may occur. Team members within the bar area may, among themselves, communicate during the trial; however, no disruptive communication is allowed.

Non-team members, alternate team members, teachers, and coaches must remain outside the bar in the spectator section of the courtroom. **Only the six members participating in this round may sit inside the bar.**

#### **Rule VIII: Trial Start Time**

The starting time of any trial will not be delayed for longer than ten minutes unless approved by the Mock Trial Coordinator. Incomplete teams will have to begin without their other members or with alternates.

#### **Rule IX: Conduct/Attire**

**All participants are expected to demonstrate proper courtroom decorum and display collegial sportsmanlike conduct. Appropriate courtroom attire is required. Adherence to the Code of Ethics is expected of all participants.**

**Rule X: Videotaping/Photography**

Cameras and recording devices are permitted in certain courtrooms; however, the use of such equipment may not be disruptive **and must be approved in advance of the competition by The Florida Law Related Education Association, Inc.** When one team requests to videotape during a trial, the opposing team must be consulted and their permission granted prior to taping.

**Rule XI: Witnesses**

Witnesses are to remain in the courtroom during the entire trial.

**Rule XII: Jury Trial**

For purposes of the competition, students will assume this is a jury trial. The scoring judges will act as the jury. The presiding judge is the trial judge. Students should address the scoring judges and the presiding judge.

**Rule XIII: Viewing a Trial**

Team members, alternates, attorney coaches, teacher coaches, and any other persons directly associated with a mock trial team, except those authorized by the State Advisory Committee, are not allowed to view other teams in competition so long as their team remains in the competition. Judges should maintain order in the courtroom. If observers are disorderly, they will be asked to vacate the premises.

**Rule XIV: Decisions**

**ALL DECISIONS OF THE JUDGES ARE FINAL.**

**Rule XV: Time Limits**

- 1) A total time will be given to each side for direct, cross, re-direct, and re-cross.

The sequence and time limits are:

Opening Statements	5 minutes per side
Direct Examination and Re-direct Examination (optional)	24 minutes total per side
Cross Examination and Re-cross Examination (optional)	21 minutes total per side
Closing Argument	5 minutes per side

None of the foregoing may be waived **except the optional times**, nor the order changed.

The Prosecution/Plaintiff gives the opening statement first. The Prosecution/Plaintiff gives the closing argument first; **the Prosecution/ Plaintiff may reserve one minute or less of the closing time for a rebuttal**. Prosecution/Plaintiff must notify the judge before beginning closing argument if the rebuttal time is requested. The Prosecution's/Plaintiff's rebuttal is limited to the scope of the defense's closing argument.

Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial may not be transferred to another part of the trial.

- 2) Timing will halt during objections and responses to objections. **Timing will not halt during the admission of documentary evidence, unless there is an objection by opposing counsel**. In the interest of fairness, time extensions may be granted at the discretion of the presiding judge. All objections should be argued in open court, not at the bench. Timing will resume after the judge has ruled on the objection. Students should avoid the use of tactics to "run out the clock" during the admission of evidence. Judges will be instructed to consider this in the Team Ethics scoring category.
- 3) A "timekeeper" will be provided and will keep the official time of the trial. The timekeeper's role will be expanded to time the 10 minute debrief session for each side. This will help ensure that the schedule is maintained. The timekeeper will announce to the court when time has expired in each of the separate segments of the trial. Further, the timekeeper will bring a calculator to each courtroom and double check the scores of scoring judges to ensure **no ties**. Judges will be instructed **not** to tie the teams during any round. This will eliminate the issue of vote assignments during ties.
- 4) Teams are permitted to keep their own time. However, this will **not** be considered the official time of the trial. **Teams are not permitted to have an extra person be the timekeeper**. One of the six participants may be the timekeeper. Team timekeepers must not interfere with the trial or obstruct the view of any witness.

### **Rule XVI: Judging**

- 1) The **presiding judge** provides a mandatory performance vote during each round/trial for the team that he or she feels gave the better performance during that round/trial.

The presiding judge does not award points to the teams. The presiding judge's score sheet is a short form on which the judge declares which team in his or her opinion exhibited the best performance.

The presiding judge **should not** announce the mandatory performance vote.

