

2021 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.
- (f) For virtual competition, all rules included in the Virtual Competition Appendix apply in addition to these rules.

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 pronouns 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, in grades 9, 10, 11 or 12 during the current academic year. Each team will have seven (7) team members participating during each round: three (3) attorneys, three (3) witnesses and a timekeeper. Teams with only six (6) members may allow a witness to serve as the timekeeper. Teams with nine (9) members may have a team member serve as timekeeper in one round and portray a witness/attorney in a different round. No substitutions or alternates to the team roster will be allowed after the team registers at the Regional competition.
- (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 either (1) forfeit the round or (2) continue to participate in the round with fewer than six (6) members provided that the team is capable of making substitutions to achieve a two-attorney/three witness composition. Similarly, if an emergency occurs prior to the start of a round (e.g., car accident or serious illness prevents a team member from participating in a round), a team may either (1) forfeit the round or (2) if the mock trial coordinator in consultation with available Committee members finds that there is an emergency, the team may participate in the round with fewer than six (6) members provided that the team is capable of making substitutions to achieve a two-attorney/three witness composition. Any team competing with fewer than six people under either of these emergency arrangements for any round in any Regional and/or Statewide Competition is ineligible to advance to the championship round in the Statewide Competition.
- (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. Final determination of emergency forfeiture or reduction of points will be made by the mock trial coordinator, in consultation with available Mock Trial Committee members.

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.

- (f) 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 round of the competition. This rule will not preclude a team member from portraying a witness in one round and serving as an attorney in a different round.

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)**, as time permits.
- (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 will be provided to each team on the day of the competition. Each team will need to bring its own stop watches. Stop watches on cell phones will not be allowed. 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.
- (e) All spectators (including family, friends and supporters) of a team are expected and required to behave in an orderly, polite, non-disruptive and sportsmanlike fashion. Failure to do so can result in default of the team affiliated with the spectators. The decision of default is at the discretion of the presiding judge of the panel.

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 won the round. The ballot also refers to the form on which individual 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 ballot contains a space for the judge to indicate which team gave the best overall presentation. The total points tallied on the ballot are in no way affected by the best overall presentation portion of the ballot. This portion of the ballot is only taken into consideration in the event of a tie on the ballot to determine 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.

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 (1-10) for each section of the trial.
2. Team Points – Each judge will give a number of points (1-10) 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 in the form of penalty points. 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 – This equals the number of rounds won or lost by a team.
 2. Adjusted Total Points – The Adjusted Total Points is the gross total of points awarded to a team from the ballots received in every round, less the highest ballot score and the lowest ballot score. If a team has a duplicative highest ballot score or a duplicative lowest ballot score (for example, if a team receives two 100-point ballots in one round in or in separate rounds), then only one such duplicative highest ballot score or duplicative lowest ballot score will be subtracted.
 3. Point Spread Against Opponents – Point spread is best explained by a hypothetical. If Team 1 and Team 2 are tied, then the point spread for Team 1 will be calculated by taking Team 1’s gross total points earned and subtracting from it the gross total points earned by each of

Team 1's opponents in each previous round. Second, the point spread for Team 2 will be calculated by taking Team 2's gross total points and subtracting from it the gross total points earned by each of Team 2's opponents in each previous round. Third, the point spread for Team 1 and Team 2 will be compared, and the tie will be broken in favor of the team that has the higher point spread. Because the point spread is calculated using gross totals, the highest ballot score and lowest ballot score are considered in the calculations, but this does not impact the separate calculation of the Adjusted Total Points.

