

# 2010 RULES OF THE MISSISSIPPI HIGH SCHOOL MOCK TRIAL COMPETITION

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## **I. RULES OF THE ORGANIZATION**

### **A. THE PROBLEM**

#### **Rule 1. Competition**

- (a) The Mississippi High School Mock Trial Competition, sponsored by the Mississippi High School Mock Trial Committee, is governed by the Rules of the Organization, the Rules of Procedure and the Mississippi High School Mock Trial Rules of Evidence. Specifically, the Code of Ethical Conduct identified in **Rule 7(e)** is applicable to the Competition. Any clarification of rules or case materials will be posted on the Mississippi High School Mock Trial Competition website.
- (b) There will be two rounds in each Regional Competition, both on Saturday. In the event of an odd number of teams participating in a regional, there will be a special “Bye Round” during lunch for the team that does not have an opposition during one of the rounds. There will be four rounds in the Statewide Competition, two on Friday and two on Saturday. Each team must participate in both rounds at their Regional Competition. All the teams that advance to the Statewide Competition must participate in all four rounds of the competition.
- (c) All team members, including coaches, will be required to wear nametags provided by the Mock Trial Coordinator during all phases of the competition.
- (d) Individual judges have within their discretion the ability to discount points for violations of these rules.
- (e) Regional Definition – A Mock Trial Regional must consist of at least five teams. Schools must participate in the specified Regional Competition for their area. In the event that a region drops below this number of teams, the Mississippi High School Mock Trial Committee will determine whether to allow Regional rounds to proceed with the smaller number, to reassign the affected teams to another region or to merge the region with another Regional. The Mississippi High School Mock Trial Committee reserves the right to move teams from assigned regions to other neighboring regions in order to maintain an equitable balance in the size of neighboring regions, or for any other administrative purpose deemed by the Mississippi High School Mock Trial Committee to be in the best interests of the Competition.

#### **Rule 2. The Problem**

The problem will be an original fact pattern which may contain any or all of the following: statement of facts, indictment, stipulations, witness statements/affidavits, jury instructions, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered. Only three witnesses per side will be called.

#### **Rule 3. Witness Bound by Statements**

- (a) Each witness is bound by the facts contained in his/her own witness statement, the stipulated facts, if present, and/or any exhibits relevant to his/her testimony. All participants agree that the witness statements are signed and sworn affidavits. Witnesses are to adhere to their respective written statements. Adding facts that are inconsistent with the witness statements or with the stipulated facts and which would be irrelevant with respect to any issue in the case is not permitted.
- (b) A fair extrapolation is one that is neutral. Fair extrapolations may be allowed if consistent with facts contained in the witness’ statement, do not materially affect the testimony of the witness and provided such reasonable inference may be made from the witness’ statement. It is important for the witnesses to exercise caution in such extrapolations to avoid a possible rules violation for unfair extrapolation. 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 under **Rule 4**, outside the scope of the problem.

- (c) 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.
- (d) Students shall be prohibited from responding with new material facts which are not in their witness statements or consistent with the Statement of Facts.
- (e) A witness is not bound by facts contained in other witness statements.
- (f) The Case Summary (or Statement of Facts), if provided, is meant to serve as background information only. It may not be used for substantive evidence, cross-examination, or impeachment.

#### **Rule 4. Unfair Extrapolation**

- (a) Unfair extrapolation is the adding of facts which: (1) are not reasonably inferable from a witness statement; (2) benefit the speaker's side and harm the other side; and (3) are material. Examples of unfair extrapolation include, but are not limited to: (1) creating a physical or mental disability when the statement does not indicate such; (2) giving a witness a criminal or bad record when none is suggested by the statements or stipulated facts; (3) materially changing the profession, character, memory, mental or physical ability of the witness from the witness statement; and (4) testifying to "recent changes."
- (b) Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial.
- (c) If an "Unfair Extrapolation" occurs, attorneys for the opposing team should make an objection and refer to **Rule 4**, such as "unfair extrapolation" or "this information is beyond the scope of the statement of facts." Failure to make a timely objection during the course of the trial may result in a waiver of the objection.
- (d) When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings.
- (e) Possible rulings by a judge include:
  - 1. No extrapolation has occurred;
  - 2. An unfair extrapolation has occurred; or
  - 3. The extrapolation was fair.
- (f) The decision of the presiding judge regarding extrapolations or evidentiary matters is final.
- (g) Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting an unfair extrapolation. If a witness is asked information not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue of the case.
- (h) It is virtually impossible to provide witnesses with detailed answers to every conceivable question that lawyers can ask. The witness statements are not intended as a complete life history. If an attorney's question solicits unknown information, the witness may supply the answer of his/her choice as long as it does not materially affect the witness' testimony. Witnesses should try to avoid a rigid, mechanical approach to the trial, but should stay within the bounds of honest competition. Presentation is graded, not the merits of the case. Just as in our judicial system, lawyers must deal with the facts that exist. The facts cannot be changed! But, clients can be represented in the best possible manner.
- (i) Points should be deducted from individual scores of participants who make unfair extrapolations or ask questions that call for unfair extrapolations. Witnesses and attorneys making unfair

extrapolations and attorneys who ask questions that require the witness to answer with an unfair extrapolation should be penalized by having a point or points deducted from their individual scores. The number of points deducted should be determined by the severity of the extrapolation. If a team has several team members making unfair extrapolations, the offending team's overall points should also be reduced accordingly. (*See Rule 25 for the treatment of rule infractions.*)

#### **Rule 5. Witnesses**

Any student may play any witness role, regardless of the student's race, religion, ethnicity, sex, physical attributes, or disability. Where a witness is specifically described as being of a particular sex, religion, or race or as having a particular physical attribute, injury, or disability, any student of any sex, religion, race, physical attribute, or disability may play that role. At no time will an examining attorney or witness make an issue of the student's actual race, religion, ethnicity, sex, physical attributes, or disability at trial, but both will be confined to the case's description of the witness role being portrayed. The gender of students will be clearly indicated on the Trial Squad Roster form.

