


The 21st Annual
Maryland State Bar Association
Statewide High School Mock Trial Competition



C L R E P
MSBA ♦ MSDE

2003-2004

Coordinated by
Citizenship Law Related Education Program
for the Schools of Maryland

Sponsored by
The Maryland State Bar Association
and Executive Committee on Law-Related Education

In cooperation with
The Maryland Judicial Conference
Public Awareness Committee



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November 7, 2003

Dear Mock Trial Participant:

Welcome to the 2003-2004 Maryland State Bar Association Statewide High School Mock Trial Competition. As we enter our 21st year, with over 28,000 Maryland students having competed in years past, we are pleased that you are joining in this exciting and competitive learning experience. As in past years, the Maryland State Bar Association, the Maryland State Department of Education and the Maryland Judicial Conference Public Awareness Committee are sponsoring this exciting educational program.

This year's case focuses on an allegation of hazing and assault. Unfortunately these sorts of incidents are all too frequent. We hope you enjoy the case and learn about the potential pitfalls of hazing.

It is important that you understand and remember our four primary objectives for this competition:

1. To further understanding and appreciation for the law, court procedures, and the legal system.
2. To increase proficiency in basic life skills such as listening, speaking, reading, and critical thinking.
3. To promote better communication and cooperation between the school system, the legal profession, and the community at-large.
4. To heighten enthusiasm for academic studies as well as career consciousness for law-related professions.

Our objectives can only be accomplished, however, if you agree to compete fairly and honestly. Your primary objective should be to learn, not to win. Mock Trial provides opportunities to learn – through case preparation with your attorney advisor, teacher coach and teammates, the competition with other schools, and various interpretations and perspectives of our law and legal system. **It is vital that you remember that Mock Trial closely parallels the "real world" in terms of proceedings, interpretations and decisions in the courtroom and by the Bench. Decisions will not always go your way and you will not always prevail.** If you observe and remember this, you will succeed regardless of your win/loss record and enjoy the competition!

We ask that you read carefully through the rules and guidelines included in this casebook, **as some modifications have been made.** As always, we wish you a very successful year and a wonderful learning experience. We look forward to working with you!

Sincerely,

Honorable Diane O. Leasure
Chair, Executive Committee

Ellery M. "Rick" Miller, Jr.
Executive Director, CLREP

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2003-2004
MSBA HIGH SCHOOL MOCK TRIAL COMPETITION

PART I: ORGANIZATIONAL RULES

1. Local competitions must consist of at least two rounds with each participating high school presenting both sides of the Mock Trial case.
2. A team must be comprised of no less than eight (8) but a maximum of twelve (12) student members from the same high school, with the exception of high schools with a Maryland State Department of Education inter-scholastic athletics designation of Class 2A or Class 1A, which may combine with any other schools in the LEA in those classifications to field a team. Two “alternate” students are permitted during the local competition only. If a team advances beyond the local competition, an official roster must be submitted not exceeding 12 students.
3. A team may use its members to play different roles in different competitions. (See Part II: Hints on Preparing for the Competition). For any single contest round, all teams are to consist of three (3) attorneys and three (3) witnesses, for a total of six (6) different students.
4. Any high school which fields more than one team (Team A and Team B, for example) may NEVER allow, under any circumstances, students from Team A to compete for Team B or vice-versa. If a high school fields two teams, each team must have a different teacher coach and a different attorney coach than the other team. Additionally, if a high school has two teams, then those teams MUST compete in local (circuit) competition.
5. A. Areas of competition coincide with the eight Judicial Circuits of Maryland. Each circuit must have a minimum of four (4) teams. However, in order to provide the opportunity for as many teams to participate as possible, if a circuit has two (2) or three (3) teams, they may compete in a “Round Robin” to determine who will represent the circuit in the circuit playoff. The runner-up team from another circuit would be selected to compete based upon their winning record and average points scored during local competition rounds. This team would compete with the circuit representative in a playoff prior to the Regional Competition. When a circuit has only one registered team, CLREP may designate another circuit in which this team may compete.

B. OR, under the discretion of a circuit coordinator and CLREP, if a circuit so chooses, it may combine with the “un-official” circuit to increase the number of opportunities to compete. In this case, a “circuit opening” arises and will be filled by the following method. To create the most equity, a sequential rotation of circuits will occur beginning with **Circuit 8 in academic year 2003-04** (as previously determined by a random draw). If willing, the second place team from the designated circuit will advance to the regional competitions to fill the opening. If that team is unable to advance, the opportunity will move to the next circuit, and so on, until the opening is filled. In the event that all circuits are officially comprised of a minimum of four teams, the designated circuit will remain the next in-line to advance in future years.

