

# **The 2006 Florida High School Mock Trial Competition The State of Florida**

**V.**

**Jamie Olsen**

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



*Improving Justice Through Law and Citizenship Education Opportunities*

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2006 Florida Mock Trial Competition Case Materials  
The Florida Law Related Education Association, Inc.  
2874 Remington Green Circle, Suite A  
Tallahassee, Florida 32308 • (850) 386-8223  
Fax (850) 386-8292 • E-mail: [BKanoski@flrea.org](mailto:BKanoski@flrea.org) • <http://www.flrea.org>

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## 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. **Rule XV** lists 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. No rebuttals allowed.
- VI. No jury instructions need to be read at the conclusion of the trial.
- VII. Judges should complete score sheets **before** debriefing. This is crucial and ensures completed score sheets.
- VIII. 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.
- IX. ALL DECISIONS OF THE JUDGES ARE FINAL. Debrief/Critique ONLY.  
**JUDGES DO NOT ANNOUNCE SCORES OR PERFORMANCE DECISIONS!**

## Participants 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.

# 2006 Florida Mock Trial Case

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2006 Florida Mock Trial Competition Case Materials  
The Florida Law Related Education Association, Inc.  
2874 Remington Green Circle, Suite A  
Tallahassee, Florida 32308 • (850) 386-8223  
Fax (850) 386-8292 • E-mail: [BKanoski@flrea.org](mailto:BKanoski@flrea.org) • <http://www.flrea.org>







## Stipulations

1. All Witness Statements, Exhibits, and the signatures thereon are authentic.
2. Jurisdiction, venue, and chain of custody of the evidence are proper.
3. All statements made by witnesses and all physical evidence and exhibits were constitutionally obtained or properly preserved for appeal.
4. The only relevant information for the December 14<sup>th</sup>, 2004 edition of the *Deerfield Gazette* is contained within the top half of the front page of the paper.
5. Exhibit 7 refers to the copy of the December 14<sup>th</sup>, 2004 edition of the *Deerfield Gazette* that was recovered from the scene of Juan Rodriguez's death.
6. Stipulations cannot be contradicted or challenged.
7. All witnesses are presumed to have knowledge of the facts contained in each of the stipulations.
8. Any examination, analysis, or experimentation conducted by any expert witness is presumed to have been conducted consistent with generally accepted scientific principles pertaining to the field of expertise of the witness.

## Witnesses

The following witnesses shall be called by the parties.

<b>For the Prosecution</b>	<b>For the Defense</b>
Kerry Limbaugh	Jamie Olsen
Leslie Ballantine	Terry Lane
Lee Pascado	Raye Valdez

## Affidavit – Kerry Limbaugh

1           My name is Kerry Limbaugh and I am 29 years old. I was an assistant to former  
2           Senator Luke Swindell. I worked with former Senator Swindell on his 2004 campaign for  
3           reelection. I had worked extensively with Senator Swindell since he first started working  
4           in politics. He often trusted me with jobs he considered to be “clandestine” or “sensitive.”  
5           Of course the public now knows that a major portion of those jobs involved certain  
6           unethical behaviors. I make no apologies for the work that I did, but I recognize now that  
7           it was wrong. During the election, I was in charge of opposition research. This meant that  
8           I was tasked with the job of discovering all the information I could gather on current  
9           Senator Consada Rodriguez. The primary goal was to uncover any information that  
10          would make Senator Rodriguez look bad in the public’s eyes.

11          Over my years in public service, I have developed connections with numerous  
12          officials in different levels of the government. A little bit of dirt can take a person a long  
13          way to finding wanted information, and I used this to discover information about Senator  
14          Rodriguez.

15          I first learned that Senator Rodriguez’s husband, Juan Rodriguez, was an FDLE  
16          agent in September 2004. I was surprised by this because I would have thought the  
17          Senator’s campaign staff would have played this fact up for the pro-law enforcement  
18          sections of the vote. I became curious because I could find no information on Mr.  
19          Rodriguez’s current job or any information on the type of work he was doing. I dug

20 deeper in hopes of discovering more information about Mr. Rodriguez's work history. It  
21 was relatively difficult, but I was able to learn that Juan Rodriguez was an undercover  
22 agent for the FDLE. This information was relatively useless to me. While I am ashamed  
23 to say we did not shy away from scandals on the Swindell campaign, we were not in the  
24 business of endangering lives. Now, with everything that has happened, I wish I had  
25 never even asked about him.

26 Somewhere around this time, I also received a photograph of Senator Rodriguez  
27 and her husband together. I stored the photo, along with all of the information I had  
28 collected in my file. We had no real use for it at the time and certainly, after we lost the  
29 election in November, it was merely a waste of space.

30 Election night was the worst night of my life. It was the first time in my career  
31 that I was out of government and out of a job. I was very upset. I drank heavily and said a  
32 number of things I shouldn't have. I really regret the comments I made to the television  
33 crew that was broadcasting live from our party. It was incredibly embarrassing and I wish  
34 I could go back and change things. I meant no ill-will toward Senator Rodriguez.

35 Shortly after the election, I was approached by Jamie Olsen in regards to any  
36 information I had on Senator Rodriguez for a story the *Deerfield Gazette* was doing. I  
37 thought nothing of it and gave Olsen copies of all the files I had. There were other  
38 documents in the file that contained information indicating the fact that Mr. Rodriguez  
39 was an undercover FDLE agent, most importantly my September 18<sup>th</sup> memo. The memo

40 included explicit instructions that there was to be absolutely no mention of the fact that  
41 Mr. Rodriguez worked for the FDLE or the fact that he was an undercover agent.

42 While Olsen was in my office, s/he saw the photograph of Senator Rodriguez and  
43 her husband in the file. His/her eyes immediately widened upon seeing the photograph  
44 and asked in a very surprised tone, “Who is this?” I asked for the picture back. I said it  
45 was Juan Rodriguez, Senator Rodriguez’s husband, and Olsen looked shocked. I asked  
46 Olsen if they had ever met and s/he said no. I said that I wouldn’t let him/her have the  
47 photograph and that s/he should check my files to see why.

48 A few days later, on December 6<sup>th</sup>, Olsen came back demanding the photograph.  
49 S/He made a big deal about the fact no other paper had a photograph of the pair. I didn’t  
50 think it was that big of a deal and I was pretty suspicious about what his/her intentions  
51 were, but then s/he started waving \$1,000 in my face and I agreed to hand over the  
52 original photograph. There was no way that his/her editors would ever let him/her publish  
53 the picture anyway. Once s/he grabbed the photograph from me, s/he said in a very angry  
54 tone, “This photograph is going to pay off, big time.”

55 I wish I had never given Olsen any of the information I did when I heard about  
56 what had happened. I saw both articles, the one covering Senator Rodriguez and the one  
57 reporting her husband’s execution. I feel terrible about what happened. I even made sure  
58 to attend Mr. Rodriguez’s funeral and offer my condolences to Senator Rodriguez.

\_\_\_\_\_  
Kerry Limbaugh

SIGNED AND SWORN to this 10th day of October 2005.

\_\_\_\_\_  
Patricia Stratigas, Notary Public  
State of Florida

My Commission Expires:   11/02/06

## **Affidavit – Leslie Ballantine**

1           My name is Special Agent Leslie Ballantine and I currently work for the Florida  
2 Department of Law Enforcement, or more commonly referred to as FDLE. I have worked  
3 at FDLE for 15 years in my role as an investigator. Prior to that, I worked as a detective  
4 with the Leon County Sheriff's Office for 5 years.