- (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. The number of teams from each Regional Competition that will advance to the Statewide Competition is 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. Following the first round, brackets will be determined by win/loss record. Sorting within brackets for the second round will be determined based on one or more of the following: (1) win/loss record; (2) total number of ballots won; (3) total number of points; (4) point spread; (5) teams switching sides in the second round. Generally, under this framework, 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. The primary objective is to be equal and fair, allowing teams to play equally strong teams.
 3. Sorting within brackets after the second round will be determined in the following order: (1) win/loss record, then (2) total number of ballots won. If ties remain, the power matching will be based on the following criteria at the discretion of the Mock Trial Committee: (a) total number of points; (b) point spread, and/or (c) number of times a team has played a particular side of the mock trial case. Generally, under this framework, 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 of the mock trial problem, with each team preferably presenting each side of the case twice. This is not, however, the primary goal of Power Matching. The primary objective is to be equal and fair, allowing teams to play equally strong teams within their bracket.
 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.
- (d) No school will be allowed to have two teams compete in the Statewide Competition final round. In the event that two teams from the same school place first and second in the state competition, the team in third place will be moved to second place and compete in the final round.

Rule 28. Effect of Default

For the purpose of advancement and power matching, 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, makes an ineligible substitution of team members, or a team or a team's spectators are deemed to be unsportsmanlike and disruptive by the presiding judge. The rule governing default will be implemented to resolve bye round scoring in the event of an odd number of teams present for the Statewide Competition.

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 judges 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. These forms are to be exchanged between competing teams prior to the start of the round. 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 should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

Rule 105. Limiting Evidence That Is Not Admissible Against Other Parties or for Other Purposes

If the court admits evidence that is admissible against a party or for a purpose — but not against another party or for another purpose — the court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly.

Rule 106. Remainder of or Related Writings or Recorded Statements

If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part — or any other writing or recorded statement — that in fairness ought to be considered at the same time.

Article II. Judicial Notice

Rule 201. Judicial Notice of Adjudicative Facts

- (a) This rule governs judicial notice of an adjudicative fact only, not a legislative fact.
- (b) The court may judicially notice a fact that is not subject to reasonable dispute because it is a matter of mathematical or scientific certainty. For example, the court could take judicial notice that $10 \times 10 = 100$ or that there are 5280 feet in a mile.
- (c) The court must take judicial notice if a party requests it and the court is supplied with the necessary information.
- (d) The court may take judicial notice at any stage of the proceeding.
- (e) A party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed.

- (f) In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

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

Rule 301. Presumptions in Civil Actions Generally

In a civil case, unless a federal statute or these rules provide otherwise, the party against whom a presumption is directed has the burden of producing evidence to rebut the presumption. But this rule does not shift the burden of persuasion, which remains on the party who had it originally.

Article IV. Relevancy and Its Limits

Rule 401. Test for Relevant Evidence

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence;
and
- (b) the fact is of consequence in determining the action.

Rule 402. General Admissibility of Relevant Evidence

Relevant evidence is admissible unless these rules provide otherwise. Irrelevant evidence is not admissible.

Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Rule 404. Character Evidence; Crimes or Other Acts

- (a) Character Evidence.
 - 1. Prohibited Uses. Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.
 - 2. Exceptions for a Defendant or Victim in a Criminal Case. The following exceptions apply in a criminal case:
 - (A) a defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it;
 - (B) a defendant may offer evidence of an alleged victim's pertinent trait, and if the evidence is admitted, the prosecutor may:
 - (i) offer evidence to rebut it; and
 - (ii) offer evidence of the defendant's same trait; and
 - (C) in a homicide case, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.
 - 3. Exceptions for a Witness. Evidence of a witness's character may be admitted under Rules 607, 608, and 609.
- (b) Crimes, Wrongs, or Other Acts.
 - 1. Prohibited Uses. Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

2. Permitted Uses. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

Rule 405. Methods of Proving Character

- (a) By Reputation or Opinion. When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct.
- (b) By Specific Instances of Conduct. When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.

Rule 406. Habit; Routine Practice

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

Rule 407. Subsequent Remedial Measures

When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove:

- (a) negligence;
- (b) culpable conduct;
- (c) a defect in a product or its design; or
- (d) a need for a warning or instruction.

But the court may admit this evidence for another purpose, such as impeachment or — if disputed — proving ownership, control, or the feasibility of precautionary measures.