- 2) The **scoring** judges (jury) will utilize prepared score sheets to **rate** the quality of the students' **performances** in the round/trial. The judges will be instructed to rate the performance of all witnesses and attorneys on the team. Judges will **not** announce the **presentation decision**. Judges should make field notes on students' performances during the round/trial.
- 3) Judges will be instructed not to tie teams in any round/trial. In the event scores are computed by the judges and errors are found in the computations, score room staff will correct the errors and the corrected scores will be the official scores after adding the individual categories/assessments.
- 4) The team receiving the majority of the performance votes from the three judges is declared the winner of the trial/round.
- 5) To enhance the students' learning experience, the judges will be instructed to give each team an **oral critique** after their deliberation. The decision on **which team** gave the better performance will **not** be given to the participants. Students and their coaches will have the opportunity to meet informally with all the judges for 20 minutes (10 minutes per team) immediately following the round/trial. Score sheets should be completed **before** the debriefing. Debriefing sessions will be timed by the timekeepers to avoid lengthy debriefs.
- 6) **ALL DECISIONS OF THE JUDGES ARE FINAL.**
- 7) The **Team Ethics** category will score students on the standards recognized in the **Code of Ethical Conduct**.
- 8) Attorney coaches of mock trial teams that do not advance from the local competition may **not** serve as a judge in any capacity at any level of competition during the remainder of the competition year.  
Teacher coaches of mock trial teams may **not** serve as judges in any capacity.  
Teacher coaches may serve as timekeepers if their team does not advance from their local competition.

## **Rule XVII: Dispute Settlement**

### **1) Reporting a Rules Violation Inside the Bar**

If any team has serious reason to believe that a **material rules violation** has occurred during a trial round, one student attorney member of the team shall communicate that a dispute exists to the presiding judge **immediately after** the trial is over and before the critique begins. The scoring judges will be excused from the courtroom, but should remain in the vicinity.

- 2) The presiding judge will ask that both teams remain in the courtroom. A dispute form shall be completed by the student attorney to record in writing the nature of the dispute.

The student attorney may communicate with other student attorneys and witnesses on the team before preparing the form. No more than 3 minutes may be taken to complete the form.

**At no time** in this process may **team sponsors or coaches communicate or consult** with the students. Only student attorneys may invoke the dispute procedure.

### 3) **Dispute Resolution Procedure**

The presiding judge will review the written dispute and determine whether the dispute should be heard or denied. If the dispute is denied, the judge will record the reasons for this, announce her/his decision to the Court, retire to complete his/her score sheet (if applicable), and turn the dispute form in with the score sheets. If the presiding judge feels the grounds for the dispute merit a hearing, the form will be shown to opposing student counsel for their written response. After the team has recorded its response and transmitted it to the judge, the judge will ask each team to designate a spokesperson. After the spokespersons have had time (not to exceed three minutes) to prepare their arguments, the presiding judge will conduct a hearing on the dispute, providing each team's spokesperson three minutes for a presentation. The spokespersons may be questioned by the presiding judge. At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. After the hearing, the presiding judge will adjourn the court and retire to consider her/his ruling on the dispute. The judge will make a final decision as to whether or not a rules violation has occurred. That decision will be recorded in writing on the dispute form. The presiding judge is **not** required to announce his/her decision to students.

### 4) **Effect of Violation on Score**

**If** the presiding judge determines that a substantial rules violation has occurred, the presiding judge will inform the **scoring** judges of the dispute and provide a summary of each team's argument. The scoring judges will consider the dispute before finalizing their scores. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring judges. All decisions of the judges are **FINAL**.

## **Rule XVIII: Reporting a Rules Violation Outside the Bar**

- 1) Disputes that (a) involve people other than student team members and (b) occur outside the bar only during a trial round may be brought by teacher or attorney-coaches exclusively. Such disputes must be entered on a complaint form and turned in to the registration area. The Mock Trial State Coordinator and/or Advisory Committee will review the dispute for appropriate action, if needed. Decisions and actions of the coordinator and/or committee are **FINAL**.