#### **Rule 6. Voir Dire**

Voir dire examination of a witness is not permitted.

### **B. THE TRIAL**

#### **Rule 7. Team Eligibility and Composition/Coaches/Code of Ethical Conduct**

- (a) Team Composition and Eligibility – A team shall consist of a minimum of six (6) members up to nine (9) members, including a non-participation timekeeper, in grades 9, 10, 11 or 12 during the current academic year. Each team will have six (6) team members participating during each round: three (3) attorneys and three (3) witnesses. Teams must also provide a timekeeper. Teams with only six (6) members may allow a witness to serve as a timekeeper. Teams with additional members must have a non-participating member serve as the timekeeper. The timekeeper on teams with nine (9) members can only be the timekeeper and can never participate as an attorney or witness in any round. Participation of team members is at the discretion of the team coach; however, no team member may portray more than one witness or act as a witness and an attorney during the same competition. The students who compete at the regional competition must be the SAME six (6) to eight (8) students who advance to the statewide competition. No substitutions or alternates will be allowed after the Regional competitions.
- (b) Number of Teams – Each school can register either one or two teams from that school. A school cannot have more than two teams.
- (c) Attorney Coaches – A team is to be registered and sponsored by an attorney in good standing with the State Bar of Mississippi. The attorney coach may register additional attorneys as assisting coaches all of whom must be in good standing with the State Bar of Mississippi. No person may serve as an attorney coach who is currently under sanction by the Supreme Court of Mississippi for disciplinary reasons. Law clerks, paralegals, law students and attorneys admitted in another state, who are in good standing with their State Bar Association may assist the coaching staff, but must operate under the professional supervision of a fully licensed attorney coach. As the sponsor of the team, the attorney coach will act as liaison between the team and the local and state bar associations and will submit the registration form and fee. The coaching staff will act as legal advisers in preparing the team for competition.
- (d) Teacher Coaches – The teacher coach will act as the educational adviser to the team, serving as a guide to both the team members and their attorney coaches, so that all decisions related to the program are made in the best interests of the education of the team members. The final authority over the direction of a mock trial team rests with the teacher coach.
- (e) Ethics – The Code of Ethical Conduct governs all participants, observers, guests, and parents at Mississippi High School Mock Trial Competition events. A copy of the code must be signed by

all students and participating coaches prior to any of the Mississippi High School Mock Trial Competition events and must be delivered at registration to the coordinator of the event. Participants are responsible for making guests and parents aware of the code and all rules regarding conduct during the event.

- (f) Decorum – Counsel should treat opposing counsel with courtesy and tact. Attorneys should conduct themselves as professionals in these proceedings. Therefore, opposing counsel, witnesses, and the presiding judge must be treated with the appropriate courtesy and respect. All participants, including presiding judges and attorneys on the judging panel, are expected to display proper courtroom decorum. The Plaintiff/Prosecution team shall be seated closest to the jury box. No team shall rearrange the courtroom without prior permission of the judge. (*See Rule 25 for the treatment of rule infractions.*) Appropriate courtroom attire is expected for all participants, observers, guests and parents at all Mississippi High School Mock Trial Competition events. Small children and food should not be brought into the courtroom. All cell phones should be turned off or to “silent.”

#### **Rule 8. Instruction and Use**

- (a) The Problem shall not be used as a basis for any course of study, at any instructional level, during the competition year for which the Problem is created until such time as the Final Round of the State Competition has been completed and scored.
- (b) This Rule shall apply to elementary, middle school, high school, college, graduate and post-graduate programs, private and public, whether or not individuals who would direct or otherwise be involved in the study or analysis of the Problem support a mock trial team, Plaintiff/Prosecution and Defense squads, or smaller groups of individual members of any mock trial team. The prohibition includes, but is not limited to discussion and/or development of the Case Facts, Witness Statements or Exhibits, Rules of Procedure, Rules of Evidence, and/or litigation strategies.
- (c) Any use of the Problem in the competition year for which it was created as outlined above shall be interpreted as a violation of the Young Lawyers Division of the State Bar of Mississippi copyright of said materials, whether or not used for a non-profit or educational purpose. Further, any such use of the Problem in the manner outlined above by any individual involved in any way with the coaching or support of a mock trial team, Plaintiff/Prosecution and Defense squads, or smaller groups of individual members of a mock trial team shall be deemed a violation of the Procedural and Ethical Rules of Competition, regardless of whether any information shared in the course of study is shared with a competition team or members thereof.

#### **Rule 9. Team Presentation**

- (a) Teams must be prepared to present both the Prosecution/Plaintiff and Defense/Defendant sides of the case simultaneously.
- (b) In the case of an emergency occurring during a round of competition, a team may participate with less than six (6) to eight (8) members. In such a case, a team may continue in the competition by making substitutions to achieve a two-attorney/three witness composition. Any team competing under this emergency arrangement is ineligible to advance to the championship round in the Statewide Competition. Final determination of emergency forfeiture or reduction of points will be made by the trial coordinator, in consultation with available Committee leaders. Under extraordinary circumstances, the mock trial coordinator, in consultation with available Committee leaders, may declare an emergency prior to the competition round.
- (c) A forfeiting team will receive a loss and points totaling the average number of the ballots and the points received by the losing teams in that round. The non-forfeiting team will receive a win and an average number of ballots and points received by the winning teams in that round.

### **Rule 10. Team Duties**

- (a) Team members are to divide their duties evenly. Each of the three (3) attorneys will conduct one direct and one cross examination; in addition, one will present the opening statement and another will present closing arguments. Every attorney must conduct a direct and cross examination. In other words, the eight attorney duties for each team will be divided as follows:
1. Opening Statement
  2. Direct Examination of Witness #1
  3. Direct Examination of Witness #2
  4. Direct Examination of Witness #3
  5. Cross Examination of Witness #1
  6. Cross Examination of Witness #2
  7. Cross Examination of Witness #3
  8. Closing Argument (including Rebuttal) [*See Rule 14.*]
- (b) Opening Statements must be given by both sides at the beginning of the trial. The Prosecution/Plaintiff gives the closing argument first but may reserve a portion of its closing time for a rebuttal.
- (c) 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' 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.
- (d) The attorneys who make the opening statement or the closing argument during a trial round are the only people who may make an "objection" to an opponent's opening statement or closing argument.
- (e) Each team must call three witnesses. Witnesses must be called only by their own team and examined by both sides. Witnesses may not be recalled by either side. Witnesses may be called in any order, regardless of the order in which they are listed on the Trial Squad Roster Form or in which they have been called in earlier rounds of the competition.