5           My role at FDLE is to head up undercover operations and construct reports on our  
6 findings to give to the Commissioner. In laymen's terms, I serve as the middle man  
7 between our men in the streets and the boss in our top office. All information on ongoing  
8 investigations comes through me.

9           In late 2003, we began investigating Dogs Without Families, Inc. pursuant to  
10 information obtained in another investigation. This information seemed to indicate that  
11 the company was a front for a narcotics operation in Florida.

12           Dogs Without Families, Inc. presents as a legitimate business. The company  
13 supplies animal shelters throughout the state of Florida with dog food, dog bedding,  
14 medication, and other supplies as necessary to ensure the health and safety of homeless  
15 animals. They often import large quantities of these products that are produced in South  
16 America, most frequently Brazil. These products were then stored in a warehouse in  
17 Deerfield, Florida. The products were then shipped out by drivers who contracted with  
18 Dogs Without Families.



19           In 2003, FDLE’s theory was that the shipments coming into the company  
20 contained large amounts of cocaine. The cocaine was subsequently sorted and stored  
21 inside pet supplies and shipped by contractors of the company. These contractors would  
22 then act as drug dealers in their areas until the supplies ran low and then return for more  
23 “pet supplies.”

24           In order to test this we used undercover agents to make purchases from these  
25 suppliers. Many of the suppliers were too nervous for us to approach. Eventually, in  
26 November 2004, we got lucky and found Ozzie Perez. Perez sold a large quantity of  
27 cocaine to one of our undercover agents and was immediately arrested. During the  
28 interrogation, officers were informed that the source was Raye Valdez, the owner of  
29 Dogs Without Families, Inc. In exchange for a plea agreement, Perez offered to assist us  
30 in getting an undercover agent close to Valdez.

31           On November 29<sup>th</sup>, 2004, Ozzie Perez introduced Juan Rodriguez, our leading  
32 undercover agent, to Raye Valdez. Rodriguez was introduced as Victor Rodriguez,  
33 Perez’s friend. This initial meeting took place at a Chi-Chi’s restaurant in Deerfield.  
34 Valdez liked Rodriguez and informed the two of them that s/he wished to get together  
35 with them the next night at a bar in town.

36           On November 30<sup>th</sup>, 2004, Rodriguez and Perez arrived at the bar together. There  
37 were a number of individuals around that knew Perez and joked around with Rodriguez.  
38 Rodriguez was a good person, but in order to prevent blowing his cover he had to make it  
39 seem that he could fit in with that sort of crowd. He did a number of things that would not

40 be acceptable to him or his wife, but in those situations, considerations like that can get a  
41 person killed.

42 About an hour after they arrived, an individual later identified as Jamie Olsen  
43 entered the room. Olsen immediately approached Rodriguez upon seeing him with Perez.  
44 Perez later reported that Olsen and Perez had dated for a period of a year prior to this  
45 incident. Olsen became verbally abusive toward Rodriguez. When Rodriguez responded,  
46 Olsen slapped him across the face. In order to maintain his cover, Rodriguez defended  
47 himself against Olsen. The fight was very short and ended with Rodriguez kicking Olsen  
48 out into the street. One of the suspects in the bar made a joke and, keeping with his cover,  
49 Rodriguez joined in pointing and laughing at Olsen. Olsen left the scene and the meeting  
50 with Valdez went as planned.

51 Valdez informed Rodriguez that his/her company was looking for a few people to  
52 help expand the business into South Georgia. The deal was that if Rodriguez showed up  
53 at the Dogs Without Families warehouse on December 16<sup>th</sup>, Rodriguez would receive  
54 more details about what he was going to ship and how much he'd be paid for making this  
55 shipment.

56 After the November 30<sup>th</sup> meeting, Rodriguez and Perez were brought in for a  
57 debriefing at which time they relayed the events of Olsen's appearance. We took reports  
58 on the event, but did not think much of it. It is not an uncommon occurrence for  
59 undercover work. We simply proceeded with the operation as planned.

60           On December 14<sup>th</sup>, 2004, Rodriguez got a phone call early in the morning to meet  
61 an associate of Raye Valdez's at Roscoe's Italian Grill on Clinton Drive. Rodriguez  
62 arrived at approximately 6:00 PM. We had to work all day to scramble a surveillance  
63 vehicle together and get a plain clothes officer into the area. It was such a last minute  
64 rush that none of us really had time to look at the paper. Everything was in position at  
65 6:00 PM. A surveillance vehicle outside the restaurant kept watching Rodriguez's  
66 position in the event that something went bad. About 6:30 PM, there was some  
67 commotion inside. It appeared that there was a fight breaking out a few tables away from  
68 Rodriguez. The surveillance team got nervous and sent in the plain clothes officer to get  
69 near Rodriguez to help him. But when the officer entered the restaurant, Rodriguez was  
70 gone. The team immediately radioed back to the station that Rodriguez was in danger,  
71 and we began searching potential hideouts for Rodriguez's location. It wasn't until I got a  
72 radio transmission from Officer Alan Steiner that I found out what had happened. Juan  
73 Rodriguez had been shot and killed and the officers at the scene had killed the shooter,  
74 who was later identified in my report as Anton Zebesky, an employee of Dogs Without  
75 Families. We found a copy of that day's edition of the *Deerfield Gazette* at the crime  
76 scene. The paper was bagged for analysis.

77           After the incident, we removed all undercover agents and obtained a search  
78 warrant for the premises of Dogs Without Families. When we arrived, there was nothing  
79 there. All of the warehouse were empty and appeared to have been completely cleaned  
80 out. All we were able to obtain were the business records of the company. It took us

81 months to dig through all of the paperwork. Among the papers we discovered were  
82 memos to stockholders, including Jamie Olsen. We learned from these records that Jamie  
83 Olsen was one of twenty-five stockholders of the company, each holding 2% of the stock  
84 and Raye Valdez holding the remaining 50%. Nothing really panned out until Jamie  
85 Olsen's name came up again. In searching the offices of Raye Valdez's employees we  
86 discovered a photograph in the office of Anton Zebesky. This photograph, the same  
87 printed in the December 14<sup>th</sup> edition of the *Deerfield Gazette*, had writing on the back  
88 that said, "Per our discussion – Juan Rodriguez –Agent." Raye Valdez denied any  
89 knowledge of the photograph.

90 While investigating the *Deerfield Gazette*, we learned from the editor Terry Lane,  
91 that the author of the article was Jamie Olsen. When Jamie Olsen produced the picture of  
92 Rodriguez, it was startling to us. Given that evidence, combined with the altercation  
93 between Olsen and Rodriguez, and the publishing of the photograph, everything came  
94 together. We later learned from Terry Lane that Olsen had pushed for the photograph to  
95 be published and that s/he had previously written an article about how drug cartels  
96 worked and how they reacted to undercover agents.

97 We arrested Jaime Olsen on September 16<sup>th</sup>, 2005. S/He was mirandized, but  
98 refused to make a statement at that time, asking instead to see his/her attorney.

SIGNED AND SWORN to this 12th day of October 2005.