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

- (a) Prohibited Uses. Evidence of the following is not admissible — on behalf of any party — either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:
 1. furnishing, promising, or offering — or accepting, promising to accept, or offering to accept — a valuable consideration in compromising or attempting to compromise the claim; and
 2. conduct or a statement made during compromise negotiations about the claim — except when offered in a criminal case and when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative, or enforcement authority.
- (b) Exceptions. The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Rule 409. Offers to Pay Medical And Similar Expenses (*civil case rule*)

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

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

- (a) Prohibited Uses. In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:
 - 1. a guilty plea that was later withdrawn;
 - 2. a nolo contendere plea;
 - 3. a statement made during a proceeding on either of those pleas under Federal Rule of Criminal Procedure 11 or a comparable state procedure; or
 - 4. a statement made during plea discussions with an attorney for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

- (b) Exceptions. The court may admit a statement described in Rule 410(a)(3) or (4):
 - 1. in any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or
 - 2. in a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

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:

- (a) Communications between husband and wife
- (b) Communications between attorney and client
- (c) Communications among grand jurors
- (d) Secrets of state
- (e) 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 testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under Rule 703. (*See Rule 3*)

Rule 603. Oath or Affirmation to Testify Truthfully

Before testifying, a witness must give an oath or affirmation to testify truthfully. It must be in a form designed to impress that duty on the witness's conscience. [*The mock trial oath is provided in the Rules of the Competition at Rule 11.*]

Rule 607. Who May Impeach A Witness

Any party, including the party that called the witness, may attack the witness's credibility.

Rule 608. A Witness's Character For Truthfulness or Untruthfulness

- (a) Reputation or Opinion Evidence. A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.
- (b) Specific Instances of Conduct. Except for a criminal conviction under Rule 609, extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:
 - 1. the witness; or
 - 2. another witness whose character the witness being cross-examined has testified about.

By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness's character for truthfulness.

Rule 609. Impeachment by Evidence of a Criminal Conviction

- (a) In General. The following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:
 - 1. for a crime that, in the convicting jurisdiction, was punishable by death or by imprisonment for more than one year, the evidence:
 - (A) must be admitted, subject to Rule 403, in a civil case or in a criminal case in which the witness is not a defendant; and
 - (B) must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant; and
 - 2. for any crime regardless of the punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime required proving — or the witness's admitting — a dishonest act or false statement.
- (b) Limit on Using the Evidence After 10 Years. This subdivision (b) applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect.
- (c) Effect of a Pardon, Annulment, or Certificate of Rehabilitation. Evidence of a conviction is not admissible if:
 - 1. the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the person has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or

2. the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.
- (d) Juvenile Adjudications. Evidence of a juvenile adjudication is admissible under this rule only if:
1. it is offered in a criminal case;
 2. the adjudication was of a witness other than the defendant;
 3. an adult's conviction for that offense would be admissible to attack the adult's credibility; and
 4. admitting the evidence is necessary to fairly determine guilt or innocence.
- (e) Pendency of an Appeal. A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency is also admissible.

Rule 610. Religious Beliefs or Opinions

Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility.

Rule 611. Mode and Order of Interrogation and Presentation

- (a) Control by the Court; Purposes. The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:
1. make those procedures effective for determining the truth;
 2. avoid wasting time; and
 3. protect witnesses from harassment or undue embarrassment.
- (b) Scope of cross examination. The scope of the 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 except as necessary to develop the witness's testimony. Ordinarily, the court should allow leading questions:
1. on cross-examination; and
 2. when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.
- (d) Redirect/Re-cross. 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 re-cross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.

Rule 612. Writing Used to Refresh a Witness's Memory

If a written statement is used to refresh the memory of a witness either while testifying or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross examine the witness on the material and introduce into evidence those portions which relate to the testimony of the witness.