### **Rule 11. Swearing of Witnesses**

The swearing of witnesses is undertaken at the discretion of the presiding judge. The following oath may be used before questioning begins:

"Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?"

The swearing of witnesses may be conducted by the presiding judge at the start of the trial.

### **Rule 12. Trial Sequence and Time Limits**

- (a) The trial sequence and time limits are as follows:
1. Opening Statement (5 minutes per side)
  2. Direct and Redirect (optional) Examination (25 minutes per side)
  3. Cross and Recross (optional) Examination (20 minutes per side)
  4. Closing Argument (5 minutes per side)
- (b) The time limits reflected in (a)(2) and (3) reflect the total time to conduct the direct and cross-examination of all witnesses. You do not have 25/20 minutes per witness.
- (c) Redirect and Recross examinations must conform to restrictions in **Rule 611(d)**. The Prosecution/Plaintiff's rebuttal is not limited to the scope of the Defense's closing argument.

- (d) Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial will not be transferred to another part of the trial.
- (e) Cross examination will be “open” and not limited to matters raised during the direct examination of the witness.
- (f) Even if a team has exhausted its time for direct and/or cross examination, **Rule 10(e)** requires that each witness be called and subjected to direct and cross examination. Accordingly, attorneys out of time will be allowed only one question in direct: “Will the witness please state your name for the record?” The opposing team will be permitted to conduct a cross examination of the witness. No questions will be allowed on cross examination if a team has used all of its allotted time for cross examination. (*See Rule 25 for the treatment of rule infractions.*)
- (g) Prosecution is allowed Rebuttal in Closing Argument. They may reserve a portion of their allotted five (5) minutes that is not to exceed two (2) minutes for this Rebuttal. The rebuttal portion of the prosecution’s closing (optional) is limited to the scope of the defendants closing argument and may not exceed two (2) minutes.
- (h) These trial sequences and time limits will be adhered to in the championship round.

### **Rule 13. Timekeeping**

- (a) Time limits are mandatory and will be enforced.
- (b) Time for objections, extensive questioning from the judge, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements.
- (c) Time does not stop for introduction of evidence.
- (d) Each team will provide one timekeeper for each round for each squad (Prosecution/Plaintiff and Defense/Defendant). A copy of the Time Sheet is provided in the registration packet. Time cards and stop watches will be provided to each team on the day of the competition. When the time allowed for a category has expired, the timekeeper will raise the TIME card so that it may be visible to the judge and both counsels. If the TIME card is raised and the attorney continues without permission from the judge to do so, attorneys for the opposing team may use a special objection, such as “time has expired,” to bring the matter to the judge’s attention.
- (e) At the conclusion of the round, the presiding judge will ask the timekeepers to present their forms. When timekeepers differ in their time reports, the judge may examine the reports and question the timekeepers to ascertain the cause of the difference(s). It is the sole discretion of the judges as to how they will interpret and weigh violations of time limits, and their decisions will be final.

### **Rule 14. Time Extensions**

The presiding judge has sole discretion to grant time extensions. If time has expired the attorney may not continue without permission from the Court. Judges are encouraged to allow the completion of an answer which is in progress at the moment time is called. If an attorney pleads for additional examination after time is called, judges may permit a time extension but are strongly encouraged to limit any time extension to one question only.

### **Rule 15. Prohibited and Permitted Motions**

- (a) A motion for directed verdict, acquittal, or dismissal of the case at the end of the Plaintiff/Prosecution’s case may be made if the team attorney can properly support such motion with sufficient evidence. No motions may be made unless expressly provided for in the problem.

- (b) A motion for a recess may be used only in the event of an emergency (i.e., health emergency). To the greatest extent possible, team members are to remain in place. Should a recess be called, teams are not to communicate with any observers, coaches, or instructors regarding the trial.
- (c) In the event that a team member attorney believes, during the course of a trial round in which that team member attorney is competing, that the presiding judge has materially departed from the rules of the mock trial competition, the team member attorney may move for compliance with the rules of the mock trial competition. Such motions must be presented respectfully, must direct the presiding judge's attention to the applicable rule, and must be raised at the time of the presiding judge's alleged departure from the rules. No claim that the presiding judge has departed from the rules of the mock trial competition may be made after the trial round has concluded.

#### **Rule 16. Sequestration**

Teams may not invoke the rule of sequestration.

#### **Rule 17. Bench Conferences**

Bench conferences may be granted at the discretion of the presiding judge, but should be made from the counsel table in the educational interest of handling all matters in open court.

#### **Rule 18. Supplemental Material/Illustrative Aids**

- (a) Teams may refer only to materials included in the trial packet. No illustrative aids of any kind may be used, unless provided in the case packet. No enlargements or alterations of the case materials will be permitted. If any team member has a disability and requires special assistance, services, or printed materials in alternative formats, in order to participate in the Mississippi High School Mock Trial Competition, the teacher or attorney coach must contact the Mock Trial Coordinator well in advance of the regional competition date to receive modified case materials or make arrangements for special assistance or services.
- (b) Absolutely no props, uniforms, or costumes are permitted, unless specifically authorized in the trial materials. Costuming is defined as hairstyles, clothing, accessories, and makeup, which are case specific.
- (c) The only documents which the teams may present to the judging panel are the individual exhibits as they are introduced into evidence. Exhibit notebooks are not to be provided to the judging panel. (*See Rule 25 for the treatment of rule infractions.*)

#### **Rule 19. Trial Communication**

- (a) 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, which may occur. For purposes of this rule, the trial ends after all closing arguments in that round, including rebuttals have concluded and the judges have retired to complete their ballots for purposes of the competition. Team members may, among themselves, communicate during the trial; however, no disruptive communication is allowed. Signaling of time by the teams' timekeepers shall not be considered a violation of this rule.
- (b) Non-team members, alternate team members, teachers, and coaches must remain outside the bar in the spectator section of the courtroom. Only team members participating in the round may sit inside the bar and communicate with each other.
- (c) Except in the case of an emergency, no one on a team is allowed to leave a courtroom during a round without the permission of the court.
- (d) Team members, alternates, coaches, and any other persons directly associated with a mock trial team are not allowed to communicate with competition judges before or after a competition round, so long as their team remains in the competition. Communications with competition judges should be strictly limited to communications made during the trial.