2003-2004	Circuit 8	2007-2008	Circuit 4
2004-2005	Circuit 1	2008-2009	Circuit 5
2005-2006	Circuit 2	2009-2010	Circuit 6
2006-2007	Circuit 3	2010-2011	Circuit 7

6. Each competing circuit must declare one team as Circuit Champion by holding local competitions based on the official Mock Trial Guide and rules. That representative will compete against another Circuit Champion in a single elimination competition on April 19 or 20, 2004.
7. The dates for the Regionals, the Semi -Finals, and the Finals will be set and notice given to all known participating high schools by Thursday, November 6, 2003. Changes may occur due to conflicts in judicial schedules.

8. District Court judges, Circuit Court judges, and attorneys may preside and render decisions for all matches. If possible, a judge from the Court of Special Appeals or the Court of Appeals will preside and render a decision in the Finals.
9. Any team that is declared a Regional Representative must agree to participate on the dates set for the remainder of the competition. Failure to do so will result in their elimination from the competition and the first runner-up in that circuit will then be the Regional Representative under the said stipulations.
10. Winners in any single round should be prepared to switch sides in the case for the next round. Circuit Coordinators will prepare and inform teams of the circuit schedule.
11. CLREP encourages Teacher Coaches of competing teams to exchange information regarding the names and gender of their witnesses at least 1 day prior to any given round. The teacher coach for the plaintiff/prosecution should assume responsibility for informing the defense teacher coach. A physical identification of all team members must be made in the courtroom immediately preceding the trial.
12. Members of a school team entered in the competition—including Teacher Coaches, back-up witnesses, attorneys, and others directly associated with the team’s preparation—are NOT to attend the enactments of ANY possible future opponent in the contest.
13. All teams are to work with their attorney coach in preparing their cases. It is suggested that they meet with their Attorney Advisor at least twice prior to the beginning of the competition. For some suggestions regarding the Attorney Advisor’s role in helping a team prepare for the tournament, see PART II: Hints on Preparing for Mock Trial and Appendix A.
14. THERE IS NO APPEAL TO A JUDGE’S DECISION IN A CASE. CLREP retains the right to declare a mistrial when there has been gross transgression of the organizational rules and/or egregious attempt to undermine the intent and integrity of the Mock Trial Competition.
15. There shall be NO coaching of any kind during the enactment of a mock trial: i.e. student attorneys may not coach their witnesses during the other team’s cross examination; teacher and attorney coaches may not coach team members during any part of the competition; members of the audience, including members of the team who are not participating that particular day, may not coach team members who are competing. Teacher and Attorney Coaches MAY NOT sit directly behind their team during competition as any movements or conversations may be construed as coaching.
16. It is specifically prohibited before and during trial to notify the judge of students’ ages, grades, school name or length of time the team has competed.
17. The student attorney who directly examines a witness is the only attorney who may raise objections when that same witness is being cross-examined. The student attorney who raises objections on direct examination must be the same attorney who then cross-examines that same witness. This same principle applies if a student attorney calls for a bench conference; i.e., it must be the attorney currently addressing the Court.
18. Judging and scoring at the Semi-Final and Statewide Final Competition are distinct from judging and scoring in some local competitions and the regional competitions. As in a real trial, the judge will preside, hear objections and motions, instruct counsel, and determine which team prevailed based on the merits of the law.

Two attorneys will independently score the trial, using the score sheet from the official Mock Trial Guide. At the conclusion of the trial and while in chambers, the judge will award the special point without informing the attorney scorers. The attorneys will meet and work out any differences in scoring so that the two attorneys present one score sheet to the judge, and eventually, the two teams. The judge retains the right to overrule any score on the score sheet. Both teams shall receive a copy of

this score sheet, signed by the judge. Teams will not have access to the original, independent score sheets of the attorneys.

19. Student attorneys are expected to keep their presentations limited to specific time guidelines. **It is the presiding judge's sole discretion as to how or if the time guidelines will be implemented during each competition. Teams should NOT object if they perceive a violation of these guidelines.**
 - Opening/closing statements—5 minutes each;
 - Direct examination—7 minutes per witness;
 - Voir Dire, if necessary— 2 minutes per expert witness (in addition to the time permitted for direct and cross examination)
 - Cross-examination—5 minutes per witness;
 - Re-Direct and Re-Cross Examination—3 minutes and a maximum of 3 questions per witness.