Rule 613. Witness's Prior Statement

- (a) Showing or Disclosing the Statement During Examination. When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's attorney.
- (b) Extrinsic Evidence of a Prior Inconsistent Statement. Extrinsic evidence of a witness's prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision (b) does not apply to an opposing party's statement under Rule 801(d)(2).

Article VII. Opinions and Expert Testimony

Rule 701. Opinion Testimony by Lay Witness

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- (a) rationally based on the witness's perception;
- (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and
- (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

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 thereto in the form of an opinion or otherwise.

Rule 703. Bases of an Expert's Opinion Testimony

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.

Rule 704. Opinion on Ultimate Issue

- (a) In General — Not Automatically Objectionable. An opinion is not objectionable just because it embraces an ultimate issue.
- (b) Exception. In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.

Rule 705. Disclosing the Facts or Data Underlying An Expert's Opinion

Unless the court orders otherwise, an expert may state an opinion — and give the reasons for it — without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.

Article VIII. Hearsay

Rule 801. Definitions

The following definitions apply under this article:

- (a) Statement. “Statement” means a person’s oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.
- (b) Declarant. “Declarant” means the person who made the statement.
- (c) Hearsay. “Hearsay” means a statement that:
 - 1. the declarant does not make while testifying at the current trial or hearing; and
 - 2. a party offers in evidence to prove the truth of the matter asserted in the statement.
- (d) Statements That Are Not Hearsay. A statement that meets the following conditions is not hearsay:
 - 1. A Declarant-Witness’s Prior Statement. The declarant testifies and is subject to cross-examination about a prior statement, and the statement:
 - (A) is inconsistent with the declarant’s testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;
 - (B) is consistent with the declarant’s testimony and is offered to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or
 - (C) identifies a person as someone the declarant perceived earlier.
 - 2. An Opposing Party’s Statement. The statement is offered against an opposing party and:
 - (A) was made by the party in an individual or representative capacity;
 - (B) is one the party manifested that it adopted or believed to be true;
 - (C) was made by a person whom the party authorized to make a statement on the subject;
 - (D) was made by the party’s agent or employee on a matter within the scope of that relationship and while it existed; or
 - (E) was made by the party’s coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not by itself establish the declarant’s authority under (C); the existence or scope of the relationship under (D); or the existence of the conspiracy or participation in it under (E).

Rule 802. Hearsay Rule

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

Rule 803. Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant is Available as a Witness

The following are not excluded by the hearsay rule, regardless of whether the declarant is available as a witness:

- (1) Present Sense Impression – A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.
- (2) Excited Utterance – A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.
- (3) Then-Existing Mental, Emotional, or Physical Condition – A statement of the declarant’s then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief

to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

- (4) Statement Made for Medical Diagnosis or Treatment – A statement that:
- (a) is made for — and is reasonably pertinent to — medical diagnosis or treatment; and
 - (b) describes medical history; past or present symptoms or sensations; their inception; or their general cause.

- (5) Recorded Recollection – A record that:
- (a) is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;
 - (b) was made or adopted by the witness when the matter was fresh in the witness's memory; and
 - (c) accurately reflects the witness's knowledge.

If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.

- (6) Records of a Regularly Conducted Activity – A record of an act, event, condition, opinion, or diagnosis if:
- (a) the record was made at or near the time by — or from information transmitted by — someone with knowledge;
 - (b) the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;
 - (c) making the record was a regular practice of that activity;
 - (d) all these conditions are shown by the testimony of the custodian or another qualified witness; and
 - (e) neither the source of information nor the method or circumstances of preparation indicate a lack of trustworthiness.

- (7) Absence of a Record of a Regularly Conducted Activity – Evidence that a matter is not included in a record described in paragraph (6) if:
- (a) the evidence is admitted to prove that the matter did not occur or exist;
 - (b) a record was regularly kept for a matter of that kind; and
 - (c) neither the possible source of the information nor other circumstances indicate a lack of trustworthiness.