### **Rule 20. Viewing a Trial**

- (a) Team members, alternates, coaches, and any other persons directly associated with a mock trial team are not allowed to view other teams in competition, so long as their team remains in the competition.
- (b) A team may not share its ballots, judge/evaluator comment sheets, or other observations of an opponent's performance with another team, until that team is eliminated from the competition entirely.
- (c) During the regional competition, any single attorney coach or teacher that brings two (2) teams to the competition will be allowed to view both teams, one team in round one and the other in round two. This will not be considered scouting. However, during the Statewide competition, any school that is represented by two teams must also bring two adults who must remain with the same team during all four rounds of statewide competition.
- (d) A violation of this rule will be considered as occurring "outside the bar" and will be handled in accordance with the procedure outlined in Rule 32. Violation of this rule could result in the disqualification of the entire team from the competition.

### **Rule 21. Videotaping/Photography**

Any team has the option to refuse participation in videotaping, tape-recording, still photography, or media coverage. Media representatives authorized by the mock trial coordinator will wear identification badges.

## **C. JUDGING**

### **Rule 22. Decisions**

All decisions of the judging panel are **FINAL**.

### **Rule 23. Composition of Panel**

The judging panel will consist of at least three individuals. The composition of the judging panel and the role of the presiding judge will be at the discretion of the mock trial coordinator, with the same format used throughout the competition. The championship round may have a larger panel at the discretion of the trial coordinator.

All judges receive the judge's edition of the mock trial manual, a memorandum outlining the case, orientation materials and a briefing in a judges' orientation.

### **Rule 24. Ballots**

The judges will each complete an individual ballot. The term "ballot" will refer to the decision made by a judge, based on the total points, as to which team made won the round. The "ballot" also refers to the form on which speaker and team points are recorded. Judges are not bound by the rulings of the presiding judge. The team that earns the highest points on an individual judge's ballot is the winner of that ballot. Each judge decides which side gave the best overall presentation. This award is utilized only in the event of a tie on a single ballot to determine the winner of that ballot. The use of the best overall presentation award doesn't affect the total points tallied on the score sheet. 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.

When exceptional presentations are made, the judging panel has the option of recognizing one Outstanding Attorney and/or one Outstanding Witness per regional competition round. This award is determined by a majority vote of the judging panel and will be announced at the closing assembly following preliminary rounds.

## **Rule 25. Completion of Ballots/Judging Guidelines**

Ballots are to be completed in three steps:

1. Presentation Points – Each judge will record a number of presentation points (5-10) for each section of the trial.
2. Team Points – Each judge will give a number of points (5-10) to each team in the Team Points box. The individual scoring judge may not award identical point totals to each team competing in a given round.
3. Total Points – The scores will be tallied by the committee to achieve a final point total for each team. The team with the highest number of points in the Total Points box receives the ballot from that judge.
4. Tie Breaker – In the event that the total points equal on an individual judge's ballot, the committee refers to the "best overall presentation" award decided by that individual judge. This award determines the winner of the ballot. No points are added to the total points score previously determined by the committee.

Each judge may wish to consider specific rules violations which the judge has observed during the trial, whether or not the formal dispute process has been invoked. Violations may be considered and charged against the score of an individual speaker or against the entire team. Examples of rule violations include, but are not limited to: Unfair Extrapolations (Rule 4); Exceeding Time Limits (Rule 12); Use of Unapproved Supplemental Material (Rule 18); Improper Courtroom Decorum (Rules 7(f) and 37 and Ethics Code §1); Student Work Product (Rule 38 and Ethics Code §3); and Excessive or Frivolous Objections (Ethics Code §1).

## **Rule 26. Regional Team Advancement/Scoring**

- (a) There is no Power Matching at the Regional Competitions. The determination of opponents at the Regional Competitions will be based upon random selection. However, the determination of the side to be advocated by the participating teams in the first round will be made by the following method:
  1. As a team registers on the day of competition, the teacher coach will flip a coin labeled P/D for its first and/or only team.
  2. The teacher coach will then draw to determine that team's code/letter for identification purposes throughout the Regional Competition. Said drawing will be made from the appropriate group (P or D).
  3. If the participating school has a second team entered in the competition, a drawing will then be done to determine the second team's code/letter for identification throughout the Regional Competition. This drawing will be from the same group (P or D) as the school's first team.
  4. This process will continue until the available code/letters have been depleted from the P/D groups.
  5. However, there is no guarantee that when a school has more than one team entered in the competition that the two teams will not be matched against each other at some point.
- (b) Each team competing at Regionals will receive three (3) scores from each round, for a total of six (6) scores. At the end of the second round, the highest and the lowest scores will be thrown out to eliminate any scorer's bias. The sum total of the four (4) remaining scores will be used in determining the advancement of the teams to the Statewide Competition as indicated in (c) below.
- (c) 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 Points Accumulated (minus the highest and lowest scores).
  3. 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 the largest cumulative point spread.

- (d) There will be no “bye scores” given at the regional competition. In the event of an odd number of teams participating in a regional, there will be a special “Bye Round” during lunch for the team that does not have an opposition during one of the rounds.
- (e) It is possible that a school which has more than one team could have two teams advance to the statewide competition. Twenty teams will advance to the Statewide Competition. The number of teams from each Regional Competition will advance to the Statewide Competition based on a percentage of the total number of teams participating in all the Regional Competitions.