PART II: HINTS ON PREPARING FOR A MOCK TRIAL COMPETITION

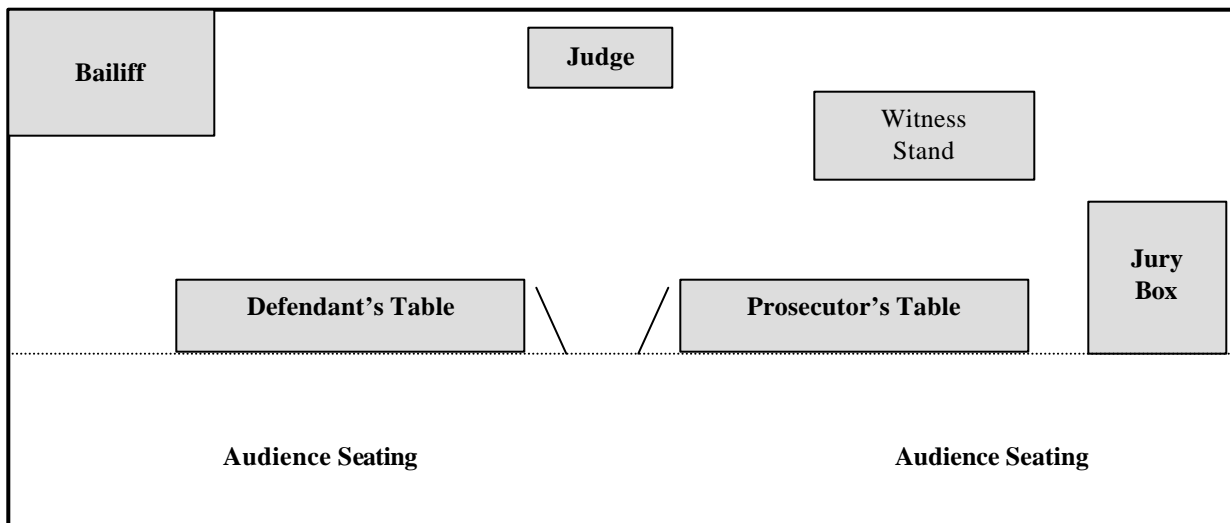
The following tips were developed by long-time Mock Trial Coaches.

1. Every student, teacher and attorney participating in a team's preparation should read the entire set of materials (case and guide) and discuss the information, procedures and rules used in the mock trial competition. Students: you are ultimately responsible for all of this once Court is in session.
2. Examine and discuss the facts of the case, witness testimony and the points for each side. Record key information as discussion proceeds so that it can be referred to in the future.
3. Witness' credibility is very important to a team's presentation of the case. Witnesses: move into your roles and attempt to think as the person you are portraying. Read over your affidavits many times and have other members of your team ask you questions about the facts until you know them.
4. Student attorneys: you should have primary responsibility for deciding what possible questions should be asked of each witness on direct and cross-examination. Questions for each witness should be written down and/or recorded. Write out key points in your opening and closing statements before trial, as they are supposed to highlight the important developments that have occurred during the trial. Concise, summary, pertinent statements which reflect the trial that the judge just heard are the most compelling and effective. Be prepared for interruptions by judges who like to question you, especially during closing arguments.
5. The best teams generally have student attorneys prepare their own questions, with the Teacher and Attorney Coaches giving the team continual feedback and assistance. Based on these practice sessions, student attorneys should revise their own questions and witnesses should again study the parts of the affidavit they need to learn better.
6. As you approach your first round of competition, you should conduct at least one complete trial as a dress rehearsal. All formalities should be followed and notes should be taken by everyone. Evaluate the team's presentation together. Try to schedule this session when your Attorney Coach can attend.
7. **Some of the most important skills for team members to learn are:**
 - Deciding which points are the most important to prove your side of the case and making sure such proof takes place.
 - Stating clearly what you intend to prove in an opening statement and then arguing effectively in your closing that the facts and evidence presented have proven your case.
 - Following the formality of court; e.g., standing up when the judge enters and appropriately addressing the judge as "Your Honor," etc.

- Phrasing direct examination questions that are not leading (carefully review the rules of evidence and watch for this type of questioning in practice sessions).
- Refraining from asking so many questions on cross-examination that well-made points are lost. When a witness has been contradicted or otherwise discredited, learn to limit additional questions, as they often lessen the impact of previously made points.
- Thinking quickly on your feet when a witness gives you an unexpected answer, an attorney asks unexpected questions, or a judge throws questions at you.
- Recognizing objectionable questions and answers, offering those objections quickly and providing the appropriate basis for the objection.
- Paying attention to all facets of the trial, not just the parts that directly affect your presentation. All information heard is influential! Learn to listen and incorporate information so that your presentation, whether as a witness or an attorney, is the most effective it can be.
- The Mock Trial should be as enjoyable as it is educational. When winning becomes your primary motivation, the entire competition is diminished. **Coaches and students should prepare AT LEAST as much for losing as they do for winning/advancing.** Each member of the team—student or coach—is personally responsible for his/her behavior prior to, during, and at the close of the trial. There are schools and individuals across the state that are no longer welcome to participate based on previous behavior.