\_\_\_\_\_  
Patricia Stratigas, Notary Public

State of Florida

My Commission Expires: 11/02/06

## **Affidavit – Lee Pascado**

1           My name is Lee Pascado and I am a forensic specialist with the Florida  
2 Department of Law Enforcement. I attended the University of Texas, where I received by  
3 bachelor's degree in Chemistry in 1995. Upon graduation, I found work as a forensic  
4 technician with the Dallas Police Department, where I specialized in the detection and  
5 comparison of fingerprints. I worked there for five years until I heard about a position  
6 available with the FDLE. I had always wanted to work in Florida. Since I have come here  
7 I have worked on hundreds of cases and processed hundreds of fingerprints for  
8 identification.

9           On December 15<sup>th</sup>, 2004, I was given a newspaper recovered from an  
10 investigation the previous night to look for fingerprints. Given the texture of a  
11 newspaper, ordinary dusting for a print would have a low probability of adequately  
12 detecting prints. Therefore we employed a method known as the cyanoacrylate fuming  
13 method. In order to understand the process, one must first have an understanding of the  
14 type of fingerprints that require this form of fingerprint detection.

15           When a fingerprint is not readily visible or cannot be made visible with special  
16 lighting, it is called a latent print. This means that only components of the fingerprint  
17 remain, predominantly sweat and organic compounds such as amino acids, glucose, lactic  
18 acids, peptides, and inorganic compounds like potassium, sodium and several others.  
19 These elements retain the ridge structure of the finger that left the print. The fuming

20 technique of obtaining one of these prints is a chemical technique with the goal being to  
21 make the print permanent by employing chemical compounds which will bond with the  
22 organic and inorganic compounds of the fingerprints. The fingerprints then begin to  
23 solidify into a visible ridge structure and become what we refer to as a print of value. In  
24 this way the fingerprint can be photographed and compared to the prints in our database.

25 The cyanoacrylate fuming process begins when the object to be checked for prints  
26 is placed into an airtight tank. Inside this tank is a small heater, above which a solution of  
27 cyanoacrylate is placed. Due to the fact that the cyanoacrylate must be in a gaseous form  
28 to react with the latent print and make it valuable, the heater is increased to a temperature  
29 within the range of one-hundred twenty to one-hundred fifty degrees Fahrenheit. The  
30 reason for the variation is that when you use a different form of the cyanoacrylate  
31 compound its boiling point will either increase or decrease based upon the other elements  
32 within the compound. Once the tank reaches this temperature, the compound will  
33 undergo a state change into its gaseous form. The gaseous form of the compound then  
34 reacts and bonds to the trace elements of fingerprints on the object being analyzed. After  
35 approximately two hours, the fuming process is complete and analysts can begin  
36 retrieving prints of value.

37 Once the prints form, it is necessary to make them more visible. When a latent  
38 print forms from bonded cyanoacrylate, it forms into a white color that is often difficult  
39 to see and very difficult to photograph. This appearance is often referred to by those  
40 outside this field of expertise as having the appearance of dried superglue. Therefore, it is

41 necessary to lightly brush the image of the fingerprint with a red-colored fluorescent  
42 solution, known as Safranin O, to make the print more apparent. This solution becomes  
43 visible under green light. Prints are examined under the green light and all prints of value  
44 are photographed and catalogued for comparisons with other prints.

45 In this case the newspaper revealed five prints of value and several unusable ones.  
46 Once we have identifiable fingerprints we begin to examine the minutiae points. Minutiae  
47 points are special characteristics about a fingerprint that make it unique. These points  
48 include ridge endings, bifurcations, dots, spurs, and crossovers of ridges. The points are  
49 analyzed in a print and catalogued in our computer system. They are then compared to  
50 the minutiae points of other fingerprints in the system to determine if a match between  
51 points is present. These matches are referred to as points of similarity. It is recommended,  
52 though not scientifically necessary, that a 12-point match constitute a matching  
53 fingerprint. The first of the identified prints matched Anton Zebesky, the shooter of  
54 Agent Rodriguez, after a point by point analysis revealed it matched 12 points. The others  
55 did not match anyone in our database at the time they were first obtained. However, on  
56 September 17<sup>th</sup>, 2005, I was asked to compare them with the prints of Jamie Olsen and I  
57 determined that Olsen's right thumbprint matched the second print found on the paper.  
58 This analysis revealed that Olsen's print matched 13 points.

59 Shortly after testing was completed on the newspaper, I was also given a  
60 photograph retrieved from the offices of Dogs Without Families to process for  
61 fingerprints. Employing the same method, I was only able to reveal a great deal of



62 smudging, but no definitive ridge patterns that could be compared to other prints. The  
63 smudging seems to indicate that the photograph was touched many times, but I cannot  
64 say with any degree of certainty whether it was touched many times by one person or a  
65 few times by many people.

---

Lee Pascado

SIGNED AND SWORN to this 16th day of October 2005.

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Patricia Stratigas, Notary Public  
State of Florida

My Commission Expires: 11/02/06

## Jamie Olsen Editorial

**Note:** This editorial was printed in the *Deerfield Gazette* on October 28<sup>th</sup>, 2005. This copy of the editorial has been stipulated as being an accurate representation.

1           I feel compelled to set the story straight. Many people have spread rumors about  
2           me, claiming that I intended to cause Agent Juan Rodriguez to be murdered and that I had  
3           some motive related to drug trafficking. These are both flagrant lies. I wish to take this  
4           time to set this story straight and explain who I really am.

5           My name is Jamie Olsen and I live in Deerfield, Florida. I was born in Caracas,  
6           Venezuela and moved to the United States to attend the University of Florida to study  
7           journalism. I received my bachelor's degree and was immediately hired into a part-time  
8           position as a contributing writer to the *Deerfield Gazette*. In the summers, I returned  
9           home to work on broadcasts for a local television station in Caracas.

10           It was the combination of these two jobs that got me my biggest story ever, *Drug*  
11           *Lords: A Life without Mercy*. It started when a good friend of mine, Raye Valdez, told me  
12           about his/her brother, Juan, who was in prison in the United States on drug charges. I  
13           went and interviewed him with a camera crew and the interview aired in Caracas. My  
14           family was so proud of me, but also very frightened because of how dangerous he was. I  
15           mean, every time I read the transcript from the interview, it sends chills up my spine.

16           I developed a story from this interview and submitted it to the *Deerfield Gazette*.  
17           Terry Lane, my editor, loved the piece and it ran that weekend. Shortly after that, I was  
18           recognized as the “up and coming” reporter of the publication and began working directly

19 under Terry Lane. Needless to say, there was a lot of pressure there for me to perform  
20 and deliver much higher standards than everyone else.

21 About this same time, I was dating a person named Ozzie Perez. We had been  
22 dating off and on for about 2 years but we didn't say anything about it because we didn't  
23 want it to be weird for any of our friends. Ozzie worked for Raye Valdez and I owned  
24 stock in Raye's company. It would have been strange. I really loved Ozzie a lot, and we  
25 got along well, but there was always something secretive. Even though we were starting  
26 to get serious, I had heard rumors that Ozzie may have been involved with drugs. I  
27 refused to believe it. Ozzie was far too sweet to be involved with that type of crowd.