### **Rule XIX: Score Sheets/Ballots**

- 1) Score sheets will be completed individually by scoring judges. The presiding judge will cast a **mandatory** performance vote, but no points for each round. Judges may **not** inform students of score sheet results.
- 2) The term “ballot” will refer to the decision made by a scoring judge as to which team made the best presentation in the round. The term “score sheet” is used in reference to the form on which speaker and team points are recorded. Score sheets are to be completed individually by the scoring judges. Scoring judges are not bound by the rulings of the presiding judge. **The team that earns the highest points on an individual judge’s score sheet is the winner of that ballot.** The team that receives the majority of the three ballots wins the round. The ballot votes determine the win/loss record of the team for power-matching and ranking purposes. While the judging panel may deliberate on any special awards (i.e., Outstanding Attorney/Witness) the judging panel should not deliberate on individual scores.
- 3) Individual assessment categories **including team ethics and team performance** shall be judged on a 1-10 scale **by scoring judges only.**
- 4) In the event of a mathematical error in tabulation by scoring judges, score room staff will enter the **correct tabulation** of the scores.

### **Rule XX: State Competition Power Matching/Seeding Model**

- 1) The Florida High School Mock Trial Competition uses a *power matching* system.
- 2) A random method of selection will determine the opponents in the first round. A power match system will determine opponents for all other rounds. The two schools emerging with the strongest record from the four rounds will advance to the final round. **The first-place team will be determined by ballots from the championship round only.**
- 3) Power matching will provide that:
  - a) Pairings for the first round will be at random.
  - b) All teams are guaranteed to present each side of the case at least once.
  - c) Brackets will be determined by win/loss record. Sorting within brackets will be determined in the following order: (1) win/loss record; (2) ballots; (3) total points; then (4) point spread. The team with the highest number of ballots in the bracket will be matched with the team with the lowest number of ballots in the bracket; the next highest with the next lowest, and so on until all teams are paired.
  - d) If there are an odd number of teams in a bracket, the team at the bottom of that bracket will be matched with the top team from the next lower bracket.

- e) Teams will not meet the same opponent twice.
- f) To the greatest extent possible, teams will alternate side presentation in subsequent rounds. Bracket integrity in power matching will supersede alternate side presentation.

**Rule XXI: Completion of Score Sheets**

- 1) Each scoring judge shall record a number of points (1-10) for each presentation of the round/trial. At the end of the trial, each scoring judge shall total the sum of each team's individual points and place this sum in the **column totals** box. The team with the greater number of points wins that scoring judge's performance vote/ballot for that trial/round.
- 2) The presiding judge shall circle either prosecution/plaintiff or defense/defendant on his or her score sheet/ballot to indicate which team the presiding judge feels gave the better performance during the trial/round. The team that the presiding judge circles on their score sheet/ballot receives that presiding judge's performance vote/ballot for that trial/round.

**Rule XXII: State Competition Team Advancement**

Teams will be ranked based on the following criteria in the order listed:

- 1) Win/Loss Record – equals the number of rounds won or lost by a team.
- 2) Total Number of Ballots – equals the total number of judge's votes a team earned in preceding rounds.
- 3) Total Number of Points Accumulated in Each Round.
- 4) Point Spread Against Opponents – the point spread is the difference between the total points earned by the team whose tie is being broken less the total points of that team's opponent in each previous round. The greatest sum of these point spreads will break the tie in favor of the team with that largest cumulative point spread.

**Rule XXIII: Effect of a Bye/Default**

- 1) A "bye" becomes necessary when an odd number of teams are present for the tournament. For the purpose of advancement and seeding, when a team draws a bye or wins by default, the winning team for that round will be given a win and the number of ballots and points equal to the average of all winning team's ballots and points of that same round. The Mock Trial State Coordinator may, if time and space allow, arrange for a "bye round" to allow teams drawing a bye to compete against one another in order to earn a true score.

- 2) The Mock Trial State Coordinator has the discretion on how to handle a bye in all rounds of the tournament.

#### **Rule XXIV: Eligibility**

- 1) All students on a team must be enrolled in the same public or private school in the district for which they are competing.
- 2) Each judicial circuit may send only one team to compete in the Florida High School Mock Trial State Finals.
- 3) The Mock Trial State Coordinator reserves the right to enlist participation from each district and circuit.

#### **Rule XXV: State Competition Awards**

Trophies will be awarded to the top five teams. Four best witness awards and four best attorney awards will also be presented. Both the presiding judge and the scoring judges will vote on the best witness and best attorney awards. Additionally, two professionalism awards will be awarded based upon team recommendations. Student certificates and school plaques will be presented to all participants.