PART III: TRIAL PROCEDURES

Before participating in a mock trial, it is important to be familiar with the physical setting of the courtroom, as well as with the events that generally take place during the exercise, and the order in which they occur. This section outlines the usual steps in a “bench” trial—that is, without a jury.



Steps in a Mock Trial

1. The Opening of the Court
 - a. Either the clerk of the Court or the judge will call the Court to order.
 - b. When the judge enters, all participants should remain standing until the judge is seated.

- c. The case will be announced; i.e., “The Court will now hear the case of _____ v. _____.”
- d. The judge will then ask the attorneys for each side if they are ready.

2. Opening Statements (5 minutes maximum)

a. Prosecution (criminal case)/ Plaintiff (civil case)

After introducing oneself and one’s colleagues to the judge, the prosecutor or plaintiff’s attorney summarizes the evidence for the Court which will be presented to prove the case.

b. Defense (criminal or civil case)

After introducing oneself and one’s colleagues to the judge, the defendant’s attorney summarizes the evidence for the Court which will be presented to rebut the case the prosecution has made.

3. Direct Examination by the Prosecutor

The prosecutor/ plaintiff’s attorney conducts direct examination (questioning) of each of its own witnesses. At this time, testimony and other evidence to prove the prosecution’s/plaintiff’s case will be presented. The purpose of direct examination is to allow the witness to relate the facts to support the prosecution/plaintiff claim and meet the required burden. (If an attorney chooses to voir dire a witness, 2 minutes are permitted, in addition to the 7 minutes allowed for direct examination.)

NOTE:

The attorneys for both sides, on both direct and cross-examination, should remember that their only function is to ask questions; attorneys themselves may not testify or give evidence, and they must avoid phrasing questions in a way that might violate this rule.

4. Cross-examination by the Defendant’s Attorneys

After the attorney for the prosecution/plaintiff has completed the questioning of a witness, the judge then allows the defense attorney to cross-examine the witness. The cross-examiner seeks to clarify or cast doubt upon the testimony of the opposing witness. Inconsistency in stories, bias, and other damaging facts may be pointed out to the judge through cross-examination. (If an attorney chooses to voir dire a witness, 2 minutes are permitted, in addition to the 5 minutes allowed for cross examination.)

5. Direct Examination by the Defendant’s Attorneys

Direct examination of each defense witness follows the same pattern as above which describes the process for prosecution’s witness.

6. Cross-Examination by the Prosecution/ Plaintiff

Cross-examination of each defense witness follows the same pattern as above for cross-examination by the defense.

7. Re-Direct Examination by the Plaintiff/ Prosecution

The Plaintiff’s/Prosecution’s attorney may conduct re-direct examination of the witness to clarify any testimony that was cast in doubt or impeached during cross-examination. (Maximum of three minutes or three questions.)

8. Re-Cross Examination by the Defense Attorneys

The defense attorneys may re-cross examine the opposing witness to impeach previous testimony. (Maximum of three minutes or three questions.)

9. Voir Dire Examination by Either the Plaintiff/ Prosecution or the Defense Attorneys

Voir Dire is the process of asking questions to determine the competence of an alleged expert witness. Before giving any expert opinion, the witness must be qualified by the court as an expert witness. The court must first determine whether or not the witness is qualified by knowledge, skills, experience, training or education to give the anticipated opinion. After the attorney who called the witness questions him/her about his/her qualifications to give the opinion, and before the court qualifies the

witness as an expert witness, the opposing counsel shall (if he/she chooses to do so) have the opportunity to conduct a brief cross-examination (called “voir dire”) of the witness’ qualifications.

10. Closing Arguments (Attorneys)

For the purposes of the Mock Trial Competition, the first closing argument at all trials shall be that of the Defense.

a. Defense

A closing statement is a review of the evidence presented. Counsel for the defense reviews the evidence as presented, indicates how the evidence does not substantiate the elements of a charge or claim, stresses the facts and law favorable to the defense, and asks for a finding of not guilty for the defense.

b. Prosecution/ Prosecution

The closing statement for the prosecution reviews the evidence presented. The prosecution’s closing statement should indicate how the evidence has satisfied the elements of a charge, points out the law applicable to the case and asks for a finding of guilt. Because the burden of proof rests with the prosecution/plaintiff, this side has the final word.