28 Then on November 30<sup>th</sup>, 2004, I walked into my favorite bar, hoping to run into  
29 Ozzie by surprise. A few minutes after walking in, I saw Ozzie sitting with this mean-  
30 looking man and a group of people. This man was laughing and joking with men and  
31 women I knew to be drug dealers. Then he started to say that Ozzie should do certain  
32 vulgar activities with some of those that were sitting with them. I couldn't believe that  
33 Ozzie was actually sitting with this crowd and, when it seemed like Ozzie was listening  
34 to this man, I just lost it. I don't remember all of what happened next. I know I tried to  
35 punch the man who was trying to make Ozzie do things, but I don't think it connected. I  
36 remember getting hit a few times and being thrown into the street. I remember distinctly  
37 everyone laughing at me. It was so embarrassing. I couldn't believe Ozzie could just let  
38 this happen and listen to the kind of things this man was suggesting. My face burned red  
39 with both humiliation and anger.

40 The next day, I decided to cut off all ties with Ozzie and concentrate on my  
41 career. For the first time in my life I had become truly angry and that is not me. I was

42 both worried and scared that I had let another person's misdoings aggravate me so much.  
43 I was resolved to build a brighter future away from that scummy, crime-infested bar. As  
44 luck would have it, Terry had an assignment for me that day that was sure to be a nice  
45 addition to my portfolio: a piece about the success story of Senator Consada Rodriguez.

46 I set to work collecting all of the information I could gather from friends,  
47 relatives, campaign staff, and even the opposition's campaign staff. After I collected all  
48 the data, I realized that no one had ever published a picture of the senator and her  
49 husband together and I was dead-set on making the *Deerfield Gazette* the groundbreaker  
50 on that. It may not sound like a big deal but all the other news agencies would have to  
51 credit the *Gazette* if they decided to use it. It would be huge.

52 I found out the Kerry Limbaugh had a photograph from a number of documents  
53 s/he had handed me and so I went back to retrieve the picture. S/He told me s/he wasn't  
54 really willing to give up the picture, but when I offered to pay him/her for the  
55 photograph, s/he willingly offered to give me a scanned copy of it. S/He handed me a file  
56 folder with a disk attached and told me I should read everything inside before I published  
57 the picture. S/he held onto to the original, but I have no idea why.

58 In the file s/he had included an internal memo s/he had published to his/her  
59 campaign staff that there was to be absolutely no mention of Juan Rodriguez's  
60 occupation and that under no circumstances was the photograph to be used during the  
61 campaign. S/he wrote a lot about how a law enforcement husband would give Consada  
62 Rodriguez an edge in the election. I figured that this photograph was only off-limits for  
63 the campaign. I didn't think at the time that anything bad would come of it.

64                   I didn't recognize Juan Rodriguez as the man that had beaten me up a few nights  
65 before. My mind was in a totally different place after that. I realize now what a huge error  
66 it was to have pushed so hard to publish the photograph, but at the time I didn't know that  
67 anything bad would come of it.

68                   That's what really happened. I hope that this lays to rest all of the rumors out  
69 there claiming that I have ever committed any criminal acts. I am not a criminal and I am  
70 certainly not a murderer. Anyone who claims otherwise is lying.

## **Affidavit – Terry Lane**

1           My name is Terry Lane and I am the head editor at the *Deerfield Gazette*. I have  
2 worked with Jamie Olsen since s/he first walked through the doors three years ago.

3           When we first hired Jamie, I knew s/he was going to be a successful reporter.  
4 Jamie has a very inquisitive personality. S/He asks a lot of questions, s/he always wants  
5 to know what’s going on, and s/he will never stop until s/he gets what s/he wants. You  
6 need all those qualities to be a reporter these days. We have invested a lot of time into  
7 making a solid reporter out of Jamie, and it really paid off with the article, *Drug Lords: A*  
8 *Life without Mercy*. The article, which told the story of corruption, greed and murder in  
9 the criminal underworld, really demonstrated Jamie’s ability to get into the mind of the  
10 interviewee. The article described in detail the methods of punishment drug lords would  
11 employ upon anyone caught as a spy within the criminal organization, including law  
12 enforcement officers. For this individual, who had previously been very secretive, to  
13 become so open about covert criminal acts took a great deal of skill on Jamie’s part.

14           In order to both recognize and support Jamie, we awarded him/her the Roving  
15 Reporter Award. The award is kind of a morale booster around the *Gazette* that we use to  
16 inspire everyone to work their best. Jamie was the youngest recipient of this award ever  
17 and solidified his/her place as an up-and-coming reporter in the business. Jamie  
18 continued to write good articles and I thought it was about time s/he put his/her name on  
19 something a little bigger.

20           On December 1<sup>st</sup>, I gave Jamie the assignment of creating a success story article  
21 on Senator Consada Rodriguez. I knew Jamie would root out the whole story and bring us  
22 back some great material. I had no idea just how right I was. When Jamie returned with  
23 the photograph of the senator and her husband, I couldn't believe it. No one had been  
24 able to get a hold of a photograph of them together and no one even knew what he looked  
25 like. This was huge for us because the picture was one of a kind and if anyone else  
26 wanted to use it, they would have to credit the *Gazette*.

27           Jamie showed me the photo along with his/her final draft on December 13<sup>th</sup>.  
28 Ordinarily, all photographs are screened by the entire editorial board before they are  
29 printed. This is meant to ensure that nothing bad will occur in the event that the  
30 photograph is published. Due to the fact that Jamie's deadline was that day and the fact  
31 that we had already advertised this article would be out, I knew I might have to just  
32 approve the photograph myself. I explained to Jamie that s/he really should have brought  
33 the photo to me sooner, but s/he was very persistent in demanding that the photograph be  
34 published. To be honest, I didn't really have any choice; it was too good of an  
35 opportunity to pass up. I wrote up a memo advising the board that I had approved the  
36 photograph.

37           I would give anything to go back and change my mind. I never meant for anyone  
38 to get hurt and I know Jamie didn't either. We are both just reporters, it's our job to print  
39 the information we have. Jamie was incredibly driven to get that picture into the paper as  
40 a reporter, not as a murderer.

\_\_\_\_\_  
Terry Lane

SIGNED AND SWORN to this 25th day of October 2005.

\_\_\_\_\_  
Clark Kent, Notary Public

State of Florida

My Commission Expires: 11/02/06



## Affidavit – Raye Valdez

1           My name is Raye Valdez and I am President and CEO of Dogs Without Families,  
2 a small organization I run. I know Jamie Olsen very well; we have been friends since we  
3 were little kids growing up in Venezuela. I used to visit him/her frequently after I moved  
4 to the States about 13 years ago. In fact, we are so close that when I started Dogs Without  
5 Families, Jamie offered to buy stocks from me to get me started.

6           I have never seen Jamie act out in anger about anything as long as I have known  
7 him/her. S/He is not a vengeful person. These charges are absurd. Jamie has never  
8 wanted to cause harm to anyone in his/her life.

9           I was not at the bar on November 30<sup>th</sup> when Jamie was attacked by the FDLE  
10 agent. I had no idea anything had happened until s/he talked to me about it the next day.  
11 S/He was very calm and collected in discussing it. S/He said, “Some guy attacked me last  
12 night. You know, one of those drug dealer types.” S/He told me how the guy beat him/her  
13 up, threw him/her out onto the street, and then verbally harassed him/her. I told Jaime to  
14 file a police report, but s/he said s/he couldn’t remember very well what the guy looked  
15 like. S/He even added, “It’s not that big of a deal, it probably best if I just let it go.” Of  
16 course, I didn’t think much of it after that except I would have loved to have gotten back  
17 at the guy who did it.