#### **Rule XXVI: Interpretation of State Competition Rules**

- 1) All rules of competition for the Florida High School Mock Trial Competition, as set forth above, are subject to the interpretation of the Advisory Committee of the Florida High School Mock Trial Competition.
- 2) No exceptions are permitted at the competition site unless approval has been given by the Advisory Committee prior to the competition.
- 3) The Advisory Committee and/or State Mock Trial Coordinator will serve as the final arbiter at the competition site.
- 4) The Florida High School Mock Trial Competition Advisory Committee may invite additional circuit teams to participate in the State Finals Competition if it determines, in its sole discretion, that doing so would provide for diversity within the competition, would resolve disputes at the circuit level in a fair manner, or would otherwise advance the goals of the competition and serve the students who have competed at the circuit level.

#### **Rule XXVII: Circuit Competitions**

- 1) The State competition power matching and seeding system is optional for use during circuit competitions.

- 2) Team advancement procedures will be the responsibility of circuit coordinators.
- 3) Circuit coordinators should contact The Florida Law Related Education Association, Inc. for approved alternate models.

## SIMPLIFIED RULES OF EVIDENCE AND PROCEDURE

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. Witness Examination/Questioning**

#### **1. Direct Examination**

Attorneys call and question their own witnesses using direct as opposed to leading questions. 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? Did you seek advice 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. 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.

Examples:

*“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.

## **b. Narration**

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 are objectionable.

Example Narrative Question:

*“Ms. Roberts, please tell the court about the events that contributed to your decision to sue the county.”*

Narrative Answer:

*“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 13<sup>th</sup> and parked in a place where I could see the lot but no one could see me...”*

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

Direct examination may cover all facts relevant to the case of which the witness has first-hand knowledge.

## **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.

### **1. Methods of Proving Character (Section 90.405)**

- a) 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.
- b) Specific Instances of Conduct: When character or a trait of character of a person is an essential element of a charge, claim, or defense, 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.

Examples:

*“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.

## **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.

### **1. 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.

### **2. Who May Impeach?**

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

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

### **3. Section 90.610 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:

- a) 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.
- b) Evidence of juvenile adjudications is inadmissible under this subsection.

**4. Section 90.614 Prior Statements of Witness**

- a) 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.
- b) 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.
- c) 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

- a) **Irrelevant Evidence:** *“I object, your honor. This testimony is irrelevant to the facts of this case.”*
- b) **Leading Questions:** *“Objection. Counsel is leading the witness.”* Remember, this is **only** objectionable when done on direct examination (Ref. Section A1.a).
- c) **Narrative Questions and Answers:** may be objectionable (Ref. Section A1.b).
- d) **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.”*
- e) **Hearsay:** *“Objection. Counsel’s question/the witness’ answer is based on hearsay.”* If the witness makes a hearsay statement, the attorney should also say, *“and I ask that the statement be stricken from the record.”*
- f) **Opinion:** *“Objection. Counsel is asking the witness to give an opinion.”*
- g) **Lack of Personal Knowledge:** *“Objection. The witness has no personal knowledge that would enable him/her to answer this question.”*
- h) **Lack of Proper Predicate:** 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 proper predicate has been laid, the exhibits may still be objectionable due to relevance, hearsay, etc.
- i) **Ambiguous Questions:** An attorney shall not ask questions that are capable of being understood in two or more possible ways.
- j) **Non-responsive Answer:** A witness’ answer is objectionable if it fails to respond to the question asked.

**k) 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.

**l) 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.

**m) Asked and Answered:** *“Objection. Your honor, the question has already been asked and answered.”*

**n) 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 objections, examinations, and 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.

**2) Opinions of Witnesses**

**a) Expert Opinion**

**i) Section 90.702 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.

**ii) Section 90.703 Opinions on Ultimate Issue**

Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it included an ultimate issue to be decided by the trier of fact.

**iii) Section 90.704 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.

**iv) Expert Opinion (additional information)**

An expert shall not express an opinion as to the guilt or innocence of the accused.

**b) Lay Opinion**

**i) Section 90.701 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:

- (1) 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
- (2) The opinions and inferences do not require a special knowledge, skill, experience, or training.