**Rule 27. Statewide Advancement/ Scoring/Power Matching**

- (a) A random method of selection will determine opponents in the first round. A power-match system will determine opponents for all other rounds. **The most important factor in Power Matching is whether a team won or lost, not how many points were achieved. This is foremost in Power Matching.**
- (b) Power matching will provide that:
  - 1. Pairings for the first round will be at random.
  - 2. If at all possible, each team will present each side of the case twice.
  - 3. Brackets will be determined by win/loss record. Sorting within brackets will be determined in the following order: (1) win/loss record; (2) total number of ballots won; (3) total number of points; then (4) point spread, if necessary, to break a tie within the bracket. The highest ranking team in the bracket will be matched with the lowest ranking opposing team in the bracket; the next highest with the next lowest, and so on until all teams are matched. One goal of Power Matching is to pair teams of opposing sides. However, this is not the primary goal of Power Matching. The primary objective is to be equal and fair, allowing teams to play equally strong teams. Again, if at all possible, teams will play each side twice.
  - 4. If there are an odd number of teams in a bracket, a team in the bottom of that bracket will be matched with a team from the next lower bracket.
  - 5. Teams will not meet the same opponent twice (unless this occurs in the championship round).
  - 6. To determine the two teams rising to the championship round, win/loss, total number of ballots won and total point scores will be totaled for each team. The two teams with the best combined ranking in these categories in this order (i.e., win/loss record, total number of ballots won and total point scores) will rise to the championship round.
- (c) If two teams tie in the following categories in this order - win/loss record, total number of ballots won and number of points - the mock trial coordinator will use this procedure to resolve the tie: (1) calculate the point spread for each ballot won by a team and (2) add the point spreads for each team. The team with the largest cumulative point spread wins the tie.

**Rule 28. Effect of Default**

For the purpose of advancement and seeding, when a team 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 teams’ ballots and points of that same round. A team may be in default if it is more than 15 minutes late for a round without good cause, as determined by the committee, or makes an ineligible substitution of team members.

**D. DISPUTE SETTLEMENT**

**Rule 29. Reporting a Rules Violation/Inside the Bar**

- (a) Disputes, which involve team members competing in a competition round and occur within the bar, must be filed immediately following the conclusion of that trial round. Disputes must be brought to the attention of the presiding judge at the conclusion of the trial, before the judges’ score sheets have been turned in to the Mock Trial Committee for tallying purposes. If the dispute

form is not presented to the presiding judge prior to the conclusion of the trial, the team will be barred from making that dispute and the dispute shall be waived.

- (b) If any team believes that a substantial rules violation has occurred, one of its team member attorneys must indicate that the team intends to file a dispute. The team member attorney will record in writing the nature of the dispute on the dispute form. The team member may communicate with counsel and/or team member witnesses before lodging the notice of dispute or in preparing the form.
- (c) At no time in this process may team coaches communicate or consult with the team member attorneys. Only team member attorneys may invoke the dispute procedure.
- (d) The dispute procedure described in this rule may not be used to challenge an action by the presiding judge whom a team believes to materially depart from the rules of the mock trial competition. If a team believes that such a material departure has occurred, one of its team member attorneys must move, during the trial round, for compliance with the rules of the mock trial competition in accordance with Rule 15. (*See Rule 30 for resolution procedure.*)
- (e) Rules violations and/or disputes, which involve teams, individual team members or coaches during the course of the round or during the competition day, which are not brought to the attention of the presiding judge during a round (under Rule 30) or to the trial coordinator's attention during the competition day by a teacher or attorney coach (under Rule 32), but which are discovered in the normal course of organizing and running the business of the competition on competition day and which are discovered by the trial coordinator or a committee member, should be dealt with on-site.

### **Rule 30. 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, and the panel will retire to complete their ballots. The dispute form will be turned in with the ballots. If the judge feels the grounds for the dispute merit a hearing, the form will be shown to opposing 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 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 judge. At no time in this process may team coaches communicate or consult with the team member attorneys. After the hearing, the presiding judge will adjourn the court, and the panel will retire to consider the ruling on the dispute. That decision will be recorded in writing on the dispute form, with no further announcement. Time will be kept by the teams' timekeepers as set forth in Rule 13.

### **Rule 31. Effect of Violation on Score**

If the panel determines that a substantial rules violation has occurred, the judges may consider the dispute in completing their ballots. The dispute may or may not affect each individual judge's final decision, but the matter will be left to the discretion of each judge. Therefore, a penalty may be assessed by one (1) or more judge, but does not have to be assessed by all three (3) judges in order for the penalty to count against the team.

### **Rule 32. Reporting of Rules Violation/Outside the Bar**

Disputes, which involve people other than team members and/or occur outside the bar only during a trial round, may be brought by teacher or attorney coaches exclusively. Such disputes must be made promptly to the trial coordinator, who will ask the complaining party to complete a dispute form. The form will be taken to the tournament's communication center, whereupon a dispute resolution panel will (a) notify all pertinent parties; (b) allow time for a response, if appropriate; (c) conduct a hearing; and (d) rule on the charge. The dispute resolution panel may notify the judging panel of the affected courtroom of the ruling on the charge. The dispute resolution panel will be composed of designees appointed by the trial coordinator, who may also sit on the panel.

## **II. RULES OF PROCEDURE**

### **A. BEFORE THE TRIAL**

#### **Rule 33. Trial Squad Roster Form**

This form does not need to be sent to the Mock Trial Coordinator. Copies of the Trial Squad Roster Form must be completed and duplicated by each team prior to arrival at the competition site. Teams must be identified by the code assigned at registration. No information identifying team origin should appear on the form. Before beginning a trial, the teams must exchange copies of the Trial Squad Roster Form. The form should identify the gender of each witness, so that references to such parties will be made in the proper gender. The Trial Squad Roster Form is provided in the competition materials.

#### **Rule 34. Stipulations**

Stipulations shall be considered part of the record and already admitted into evidence. If certain witnesses are stipulated to as experts, their expert qualifications may not be challenged or impeached by the opposing side.

#### **Rule 35. The Record**

The stipulations, the indictment, and the Charge to the Jury will not be read into the record.