18           Jamie never mentioned the incident again, probably because s/he could never shut  
19 up about the new article s/he was working on about Senator Rodriguez. I always knew

20 Jamie was a talented journalist and really enjoyed his/her work, but this enthusiasm was  
21 something different. There was a fire in his/her eyes and a passion in his/her voice that  
22 was intriguing, like nothing I had ever seen before. I was really excited for him/her to be  
23 doing as well as s/he was. S/He kept mentioning something about getting a photograph,  
24 but I didn't understand what the big deal was.

25 On December 14<sup>th</sup>, Jamie showed me the article. It was a good read, I thought,  
26 and Jamie made a point of indicating the photograph of Senator Rodriguez and her  
27 husband to me. It wasn't until all of this investigation began that I learned that Juan  
28 Rodriguez was actually Victor Rodriguez, the man I met with on November 30<sup>th</sup>. The  
29 photograph looked nothing like how he appeared to me on November 30<sup>th</sup>.

30 Shortly after the article was published, my offices were raided by the FDLE. I  
31 understand that they did not find any evidence of drugs in my warehouses, which does  
32 not surprise me. What does surprise me is that they found a photograph, the one that was  
33 published in the article Jamie wrote, in the office of one of my employees. I do not know  
34 how it got there. I asked Jamie if perhaps s/he had left it there and s/he told me that the  
35 only person he had ever seen with that picture was Kerry Limbaugh.

36 It came as a surprise to me to find out that the guy who had beaten up Jamie was  
37 the same man I had a meeting with that same night. It came as a bigger surprise to me  
38 that this man was an FDLE agent investigating me for possible narcotics trafficking. It  
39 came as an even bigger surprise that this man was murdered by one of my own

40 employees. I simply cannot believe that Jamie had any intention of causing all of this.  
41 S/He was just doing what s/he loved to do – publish great articles.

\_\_\_\_\_  
Raye Valdez

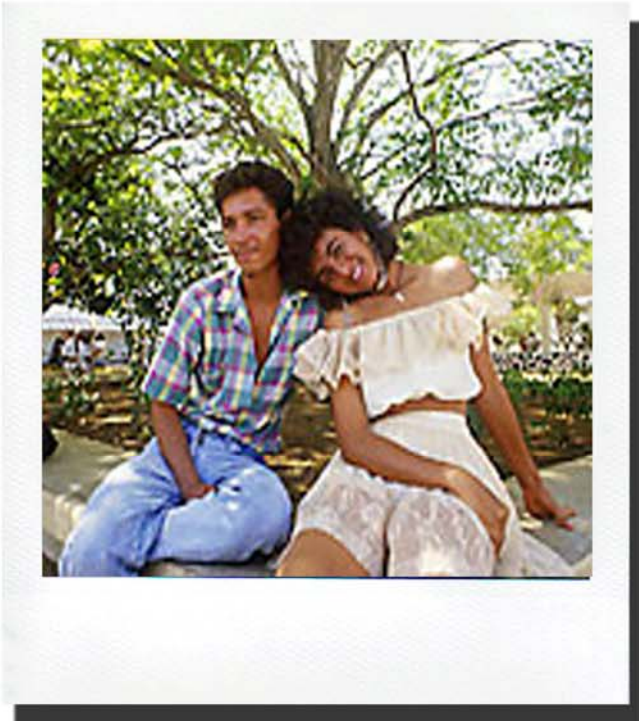
SIGNED AND SWORN to this 30th day of October 2005.

\_\_\_\_\_  
Clark Kent, Notary Public

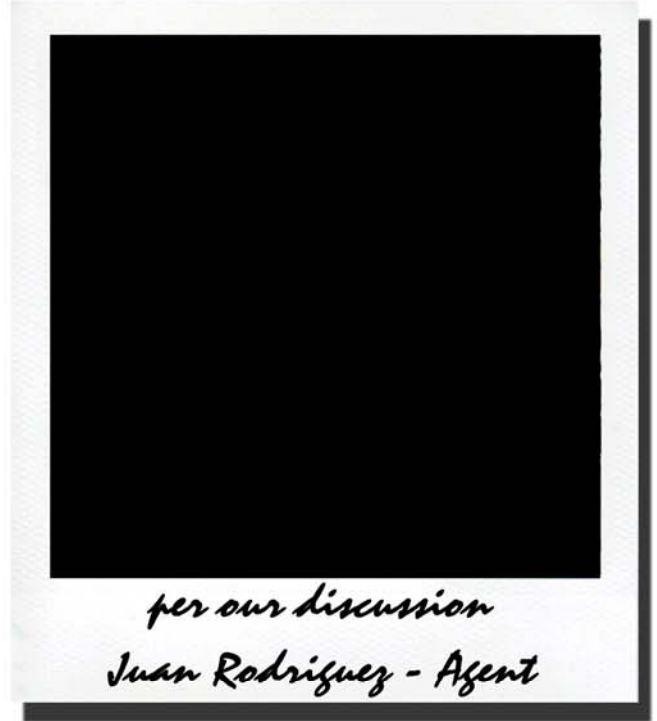
State of Florida

My Commission Expires: 11/02/06

Exhibit One



**Front**



**Back**

## Exhibit Two

### Transcript of interview between reporter Trisha Takanowa and Swindell aide Kerry Limbaugh

**Date:** November 2nd, 2004

**Time:** 10:39 PM (22:39)

**Location:** Swindell Residence, 2450 Georgia Drive, Deerfield, Florida

#### **Transcript:**

Takanowa: Kerry Limbaugh, you guys tried so hard, you worked for so long to fight back bad public opinion, yet tonight things do not seem to be going your way. Any thoughts?

Limbaugh: It is just obvious that the people don't realize what they are signing up for. Consada Rodriguez will be terrible on national security and the economy. I just wished the people wouldn't have to learn this information the hard way.

T: Do you have any advice for Consada Rodriguez?

L: Politics is a dangerous place...

T: That's a pretty strong statement, care to explain?

L: A lot of people take things personally in politics. A lot of people get hurt in politics. It can't be a coincidence.

T: Okay... Well, Tammy, the situation down at Swindell Central seems very somber. You can tell that there are a lot of very disappointed people down here. Back to you guys in the studio.

## Exhibit Three

Memo - FOR INTERNAL PURPOSES ONLY

Date: September 18<sup>th</sup>, 2004, 18:55 (EST)

From: Kerry Limbaugh, Campaign Chair, Swindell for Florida

To: Head Campaign Staffers, Swindell for Florida

Re: Sensitive material

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From this date forward there is to be no mention of Consada Rodriguez's husband. We have come to the information that Juan Rodriguez is an undercover agent for the FDLE and is currently on assignment.

I do not think I have to impress upon you all the dangers that could emerge if Juan Rodriguez could be brought into the spotlight of this election. Putting Juan Rodriguez in the media's eye during this campaign COULD KILL HIM AND OUR CAMPAIGN! You must not allow for this to become a central issue.

Any one, head campaign staff or not, who is determined to be endangering the life of an FDLE agent by mentioning his name or attempting to publish his picture during this campaign will suffer immediate termination and possible criminal and civil prosecution.

If you have any questions, contact me in person. This is to be the last time we mention Juan Rodriguez in any form of correspondence.