**ii) 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. Thus 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.

### **c) 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."

### **3) 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.

#### **a) 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 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**.

- i) Show exhibit and have it marked by the judge. Say “Your Honor, I ask that this \_\_\_ be marked for identification as Plaintiff’s/Defendant’s Exhibit No. \_\_\_”
- ii) 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 No. 1. Do you recognize this document?”
- iii) At this point the attorney may proceed to ask the witness a series of questions about the exhibit.
- iv) If the attorney wishes to place the document into evidence, say, “Your Honor, I offer this \_\_\_ marked as Plaintiff’s/Defendant’s Exhibit No. 1 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: *“Plaintiff’s/Defendant’s Exhibit No. 1 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. Exhibits can be pre-marked.**

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

##### **a) 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.

#### **b) 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:

- i) The hearsay statement might be distorted or misinterpreted by the witness relating it in court.
- ii) The hearsay statement is not made in court and is not made under oath
- iii) 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).
- iv) The hearsay statement is not made in court and the person who made it cannot be challenged by cross-examination.

#### **c) 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**.

##### **i) 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**

**(a)** 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.

- (b) 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) Learned Treatises**

To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in public treatises, periodicals or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness, or by other expert testimony, or by judicial notice.

**(7) Then Existing Mental, Emotional, or Physical Condition**

- (a) 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:

- (i) 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.

- (ii) Prove or explain acts of subsequent conduct of the declarant.

- (b) However, this subsection does not make admissible:

- (i) 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.

- (ii) A statement made under circumstances that indicate its lack of trustworthiness.

**C. Trial Motions**

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

**Examples:**

Directed verdict, dismissal, acquittal, motion in limine, motion to sequester witnesses.

**Exception:**

Motion for Recess may only be used in emergency situations.

**D. Attorney Demeanor**

**\*\*See Code of Ethical Conduct**

**Note: Please refer to Official Case Materials for any specific additions relative to this trial.**

## GUIDELINES FOR TEACHER COACHES

### A. **Role of the Teacher Coach**

The teacher coach is expected to help the team members decide which students will play which parts in the mock trial and to assist the students in playing those roles. As part of the sizeable responsibility of acting as team coaches, teachers are responsible for the following areas:

1. **Rules of the Program:** All teachers and teams are expected to adhere to the rules, facts and all other materials provided in the 2009 Mock Trial Competition Case Materials. Therefore, please make sure you are familiar with the Competition rules.
2. **Role Assignments:** Team members should be strongly encouraged to select roles based on their interests and abilities and not on the basis of any gender or cultural stereotypes which might be drawn from the characterizations in the fact pattern.
3. **Team Preparation:** Attorneys will also help coach each team. Teams should prepare both sides of the case and are strongly urged to arrange and conduct preliminary mock trials with other teams prior to competing in the district and circuit competition. Preliminary trials require only one attorney or judge to act as the presiding judge, as it is not necessary to award points to the teams during these practice rounds.
4. **Education:** Education of the students is the primary goal of the Mock Trial Competition. Healthy competition helps to achieve this goal, but teachers are reminded of their responsibility to keep the competitive spirit at a reasonable level. The reality of the adversarial system is that one party wins and the other loses, and teachers should be sure to prepare their teams to be ready to accept either outcome in a mature manner. Teachers can help prepare students for either outcome by placing the highest value on excellent preparation and presentation, rather than on winning or losing the trial.
5. **Observers:** Other classes, parents, and friends of the participants are welcome to attend the trials. **However, please note that space in the courtroom is limited.** The presiding judge may ask overflow observers to leave the courtroom. All observers must be seated during the trial.
6. **Arrival Times:** Teachers are responsible for getting their teams to the assigned courtroom 15 minutes prior to the starting time of each trial.

## GUIDELINES FOR ATTORNEY COACHES

1. Much as you will want to help the students, point them in the right direction, and give them the benefit of your experience, remember that the students will develop a better understanding of the case and learn more from the experience if the attorney coaches do not dominate the preparation phase of the tournament. The preparation phase of the contest is intended to be a cooperative effort of students, teacher and attorney coaches.