### **B. BEGINNING THE TRIAL**

#### **Rule 36. Jury Trial**

- (a) The case will be tried to a jury; arguments are to be made to judge and jury. Teams are to address the judging panel as the jury.
- (b) Attorneys must follow proper evidentiary protocol and procedure prior to publishing exhibits to the jury. (*See Rule 42 regarding introduction of exhibits.*) “Publishing” an exhibit is simply the act of showing or reading an exhibit to the jury.
- (c) Ordinarily an exhibit should first be admitted in evidence before it can be shown to the jury, although not all judges require this. Where it is apparent that you can establish a foundation, the court may allow you to place the exhibit before the jury on a stand while the foundation for its admission is being established. (As the opponent, if you intend to oppose the admission of the exhibit, ask that the other side be required preliminarily to establish the foundation for the exhibit out of the jury’s presence.)
- (d) For purposes of the Mississippi High School Mock Trial Competition an exhibit must be admitted in evidence before it can be published to the jury.

#### **Rule 37. Standing During Trial**

Attorneys who are able will stand while giving opening and closing statements, during direct and cross examinations, and for all objections. (*See Rule 25 for the treatment of rule infractions.*)

#### **Rule 38. Student Work Product**

All opening statements and closing arguments, all direct and cross examinations, and all objections shall be substantially the work product of team members and not be scripted by coaches. (*See Rule 25 for the treatment of rule infractions.*)

## **C. PRESENTING EVIDENCE**

### **Rule 39. Argumentative/Ambiguous Questions and Non-Responsive Answer**

- (a) Argumentative – An attorney shall not ask a question which asks the witness to agree to a conclusion drawn by the questions without eliciting testimony as to new facts; provided, however, that the Court may in its discretion allow limited use of argumentative questions on cross examination.
- (b) Ambiguous Questions – An attorney shall not ask questions that are capable of being understood in two or more possible ways.
- (c) Non-Responsive Answer – A witness' answer is objectionable if it fails to respond to the question asked.

### **Rule 40. Assuming Facts Not in Evidence**

An attorney shall not ask a question that assumes unproved facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by the evidence.

### **Rule 41. Lack of Proper Predicate/Foundation**

Attorneys shall lay a proper foundation prior to moving admission of evidence. After the motion has been made, the exhibits may still be objectionable on other grounds.

### **Rule 42. Procedure for Introduction of Exhibits**

An attorney may lay a foundation for and introduce evidence as prescribed by these rules. An attorney whose procedure for introducing evidence differs from the procedure outlined in this rule should be prepared to follow these steps if his or her alternative procedure is challenged by the other team or rejected by the presiding judge.

1. All evidence will be pre-marked as exhibits.
2. Ask for permission to approach the bench. Show the presiding judge the marked exhibit. "Your honor, may I approach the bench to show you what has been marked as Exhibit No. \_\_\_?" In the event the room is in a location non-conducive for the marked exhibits publication to the Presiding Judge, the team member should reference the exhibit and refer the Presiding Judge to the copies of the exhibits contained within the judge's packet. [Timekeepers will not stop time during the introduction of evidence.]
3. Show the exhibit to opposing counsel.
4. Ask for permission to approach the witness. Give the exhibit to the witness.
5. "I now hand you what has been marked as Exhibit No. \_\_\_ for identification."
6. Ask the witness to identify the exhibit. "Would you identify it please?"
7. Witness answers with identification only.
8. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No. \_\_\_ into evidence at this time. The authenticity of this exhibit has been stipulated."
9. Court: "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
10. Opposing Counsel: "No, your Honor," or "Yes, your Honor." If the response is "yes," the objection will be stated on the record. Court: "Is there any response to the objection?"
11. Court: "Exhibit No. \_\_\_ is/is not admitted."
12. If the exhibit is admitted into evidence, the attorney may now solicit testimony on its contents.

### **Rule 43. Use of Notes**

Attorneys may use notes in presenting their cases. Only expert witnesses may utilize notes while testifying. All other witnesses are not permitted to use notes while testifying during the trial. Attorneys may consult with each other at counsel table verbally or through the use of notes.

**Rule 44. Redirect/Recross**

Redirect and Recross examinations are permitted, provided they conform to the restrictions in **Rule 611(d)** in the Rules of Evidence.

**D. OPENING STATEMENT/CLOSING ARGUMENT****Rule 45. Special Mock Trial Objections**

- (a) Scope of Closing Arguments: Closing Arguments must be based on the actual evidence and testimony presented during the trial, including rebuttal.
- (b) Excessive and/or Intentionally Evasive and/or Non-Responsive Answers from Witnesses: If a team believes that an opposing team's witness has engaged in excessive or intentional evasiveness and/or excessive or intentional non-responsive answers on cross, solely to use up an opponent's allotted cross examination time, and the attorney handling the cross examination of that witness has exhausted all methods of attempting to control that witness, that attorney may, at the end of that cross examination make an "objection" to "excessive/intentional evasiveness/non-responsiveness" on the part of that witness.
- (c) If an attorney makes this mock trial "objection", he or she may stand at the end of his/her cross examination and ask to be recognized by the presiding judge saying, "Your honor, I object to the excessive/intentional evasiveness/non-responsiveness displayed by Witness X. I believe his/her sole purpose for using this tactic was to use up my allotted time during cross examination."
- (d) The presiding judge shall allow no response to the objection from the opposing team. The presiding judge shall not rule on this objection; however the presiding judge may indicate to the judging panel that they may consider the "objection" at their discretion when completing their ballot (*See Rule 25 for point deductions for rules infractions.*)
- (e) Judges may deduct points from any witness or witnesses and any team whose conduct properly draws such an objection or reasonably could have properly drawn such an objection even if no objection is made. Judges may also award additional points to attorneys or teams that effectively control witnesses/teams that use such delaying tactics during the cross examination, regardless of an "objection" under this rule being made.