Kerry Limbaugh



## Exhibit Four

### Teacher Trouble

Local high school teacher Fred Davis was arrested Friday for stealing chemicals from his classroom

More on page 2

# The Deerfield Gazette

December 14th, 2004

The best news in Florida since 1917

### Today's Weather



Partly Cloudy  
Chance of rain: 20%

67°F/32°F

## Pride through Preserverance Senator Consada Rodriguez's story of triumph

"This place is electric," announced a Rodriguez aide after the 2004 election results began coming in. "There is no where I would rather be than in the winner's circle with Consada Rodriguez," proclaimed the same aide.

November 2nd was described by all involved as a huge victory for the Rodriguez campaign. For the 29-year-old Cuban immigrant, this election was just one more victory in a series of live or die situations.

Consada Rodriguez was born in Havana, Cuba in 1975 to Jose and Juanita Rosito. Her parents were both poor factory workers who decided early on to give their daughter a better life by making the dangerous journey to freedom in the United States.

The journey was an uneventful one. After hitching a ride on a raft bound for Florida, the family experienced little trouble getting to the United States. It was living in America that proved to be a problem.

Neither speaking English, finding work was a challenge. Most places paid under minimum wage because Jose couldn't read the labor laws poster. By the time Consada was 14 years old, the family was still struggling to make a living.

Consada had worked very hard in school to learn English. She knew the only way to better her family's condition would depend on her ability to communicate.

Consada took a job as soon as she could

get hired. "We were so worried about our little girl," Juan Rosito says, "She was already working so hard in school and now she was helping us put food on the table."



Senator Consada Rodriguez (right) and her husband, Juan Rodriguez (left) in a 2001 photograph.

Despite the heavy workload, Rodriguez still flourished in her studies. She gained acceptance to a large number of universities, but ended up accepting a full-scholarship to Miami University, so she could remain close to her parents.

While in college, Rodriguez met her husband, Juan Rodriguez, who many people attribute for Consada Rodriguez's strength in the political world.

After college, Rodriguez began working to

## Headlines

**Deerfield City Council Closes Park**  
Walsingham Park, off Ulmerton Road, will be shut down after January 2nd. The Council cites growing demand for land development and the park's low attendance as its justification. Page 3.

### Deerfield Sheriff's Office reports lower crime rate

Captain Jim Dangle released the information at a press conference late yesterday, stating that crime was down 10% in the past year. Page 3.

### Fewer Deerfield County students are attending college

The disappointing news released by the Florida Department of Education reports that 25% fewer high school graduates are attending post-secondary school. Experts point to fewer scholarships and decreased recruitment efforts as the cause. Page 8.

### Local high schools go to trial

The first annual Deerfield county Mock Trial Competition was held this weekend. Students from 4 local high schools competed against each other in a courtroom simulation. The winner, Deerfield High School, will now advance to a regional competition for a chance to compete in the state competition in March. Page 14.

## Exhibit Five

Project: *Drugs Lords: A Life without Mercy*

Interviewee: Juan Valdez

Interviewer: Jamie Olsen

Date: December 21, 2001

Irrelevant portions have been excluded by agreement of both parties.

**Olsen:** So can you tell me more about how your life changed once you started working as a drug dealer?

**Valdez:** It wasn't easy, you know? Everyday you had to watch your back. Rival dealers and the cops were always around and you had to be ready to kill or be killed at every hour of every day. You have to be cold.

**Olsen:** Cold?

**Valdez:** Yeah, cold as ice. Before I started in drugs, I would have been shocked to see someone shot. I used to be afraid to see blood, you know, it would make me want to throw up. But now, I've shot so many people, and seen so many more shot, it doesn't faze me anymore.

**Olsen:** You said you've shot people before, can you tell us about that?

**Valdez:** Why not? I've already been convicted. Most of the people I had to kill were the cops. Cops [in Venezuela] aren't very smart, but they are daring little \* expletive \* \* expletive \*.

**Olsen:** What do you mean by that?

**Valdez:** Well, they would always try to get into our organizations. And you could always spot 'em out too. They stuck out in the way they acted, the way they dressed, and the things they said. Of course, as soon as we pegged them as a cop, either we executed the \*expletive\* ourselves or we put him in a dangerous situation and let a rival do it for us.

**Olsen:** Have there ever been any times when you couldn't spot a police officer?

**Valdez:** Not in Venezuela. Once I visited a partner in the States who was in our trade. I was around him when a meeting was going on and everyone seemed to fit in. Then I noticed two guys walk up behind one of the guys sitting around the table. Then they pulled out guns and opened fire. I had no idea he was a cop.

**Olsen:** Do you know how your partner knew?

**Valdez:** Yea, it was kind of ironic that the same tools the American cops use to hunt down the drug dealers is the same thing we can use to spot them out. The internet lets drug lords look at thousands of records, from newspaper clippings to high school yearbooks. Basically anything you want to find, you can get it there.

**Olsen:** How did they find out who the man you spoke about was?

**Valdez:** The local newspaper had printed his picture in the paper at a Fraternal Order of Police meeting.

(End of relevant portion)



## Exhibit Six

Memo

Date: December 13<sup>th</sup>, 2004, 14:30 (EST)

From: Terry Lane, Editor in Chief

To: Editorial Board

Re: Olsen's Rodriguez Article

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Jamie Olsen approached me today with a photograph of Consada Rodriguez and her husband, which is intended for use in the article. As you may or may not be aware, no other paper has been able to obtain a photograph of the two together. I think we all know the potential benefits involved in printing this picture.

Therefore, due to time limit constraints, I am bypassing the editorial board certification of the photograph and approving the photograph myself.

Jamie Olsen has assured me, very adamantly, that there is no potential backlash for the use of this photograph and that this photograph was obtained legally and that we need not fear legal action in the event of its being published.

This is great news for the *Deerfield Gazette* and I feel confident that this is a great decision for the future of our paper.

Terry Lane  
Editor-in-Chief  
Deerfield Gazette

## Exhibit Seven

Florida Department of Law Enforcement  
Division of Forensic Analysis  
Fingerprint Analysis Report

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**Generated on:** October 18<sup>th</sup>, 2005

**Requesting Party:** Deerfield County State Attorney's Office

**Object Analyzed:** December 14<sup>th</sup>, 2004 edition of the *Deerfield Gazette* found at 1600 East Victoria Blvd. in Deerfield, Florida

**Method of Analysis:** Cyanoacrylate fuming

**Test Conducted By:** Specialist Lee Pascado      **Time:** 16:23      **Date:** 10/12/2005

### **Results:**

Fingerprint A is a 12-point match with the fingerprint of Anton Zebesky.

Fingerprint B is a 13-point match with the fingerprint of Jamie Olsen

Fingerprints C, D, and E were not matched to either Olsen or Zebesky or anyone currently listed in the FDLE Database.

**Report Certified By:** Specialist Lee Pascado      **Time:** 13:22      **Date:** 10/18/2005

## **Applicable Law**

### **Florida State Statute 777.011 – Principal in First Degree**

Whoever commits any criminal offense against the state, whether felony or misdemeanor, or aids, abets, counsels, hires, or otherwise procures such offense to be committed, and such offense is committed or is attempted to be committed, is a principal in the first degree and may be charged, convicted, and punished as such whether he or she is or is not actually or constructively present at the commission of such offense.

### **Florida State Statute 777.04 – Criminal Conspiracy**

- (3) A person who agrees, conspires, combines, or confederates with another person or persons to commit any offense commits the offense of criminal conspiracy, ranked for purposes of sentencing as provided in subsection (4).