2. Avoid (even the appearance of) “talking down” to students and/or stifling discussion through the use of complicated “legalese.”
3. The first session with a student team should be devoted to the following tasks:
  - a. Answering questions that students may have concerning general trial practices;
  - b. Explaining the reasons for the sequence of events/procedures found in a trial;
  - c. Listening to the students’ approach to the assigned case; and
  - d. Emphasizing the key points, such as the elements to be proved, and the relevance and importance of available legal authority.
4. Subsequent sessions with students should center on the development of proper questioning techniques by the student attorneys and sound testimony by the witnesses. Here an attorney can best serve as a constructive observer and teacher...listening, suggesting and demonstrating to the team.
5. Attorney coaches **should not** prepare opening statements, closing statements, or questions for the students. Students should be encouraged to do as much of their own preparation as possible.



## **Florida High School Mock Trial Competition**

### **EXPLANATION OF RATINGS USED ON THE SCORE SHEET/BALLOT**

Participants will be rated in the categories on the ballot on a scale of 1-10 points (10 being the highest), according to their roles in the trial. The Scoring Judges are scoring **STUDENT PRESENTATION** in each category. The Scoring Judges are **NOT** scoring the legal merits of the case. Each category is to be evaluated separately and fractional points **ARE NOT** to be awarded. One team **MUST** be awarded more total points than the other. The team winning the majority of the ballots shall win the round.

Judging panels also may recognize outstanding individual presentations by selecting one **MOST EFFECTIVE ATTORNEY** and/or one **MOST EFFECTIVE WITNESS** per round. The decision must be representative of the majority of the panel members.

Judges may **NOT** disclose the score sheet/ballot results or the identities of the Most Effective Attorney and/or Witness to anyone other than the mock trial coordinator. Sign your score sheet/ballot before turning it over to the presiding judge on your panel. **DO NOT ANNOUNCE SCORES OR RESULTS TO THE TEAMS DURING THE CRITIQUE!**

POINT(S)	PERFORMANCE	CRITERIA FOR EVALUATING STUDENT PERFORMANCE
1-2	Not Effective	<ol style="list-style-type: none"> <li>1. Exhibits lack of preparation/understanding of the case materials.</li> <li>2. Communication unclear, disorganized, and ineffective.</li> <li>3. Unsure of self, does not think well on feet, depends heavily on notes.</li> </ol>
3-4	Fair	<ol style="list-style-type: none"> <li>1. Exhibits minimal preparation/understanding of the case materials.</li> <li>2. Communication minimally clear and organized, but lacking in fluency and persuasiveness.</li> <li>3. Minimally self-assured, but lacks confidence under pressure.</li> </ol>
5-6	Good	<ol style="list-style-type: none"> <li>1. Exhibits adequate preparation/understanding of the case materials.</li> <li>2. Communications are clear and understandable, but could be stronger in fluency and persuasiveness.</li> <li>3. Generally self-assured, reads from notes very little.</li> </ol>
7-8	Excellent	<ol style="list-style-type: none"> <li>1. Exhibits mastery of the case materials.</li> <li>2. Communication is clear, organized, fluent and persuasive.</li> <li>3. Thinks well on feet, poised under pressure, does not read from notes.</li> </ol>
9-10	Outstanding	<ol style="list-style-type: none"> <li>1. Superior in qualities listed for 7-8 points' performance.</li> </ol>

**Florida High School Mock Trial Competition**  
**PRESIDING JUDGE BALLOT**

Plaintiff: \_\_\_\_\_ Defense: \_\_\_\_\_  
(Team Code) (Team Code)

Round#: \_\_\_\_\_

Please make your decision, offer some written comments, and hand in this score sheet to the Timekeeper as soon as possible. Thank you for participating.

**I. Performance Evaluation - MANDATORY**

Performance Decision: In my opinion the better mock trial performance was shown  
by the

**PLAINTIFF / DEFENSE (Circle One)**

This is a team performance score based on the clarity and effectiveness of arguments presented and the professional demeanor exhibited by team members.