- (8) Public Records – A record or statement of a public office if:
- (a) it sets out:
 - i. the office's activities;
 - ii. a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law-enforcement personnel; or
 - iii. in a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and
 - (b) neither the source of information nor other circumstances indicate a lack of trustworthiness.

- (10) Absence of a Public Record. Testimony that a diligent search failed to disclose a public record or statement if the testimony or certification is admitted to prove that:
- (a) the record or statement does not exist; or
 - (b) a matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind.

- (16) Statements in Ancient Documents. A statement in a document that is at least 20 years old and whose authenticity is established.
- (18) Statements in Learned Treatises, Periodicals, or Pamphlets. A statement contained in a treatise, periodical, or pamphlet if:
- (a) the statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and
 - (b) the publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.

If admitted, the statement may be read into evidence but not received as an exhibit.

- (21) Reputation Concerning Character. A reputation among a person's associates or in the community concerning the person's character.
- (22) Judgment of a Previous Conviction. Evidence of a final judgment of conviction if:
- (a) the judgment was entered after a trial or guilty plea, but not a nolo contendere plea;
 - (b) the conviction was for a crime punishable by death or by imprisonment for more than a year;
 - (c) the evidence is admitted to prove any fact essential to the judgment; and
 - (d) when offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.

The pendency of an appeal may be shown but does not affect admissibility.

Rule 804. Hearsay Exceptions; Declarant Unavailable

- (a) Criteria for Being Unavailable. A declarant is considered to be unavailable as a witness if the declarant:
1. is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies;
 2. refuses to testify about the subject matter despite a court order to do so;
 3. testifies to not remembering the subject matter;
 4. cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness; or
 5. is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure:
 - (A) the declarant's attendance, in the case of a hearsay exception under Rule 804(b)(1) or (6); or
 - (B) the declarant's attendance or testimony, in the case of a hearsay exception under Rule 804(b)(2), (3), or (4).

But this subdivision (a) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

- (b) The Exceptions. The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:
1. Former Testimony. Testimony that:
 - (A) was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and

- (B) is now offered against a party who had — or, in a civil case, whose predecessor in interest had — an opportunity and similar motive to develop it by direct, cross, or redirect examination.
- 2. **Statement Under the Belief of Imminent Death.** In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.
- 3. **Statement Against Interest.** A statement that:
 - (A) a reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and
 - (B) is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.
- 4. **Statement of Personal or Family History.** A statement about:
 - (A) the declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption, or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or
 - (B) another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage or was so intimately associated with the person's family that the declarant's information is likely to be accurate.

Rule 805. Hearsay within Hearsay

Hearsay included within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

Rule 806. Attacking and Supporting the Declarant's Credibility

When a hearsay statement — or a statement described in Rule 801(d)(2)(C), (D), or (E) — has been admitted in evidence, the declarant's credibility may be attacked, and then supported, by any evidence that would be admissible for those purposes if the declarant had testified as a witness. The court may admit evidence of the declarant's inconsistent statement or conduct, regardless of when it occurred or whether the declarant had an opportunity to explain or deny it. If the party against whom the statement was admitted calls the declarant as a witness, the party may examine the declarant on the statement as if on cross-examination.

Rule 807. Residual Exception

(a) **In General.** Under the following circumstances, a hearsay statement is not excluded by the rule against hearsay even if the statement is not specifically covered by a hearsay exception in Rule 803 or 804:

- 1. the statement has equivalent circumstantial guarantees of trustworthiness;
- 2. it is offered as evidence of a material fact;
- 3. it is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts; and
- 4. admitting it will best serve the purposes of these rules and the interests of justice.

- (b) Notice. The statement is admissible only if, before the trial or hearing, the proponent gives an adverse party reasonable notice of the intent to offer the statement and its particulars, including the declarant's name and address, so that the party has a fair opportunity to meet it. 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.

ARTICLE IX. Authentication and Identification – Not Applicable

ARTICLE X. Contents of Writing, Recordings, and Photographs – Not Applicable

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*.