### **Florida State Statute 782.04 – Murder in the First Degree**

- (1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to affect the death of the person killed or any human being;

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

### **Florida State Statute 782.04 – Murder in the Second Degree**

- (2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

## **Partial Jury Instructions**

### **PLEA OF NOT GUILTY; REASONABLE DOUBT; AND BURDEN OF PROOF**

The defendant has entered a plea of not guilty to the charge against him/her. This means you must presume or believe that the defendant is innocent. The presumption stays with the defendant as to each material allegation in the indictment through each stage of the trial unless it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt.

To overcome the defendant's presumption of innocence, the state has the burden of proving the crime with which the defendant is charged was committed, and the defendant is the person who committed the crime.

The defendant is not required to present evidence or prove anything.

Whenever the words "reasonable doubt" is used you must consider the following:

A reasonable doubt is not a mere possible doubt, a speculative, imaginary or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. On the other hand, if after carefully considering, comparing and weighing all the evidence, there is not an abiding conviction of guilt, or, if having a conviction, it is one which is not stable but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt, and you must find the defendant not guilty because the doubt is reasonable.

It is to the evidence introduced in this trial, and to it alone, that you are to look for that proof.

A reasonable doubt as to the guilt of the defendant may arise from the evidence, conflict in the evidence, or the lack of evidence.

If you have a reasonable doubt, you should find the defendant not guilty. If you have no reasonable doubt, you should find the defendant guilty.

## **INTRODUCTION TO HOMICIDE**

In this case the defendant is accused of First Degree Murder. Murder in the First Degree includes the lesser crimes of Murder in the Second Degree, and Manslaughter, both of which are unlawful.

If you find that the defendant killed Juan Rodriguez, you will then consider the circumstances surrounding the killing in deciding if the killing was First Degree Murder, Second Degree Murder, or Manslaughter.

## **MURDER – FIRST DEGREE**

To prove the crime of First Degree Premeditated Murder, the State must prove the following three elements beyond a reasonable doubt:

1. Juan Rodriguez is dead.
2. The death was caused by the criminal act of the defendant.
3. There was a premeditated killing of Juan Rodriguez.

An “act” includes a series of related actions arising from and performed pursuant to a single design or purpose.

“Killing with premeditation” is killing after consciously deciding to do so. The decision must be present in the mind at the time of the killing. The law does not fix the exact period of time that must pass between the formulation of the premeditated intent to kill and the killing. The period of time must be long enough to allow reflection by the Defendant. The premeditated intent to kill must be formed before the killing.

The question of premeditation is a question of fact to be determined by you from the evidence. It will be sufficient proof of premeditation if the circumstances of the killing and the conduct of the accused convince you beyond a reasonable doubt of the existence of premeditation at the time of the killing.

## **LESSER-INCLUDED CHARGES**

In considering the evidence, you should consider the possibility that although the evidence may not convince you that the defendant committed the main crime he is accused of;

there may be evidence that he committed other acts that would constitute a lesser included crime. Therefore, if you decide that the main accusation has not been proven beyond a reasonable doubt, you will next need to decide if the defendant is guilty of any lesser-included crimes. The lesser crimes indicated in the definition of First Degree Murder are Second Degree Murder and Manslaughter.

## **MURDER – SECOND DEGREE**

Before you can find the defendant guilty of Second Degree Murder, the State must prove the following three elements beyond a reasonable doubt:

1. Juan Rodriguez is dead.
2. The death was caused by the criminal act of the defendant.
3. There was an unlawful killing of Juan Rodriguez by an act imminently dangerous to another and demonstrating a depraved mind without regard to human life.

An “act” includes a series of related actions arising from and performed pursuant to a single design or purpose.

An act is “imminently dangerous to another and demonstrating a depraved mind” if it is an act or series of acts that:

1. A person of ordinary judgment would know is reasonably certain to kill or do serious bodily injury to another, and
2. Is done from ill will, hatred, spite, or an evil intent, and
3. Is of such a nature that the act itself indicates an indifference to human life.

In order to convict of Second Degree Murder, it is not necessary for the State to prove the defendant had intent to cause death.

## **MANSLAUGHTER**

Before you can find the Defendant guilty of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

1. Juan Rodriguez is dead.
2. The death of Juan Rodriguez was caused by the culpable negligence of the defendant.

I will now define “culpable negligence” for you. Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care



toward others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life, or such an entire want of care as to raise a presumption of a conscious indifference to consequences. Culpable negligence is consciously doing an act that the defendant reasonably should have known was likely to cause death or great bodily harm.

In order to convict of Manslaughter by intentional act, it is not necessary for the State to prove that the Defendant had a premeditated intent to cause death.

### **FELONY MURDER - FIRST DEGREE**

Before you can find the defendant guilty of First Degree Felony Murder, the State must prove the following three elements beyond a reasonable doubt:

1. Juan Rodriguez is dead.
2.
  - a. The death occurred as a consequence of and while Jamie Olsen was engaged in the commission of a drug trafficking or
  - b. The death occurred as a consequence of and while Jamie Olsen was attempting to commit a drug trafficking
3. Juan Rodriguez was killed by a person other than Jamie Olsen; but both Jamie Olsen and the person who actually killed Juan Rodriguez were principals in the commission of drug trafficking.

In order to convict of First Degree Felony Murder, it is not necessary for the State to prove that the defendant had a premeditated design or intent to kill.

### **MURDER – THIRD DEGREE**

Before you can find the defendant guilty of Third Degree Murder, the State must prove the following three elements beyond a reasonable doubt:

1. Juan Rodriguez is dead
2.
  - a. The death occurred as a consequence of and while Jamie Olsen was engaged in the commission of trafficking or
  - b. The death occurred as a consequence of and while Jamie Olsen was attempting to commit trafficking
3. Juan Rodriguez was killed by a person other than Jamie Olsen; but both Jamie Olsen and the person who killed Juan Rodriguez were principals in the commission of drug trafficking.

It is not necessary for the State to prove the killing was perpetrated with a design to effect a death.

## **PRINCIPALS**

If a defendant helps another person or persons commit or attempt to commit a crime, the defendant is a principal and must be treated as if he had done all the things the other person or persons did if:

1. The defendant had a conscious intent that the criminal act be done; and
2. The defendant did some act or said some word which was intended to and which did incite, cause, encourage, assist, or advise the other person to actually commit the crime.

To be a principal, the defendant does not have to be present when the crime is committed.

A defendant is not a principal if, prior to the commission of the crime, he withdrew his encouragement, advice or assistance to the other person under circumstances indicating a complete and voluntary renunciation of his criminal purpose.

## **CRIMINAL CONSPIRACY**

Before you can find the defendant guilty of Criminal Conspiracy, the State must prove the following two elements beyond a reasonable doubt:

1. The intent of the defendant was that the offense of murder would be committed.
2. In order to carry out the intent the defendant conspired with Anton Zebesky to cause murder to be committed either by them, or one of them, or by some other person.

It is not necessary that the conspiracy to commit murder be expressed in any particular words or that words pass between the conspirators.

It is not necessary that the defendant do any act in furtherance of the offense conspired.

## **WEIGHING THE EVIDENCE**

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which the best evidence is, and which evidence should not be relied upon in considering

your verdict. You may find some of the evidence not reliable, or less reliable than other evidence.