**E. CRITIQUE****Rule 46. The Critique**

- (a) The judging panel is allowed 10 minutes to provide constructive critiques to the teams. Presiding judges are to limit critique sessions of the panel to the 10 minutes total time allotted. Time will be kept by timekeepers as set forth in Rule 13.
- (b) Judges shall not make a ruling on the legal merits of the trial. Judges may not inform the students of ballot results or the awarding of outstanding attorney or witness certificates.
- (c) Team members, alternates, coaches, and any other persons directly associated with a mock trial team are not allowed to communicate with competition judges before or after a competition round, so long as their team remains in the competition. Communications with competition judges should be strictly limited to communications made during the trial.

### **III. MISSISSIPPI HIGH SCHOOL MOCK TRIAL COMPETITION RULES OF EVIDENCE**

In American trials, complex rules are used to govern the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial or otherwise improper. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the evidence will probably be allowed by the judge. The burden is on the mock trial team to know the Mississippi High School Mock Trial Competition Rules of Evidence and to be able to use them to protect their client and fairly limit the actions of opposing counsel and their witnesses.

For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence, and its numbering system. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate.

The Mock Trial Rules of Competition, the Rules of Procedure, and these simplified Rules of Evidence govern the Mississippi Mock Trial Competition.

#### **Article I. General Provisions**

##### **Rule 101. Scope**

These rules govern proceedings in the *Mississippi High School Mock Trial Competition*.

##### **Rule 102. Purpose and Construction**

These rules are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.

##### **Rule 105. Limited Admissibility**

When evidence which is admissible as to one party or for one purpose, but is not admissible as to the other party or for another purpose is admitted, the judge, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

##### **Rule 106. Remainder of or Related Writings or Recorded Statements**

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

#### **Article II. Judicial Notice**

##### **Rule 201. Judicial Notice of Adjudicative Facts**

1. Scope of rule – This rule governs only judicial notice of adjudicative facts.
2. Kinds of facts – A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
3. When discretionary – A court may take judicial notice, whether requested or not.
4. When mandatory – A court shall take judicial notice if requested by a party and supplied with the necessary information.

5. Opportunity to be heard – A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.
6. Time of taking notice – Judicial notice may be taken at any stage of the proceeding.
7. Instructing jury – In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

### **Article III. Presumptions in Civil Actions and Proceedings** *(not applicable in criminal cases)*

#### **Rule 301. Presumptions in General in Civil Actions and Proceedings**

In all civil actions and proceedings . . . a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of non-persuasion, which remains throughout the trial upon the party on whom it was originally cast.

### **Article IV. Relevancy and its Limits**

#### **Rule 401. Definition of “Relevant Evidence”**

“Relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

#### **Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible**

Relevant evidence is admissible, except as otherwise provided by . . . these rules. Evidence which is not relevant is not admissible.

#### **Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time**

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, if it confuses the issues, if it is misleading, or if it causes undue delay, wastes time, or is a needless presentation of cumulative evidence.

#### **Rule 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes**

- (a) Character evidence – Evidence of a person’s character or character trait, is not admissible to prove action regarding a particular occasion, except:
  1. Character of accused – Evidence of a pertinent character trait offered by an accused, or by the prosecution to rebut same;
  2. Character of victim – Evidence of a pertinent character trait of the victim of the crime offered by an accused, or by the prosecution to rebut same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the aggressor;
  3. Character of witness – Evidence of the character of a witness as provided in Rules 607, 608 and 609.
- (b) Other crimes, wrongs, or acts - Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person in order to show an action conforms to character. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

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

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

- (b) Specific instances of conduct – In cases where character or a character trait is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person’s conduct.

**Rule 406. Habit; Routine Practice**

Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization, on a particular occasion, was in conformity with the habit or routine practice.

**Rule 407. Subsequent Remedial Measures**

When measures are taken after an event which, if taken before, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

**Rule 408. Compromise and Offers to Compromise** (*civil case rule*)

Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

**Rule 409. Payment of Medical and Similar Expenses** (*civil case rule*)

Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

**Rule 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements**

Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:

1. A plea of guilty which was later withdrawn;
2. A plea of *nolo contendere*;
3. Any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the forgoing pleas; or
4. Any statement made in the course of plea discussions made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty which is later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

**Rule 411. Liability Insurance** (*civil case only*)

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

## **Article V. Privileges**

### **Rule 501. General Rule**

There are certain admissions and communications excluded from evidence on grounds of public policy. Among these are:

1. Communications between husband and wife
2. Communications between attorney and client
3. Communications among grand jurors
4. Secrets of state
5. Communications between psychiatrist and patient

## **Article VI. Witnesses**

### **Rule 601. General Rule of Competency**

Every person is competent to be a witness.

### **Rule 602. Lack of Personal Knowledge**

A witness may not testify to a matter unless the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses.

### **Rule 603. Oath or Affirmation**

Before testifying, every witness may be required to declare that the witness will testify truthfully, by oath or affirmation, administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so. [*The mock trial oath is provided in the Rules of the Competition at Rule 11.*]

### **Rule 604. Interpreters**

An interpreter is subject to the provisions of these rules relating to the qualification as an expert and the administration of an oath or affirmation to make a true translation.

### **Rule 607. Who may Impeach**

The credibility of a witness may be attacked by any party, including the party calling the witness.

### **Rule 608. Evidence of Character and Conduct of Witness**

- (a) Opinion and reputation evidence of character – The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence, or otherwise.
- (b) Specific instances of conduct – Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be asked on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.
- (c) Testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination with respect to matters related only to credibility.

**Rule 609. Impeachment by Evidence of Conviction of Crime (This rule applies only to witnesses with prior convictions.)**

- (a) General Rule – For the purpose of attacking the credibility of a witness, evidence that a witness other than the accused has been convicted of a crime shall be admitted if elicited from the witness or established by public record during cross-examination, but only if the crime was punishable by death or imprisonment in excess of one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.
- (b) Time Limit – Evidence of a conviction under this Rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the Court determines that the value of the conviction substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.
- (c) Effect of pardon, annulment, or certificate of rehabilitation – Evidence of a conviction is not admissible if (1) the conviction has been the subject of a pardon or other equivalent procedure based on a finding of the rehabilitation of the person convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, other equivalent procedure based on a finding of innocence.
- (d) Juvenile adjudications – Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.
- (e) Pendency of appeal – The pendency of an appeal there from does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

**Rule 610. Religious Beliefs or Opinions**

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

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

- (a) Control by Court – The Court shall exercise reasonable control over questioning of witnesses and presenting evidence so as to (1) make the questioning and presentation effective for ascertaining the truth, (2) to avoid needless use of time, and (3) protect witnesses from harassment or undue embarrassment.
- (b) Scope of cross examination – The scope of cross examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.
- (c) Leading questions – Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness' testimony). Ordinarily, leading questions are permitted on cross examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used.