**Note: Do not announce your performance decision.**

**II. Comments**

---

Judge's Signature & Date

**Florida High School Mock Trial Competition**  
**MOST EFFECTIVE ATTORNEY FORM**

*(Mandatory)*

This form is to be completed by **All Judges**

---

Date of Competition Round

---

Enter Team Code

---

Round

**ATTORNEY**

*I wish to award the following team  
member the title of*

**MOST EFFECTIVE  
ATTORNEY**

*For this round:*

---

Name of Team Member from Team Roster

*Plaintiff's or Defense's Attorney  
(Circle One)*

---

Judge's Signature

**Florida High School Mock Trial Competition**  
**MOST EFFECTIVE WITNESS FORM**

*(Mandatory)*

This form is to be completed by **All Judges**

---

Date of Competition Round

---

Enter Team Code

---

Round

**WITNESS**

*I wish to award the following team  
member the title of*

**MOST EFFECTIVE  
WITNESS**

*For this round:*

---

Name of Team Member from Team Roster

*Plaintiff's or Defense's Witness  
(Circle One)*

---

Judge's Signature

**Florida High School Mock Trial Competition**  
**LEGAL PROFESSIONALISM AWARD BALLOT**

Teachers: Please complete this ballot as your official recommendation for the Legal Professionalism Award. Only one entry per school will be accepted. You may wish to discuss with your students their feelings about the professionalism, spirit, and ethical conduct of other teams to aid in your decision. Please refer to the definition and quotes about professionalism.

**Teams should NOT nominate themselves.**

Recommendation #1: \_\_\_\_\_

Comments:

Recommendation #2: \_\_\_\_\_

Comments:

Submitted By: \_\_\_\_\_

School: \_\_\_\_\_

District: \_\_\_\_\_

Signature: \_\_\_\_\_

**Two awards will be presented.**





**Florida High School Mock Trial Competition**  
**TEAM ROSTER FORM**

Each Plaintiff and Defense team should complete this sheet in triplicate. Copies are to be made available to the judging panel (3 copies) before each round. The team code can be filled in after registration at the competition site.

**Note:** Do not place team or attorney coach or teacher coach identifying information on the forms used in competition rounds.

**Please print or type**

\_\_\_\_\_  
Team Code

In this round, students listed on this roster represent the:  
*(Circle One)*

**Plaintiff**

**Defense**

**Names of Team Attorneys**

**Identify Tasks to be Presented**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Names of Team Witnesses**

**Identify Roles to be Performed**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## PROFESSIONALISM

The Florida Bar's Standing Committee on Professionalism's working definition of professionalism:

**Professionalism is the pursuit of practice of the highest ideals and tenets of the legal profession. It embraces far more than simply complying with the minimal standards of professional conduct. The essential ingredients of professionalism are character, competence, and commitment.**

Other thoughts on professionalism:

*"...To me, the essence of professionalism is a commitment to develop one's skills and to apply that responsibility to the problems at hand. Professionalism requires adherence to the highest ethical standards of conduct and willingness to subordinate narrow self-interest in pursuit of the more fundamental goal of public service. Because of the tremendous power they wield in our system, lawyers must never forget that their duty to serve their clients fairly and skillfully takes priority over the personal accumulation of wealth. At the same time, lawyers must temper bold advocacy for their clients with a sense of responsibility to the larger legal system which strives, however imperfectly, to provide justice for all."*

Justice Sandra Day O'Connor

*"Professionalism is no more, and no less, than conducting one's self at all times in such a manner as to demonstrate complete candor, honesty, and courtesy in all relationships with clients, associates, courts, and the general public. It is the personification of the accepted standard of conduct so long recognized and observed by able lawyers throughout history, that a lawyer's word is his bond. It encompasses the fundamental belief that a lawyer's primary obligation is to serve his or her client's interests faithfully and completely, with compensation only a secondary concern, and with ultimate justice as the final goal."*

Don Jackson, former chair of  
the Senior Lawyer Division  
of the American Bar  
Association

## **OATH OF ADMISSION TO THE FLORIDA BAR**

The general principles which should ever control the lawyer in the practice of the legal profession are clearly set forth in the following oath of admission to the Bar, which the lawyer is sworn on admission to obey and for the willful violation to which disbarment may be had.

“I do solemnly swear:

“I will support the Constitution of the United States and the Constitution of the State of Florida;

“I will maintain the respect due to courts of justice and judicial officers;

“I will not counsel or maintain any suit or proceedings which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

“I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

“I will maintain the confidence and preserve inviolate the secrets of my clients, and will accept no compensation in connection with their business except from them or with their knowledge and approval;

“I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

“I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone’s cause for lucre or malice. So help me God.”