You should consider how the witnesses acted as well as what they said. Some things you should consider are:

1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?
2. Did the witness have an accurate memory?
3. Was the witness honest and straightforward in answering the attorneys' questions?
4. Did the witness have some interest in how the case should be decided?
5. Does the witness' testimony agree with the other testimony and other evidence in the case?
6. Has the witness been offered or received any money, preferred treatment or other benefit in order to get the witness to testify?
7. Did the witness at some other time make a statement that is inconsistent with the testimony given in court?

8. Was it proven that the witness had been convicted of a crime?

You may rely upon your own conclusions about the witness. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

## Rules of the Competition

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

- a) 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.
- b) **Only one team may represent a high school at any level of competition.**
- c) 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.
- d) 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).
- e) Each team must be fully prepared to argue both sides of the case. (Prosecution/Plaintiff and Defense/Defendant) using six team members.
- f) 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.
- g) 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.

- h) All teacher coaches and students must attend the mandatory general assembly/orientation. Attorney coaches who accompany their team must also be present.

**B. Rule II: The Case**

- a) The case may contain any or all of the following stipulations: documents, narratives, exhibits, witness statements, etc.
- b) The stipulations (and fact statements, if any) may not be disputed at the trial. Witness statements may not be altered.
- c) All witnesses must be called.

**C. Rule III: Trial Presentation**

- a) 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.
- b) 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."

- c) 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.

- d) 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.
- e) 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.

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

#### **D. Rule IV: Student Attorneys**

- a) 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:
  - 1. Opening Statements
  - 2. Direct/Re-direct Examination of Witness #1
  - 3. Direct/Re-direct Examination of Witness #2
  - 4. Direct/Re-direct Examination of Witness #3
  - 5. Cross/Re-cross Examination of Witness #1
  - 6. Cross/Re-cross Examination of Witness #2
  - 7. Cross/Re-cross Examination of Witness #3
  - 8. Closing Arguments
  - 9. 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.

- b) Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial.
- c) 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.

**E. Rule V: Swearing of Witnesses**

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

**F. 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.**

**G. 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.**

**H. 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.

**I. 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.**

**J. 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.

**K. Rule XI: Witnesses**

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

**L. 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.

**M. 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.

N. **Rule XIV: Decisions**

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

O. **Rule XV: Time Limits**

- a) 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.

- b) 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.

- c) 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.
- d) 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.

**P. Rule XVI: Judging**

- a) 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.

- b) 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.
- c) 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.
- d) The team receiving the majority of the performance votes from the three judges is declared the winner of the trial/round.

- e) 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.
- f) **ALL DECISIONS OF THE JUDGES ARE FINAL.**
- g) The **Team Ethics** category will score students on the standards recognized in the **Code of Ethical Conduct**.
- h) 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.

**Q. Rule XVII: Dispute Settlement**

a) **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.

- b) 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.

c) **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.

d) **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**.

**R. Rule XVIII: Reporting a Rules Violation Outside the Bar**

- a) 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**.

**S. Rule XIX: Score Sheets/Ballots**

- a) 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.
- b) 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.
- c) Individual assessment categories **including team ethics and team performance** shall be judged on a 1-10 scale **by scoring judges only.**
- d) In the event of a mathematical error in tabulation by scoring judges, score room staff will enter the **correct tabulation** of the scores.

**T. Rule XX: Power Matching/Seeding**

- a) The Florida High School Mock Trial Competition uses a *power matching* system.
- b) 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.**
- c) Power matching will provide that:
  - 1. Pairings for the first round will be at random.
  - 2. All teams are guaranteed to present each side of the case at least once.

3. 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.
4. 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.
5. Teams will not meet the same opponent twice.
6. To the greatest extent possible, teams will alternate side presentation in subsequent rounds. Bracket integrity in power matching will supersede alternate side presentation.

**U. Rule XXI: Completion of Score Sheets**

- a) 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.
- b) 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.

**V. Rule XXII: 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.

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

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

**X. Rule XXIV: Eligibility**

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

**Y. Rule XXV: 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.

**Z. Rule XXVI: Interpretation of State Competition Rules**

- a) 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.
- b) No exceptions are permitted at the competition site unless approval has been given by the Advisory Committee prior to the competition.
- c) The Advisory Committee and/or State Mock Trial Coordinator will serve as the final arbiter at the competition site.

## 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.

**i. Methods of Proving Character (Section 90.405)**

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

**e) Refreshing Recollection**

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

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

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

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.

##### **i. Impeachment Procedure**

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

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

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

- a. Introducing statements of the witness which are inconsistent with his/her present testimony;
- b. Showing that the witness is biased;
- c. Attacking 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;
- e. Proof by other witnesses that material facts are not as testified to by the witness being impeached;

### **iii. 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:

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

### **iv. Section 90.614 Prior Statements of Witness**

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



2. Prove or explain acts of subsequent conduct of the declarant.
- b. However, this subsection does not make admissible:
1. 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.
  2. 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 2005 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 SCORE SHEET/BALLOT

P = Prosecution: \_\_\_\_\_ D = Defense: \_\_\_\_\_  
(Team Code) (Team Code)

Date: \_\_\_\_\_ Round: (circle one)    1    2    3    4    F

Using a scale of **1 to 10**, rate the **P** and **D** in the categories below.  
Do **NOT** use fractional points. Please use a ballpoint pen.

Not Effective      Fair      Good      Excellent      Outstanding  
 1    2    3    4    5 6    7    8    9    10

Score Sheet/ Ballot	P		D
Opening Statement	(_____)		(_____)
Prosecution's First Witness	(_____)	Direct Examination	
	(_____)	Witness Presentation	(_____)
Prosecution's Second Witness	(_____)	Direct Examination	
	(_____)	Witness Presentation	(_____)
Prosecution's Third Witness	(_____)	Direct Examination	
	(_____)	Witness Presentation	(_____)
Defense's First Witness		Direct Examination	(_____)
	(_____)	Cross Examination	(_____)
Defense's Second Witness		Direct Examination	(_____)
	(_____)	Cross Examination	(_____)
Defense's Third Witness		Direct Examination	(_____)
	(_____)	Cross Examination	(_____)
Closing Argument	(_____)		(_____)
Ethical Conduct	(_____)		(_____)
Team Performance	(_____)		(_____)
<b>Column Totals: DO NOT TIE TEAMS</b>	(_____)		(_____)

Note: Any errors in *ADDITION* will be corrected by score room staff. Please review your individual scores and return to trial coordinator.

\_\_\_\_\_  
Judge's Signature

**EXPLANATION OF THE PERFORMANCE RATINGS USED ON THE SCORE SHEET**  
**Florida High School Mock Trial Competition**

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**

Prosecution: \_\_\_\_\_ 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

PROSECUTION / 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

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# 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

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

---

Judge's Signature

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# 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

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

\_\_\_\_\_  
Judge's Signature

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## **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**  
**Complaint Form**

(Please Print)

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

Person Lodging Dispute/Complaint: \_\_\_\_\_

Affiliated With: \_\_\_\_\_ **(Enter Team Code Only)**

Nature of Dispute/Complaint:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTE:** This form may be used to inform the Mock Trial Coordinator and Advisory Committee of any disputes or recommendations relating to the competition including complaints regarding judges. Please be specific regarding the nature of the dispute. This form in **no way** replaces the dispute resolution process as outlined in the rules.

\_\_\_\_\_  
Signature

**Return to Box at Information Desk in Courthouse**



**Team Roster**  
**Florida High School Mock Trial Competition**

Each Prosecution 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)*

**Prosecution**

**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 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 client, 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.”