- (d) Redirect/Recross – After cross examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross examination. Likewise, additional questions may be asked by the cross examining attorney on recross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.

**Rule 612. Writing Used to Refresh Memory**

If a witness uses a writing to refresh memory for the purpose of testifying, either (1) while testifying, or (2) before testifying, if the court in its discretion determines it is necessary in the interests of justice, an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness.

**Rule 613. Prior Statements of Witnesses**

Examining witness concerning prior statement – In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

**Article VII. Opinions and Expert Testimony**

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

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

**Rule 702. Testimony by Experts**

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify in the form of an opinion or otherwise.

**Rule 703. Bases of Opinion Testimony by Experts**

The facts or data upon which an expert bases an opinion may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the field in forming opinions or inferences, the facts or data need not be admissible in evidence.

**Rule 704. Opinion on Ultimate Issue**

- (a) Opinion or inference testimony otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.
- (b) In a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused.

**Rule 705. Disclosure of Facts or Data Underlying Expert Opinion**

The expert may testify in terms of opinion or inference and give reasons therefore without prior disclosure of the underlying facts or data, unless the Court requires otherwise. The expert may, in any event, be required to disclose the underlying facts or data on cross examination.

**Article VIII. Hearsay**

**Rule 801. Definitions**

The following definitions apply under this article:

1. Statement – A “statement” is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.
2. Declarant – A “declarant” is a person who makes a statement.

3. Hearsay – “Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.
4. Statements which are not hearsay – A statement is not hearsay if:
  - a. Prior statement by witness – The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is (A) inconsistent with the declarant’s testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant’s testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or
  - b. Admission by a party-opponent – The statement is offered against a party and is (A) the party’s own statement in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party’s agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a co-conspirator of a party during the course in furtherance of the conspiracy.

**Rule 802. Hearsay Rule**

Hearsay is not admissible, except as provided by these rules.

**Rule 803. Hearsay Exceptions, Availability of Declarant Immaterial**

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

1. Present sense impression – A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.
2. Excited utterance – A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
3. Then existing mental, emotional, or physical conditions – A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant’s will.
4. Statements for purposes of medical diagnosis or treatment – Statements made for the purpose of medical diagnosis or treatment.
5. 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 or adopted by the witness when the matter was fresh in the witness’ memory and to reflect that knowledge correctly.
6. Records of regularly conducted activity – These records include any memo, record, report, or other compilation of data in any form, which meets the following requirements:
  - a. It must be kept in the ordinary course of business or as part of the ordinary conduct of an organization or enterprise;
  - b. It must be part of the ordinary business of that organization, business, or enterprise, to compile the data or information;
  - c. The information must be made for the purpose of recording the occurrence of an event, act, condition, opinion, or diagnosis that takes place in the ordinary course of the business or enterprise;

- d. The entry in the record or the compiling of the data must be made at or near the time when the event took place;
  - e. The recording of the event must be made by someone who has personal knowledge of it.
  - f. In order for a document or other form of data to be admissible under this rule, a foundation must be laid as to all of the foregoing requirements by the custodian of the records or other witness found by the Court to be qualified.
7. 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 published 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.
  8. Reputation as to character – Reputation of a person’s character among associates or in the community.
  9. Judgment of previous conviction – Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

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

- (a) Definition of unavailability – “Unavailability of a witness” includes situations in which the declarant - (1) is exempted by a ruling of the court of the ground of privilege from testifying concerning the subject matter of the declarant’s statement; or (2) persists in refusing to testify concerning the subject matter of the declarant’s statement despite an order of the court to do so; or (3) testifies to a lack of memory of the subject matter of the declarant’s statement; or (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or (5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant’s attendance (or in the case of a hearsay exception under subdivisions (b)(2), (3), or (4), the declarant’s attendance or testimony) by process or other reasonable means. A declarant is not unavailable as a witness if exemption, refusal, claim or lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.
- (b) Hearsay exceptions – The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:
  1. Former testimony – Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.
  2. Statement under belief of impending death – In a prosecution of a homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant’s death was imminent, concerning the cause or circumstances of what the declarant believed to be the impending death.
  3. Statement against interest – A statement which was at the time of its making so far contrary to the declarant’s pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant’s position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

4. Statement of personal or family history – (A) A statement concerning the declarant’s own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter states; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other’s family as to be likely to have accurate information concerning the matter declared.
5. Other exceptions – A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party is a fair opportunity to prepare to meet it, the proponent’s intention to offer the statement and the particulars of it, including the name and address of the declarant. *For the purposes of the mock trial competition, required notice will be deemed to have been given. The failure to give notice as required by these rules will not be recognized as an appropriate objection.*

**Rule 805. Hearsay within Hearsay**

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statement conforms with an exception to the hearsay rule provided in these rules.

**Rule 806. Attacking and Supporting Credibility**

When a hearsay statement has been admitted, the credibility of the declarant may be attacked and supported by any evidence, which would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant, inconsistent with the declarant’s hearsay statement, is not subject to any requirement that the declarant may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine the declarant on the statement as if under cross examination.

**ARTICLE X. Contents of Writing, Recordings, and Photographs**

**Rule 1002. Requirement of Original**

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required. . . . *Copies of any case materials are considered as originals.*

**ARTICLE XI. Miscellaneous Rules**

**Rule 1103. Title**

These rules may be known and cited as the *Mississippi High School Mock Trial Competition Rules of Evidence*.