11. The Judge’s Role and Decision

The judge is the person who presides over the trial to ensure that the parties’ rights are protected and that the attorneys follow the rules of evidence and trial procedure. In mock trials, the judge also has the function of determining the facts of the case and rendering a judgment, just as in actual bench trials.

PART IV: SIMPLIFIED RULES OF EVIDENCE AND PROCEDURE

In American trials, elaborate rules are used to regulate the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that both parties receive a fair hearing and to exclude any evidence deemed irrelevant, incompetent, untrustworthy or unduly prejudicial. 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 attorneys to know the rules, to be able to use them to present the best possible case, and to limit the actions of opposing counsel and their witnesses.**

Formal rules of evidence are quite complicated and differ depending on the court where the trial occurs. For purposes of this Mock Trial Competition, the rules of evidence have been modified and simplified. Not all judges will interpret the rules of evidence or procedure the same way, and you must be prepared to point out the specific rule (quoting it, if necessary) and to argue persuasively for the interpretation and application of the rule you think proper. **No matter which way the judge rules, attorneys should accept the ruling with grace and courtesy!**

1. SCOPE

RULE 101: SCOPE. These rules govern all proceedings in the mock trial competition. The only rules of evidence in the competition are those included in these rules.

RULE 102: OBJECTIONS. An objection which is not contained in these rules shall not be considered by the Court. However, if counsel responding to the objection does not point out to the judge the application of this rule, the Court may exercise its discretion in considering such objections.

2. RELEVANCY

RULE 201: RELEVANCY. Only relevant testimony and evidence may be presented. This means that the only physical evidence and testimony allowed is that which tends to make a fact which is important to the case more or less probable than the fact would be without the evidence. However, if the relevant evidence is unfairly

prejudicial, confuses the issues, or is a waste of time, it may be excluded by the Court. This may include testimony, pieces of evidence, and demonstrations that have no direct bearing on the issues of the case and have nothing to do with making the issues clearer.

Example:

The defense attorney asks Bobby Jones, on cross-examination, “Is it not true that, during your second grade year, you were sent to the office for eating worms during recess?”

Objections to Irrelevant Questions/Testimony:

“Objection. This testimony is unduly prejudicial.”

“I object, Your Honor. This testimony is irrelevant to the facts of the case.”

RULE 202: CHARACTER. Evidence about the character of a party or witness (other than his or her character for truthfulness or untruthfulness) may not be introduced unless the person’s character is an issue in the case.

Examples:

Whether one spouse has been unfaithful to the other may be a relevant issue in a civil trial for divorce, but is generally not an issue in a criminal trial for assault. A person’s violent temper may be relevant in a criminal trial for assault, but is not an issue in a civil trial for breach of contract.

Objections:

“Objection. Evidence of the witness’ character is not proper given the facts of the case.”

“Objection. Only the witness’ reputation for truthfulness is at issue here.”

3. WITNESS EXAMINATION

A. DIRECT EXAMINATION (attorney calls and questions witness)

RULE 301: FORM OF QUESTION. Witnesses should be asked direct questions and may not be asked leading questions on direct examination. Direct questions are phrased to evoke a set of facts from the witnesses. A leading question is one that suggests to the witness the answer desired by the examiner -- often a “yes” or “no” answer.

Example of a Direct Question:

An attorney for the Prosecution asks Cpl. Taka Noprizners, “How many years have you been a police officer?”

Example of a Leading Question:

An attorney for the Prosecution asks Cpl. Taka Noprizners, “Isn’t it true that you have been a police officer for eight years?”

Narration: While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions must not be so broad that the witness is allowed to wander or narrate an entire story. Narrative questions are objectionable.

Example of Narrative Question:

An attorney for the defense asks Jesse Black, “Describe for the Court your senior year at Green Forest High.”

Narrative Answers: At times, a direct question may be appropriate, but the witness' answer may go beyond the facts for which the question was asked. Such answers are subject to objection on the grounds of narration.

Objections:

“Objection: Counsel is leading the witness.”

“Objection. Witness is being narrative.”

“Objection: Question asks for a narration.”

RULE 302: SCOPE OF WITNESS EXAMINATION. Direct examination may cover all facts relevant to the case of which the witness has first-hand knowledge. Any factual areas examined on direct examination may be subject to cross-examination.

RULE 303: REFRESHING RECOLLECTION. If a witness is unable to recall a statement made in an affidavit, the attorney on direct may show that portion of the affidavit that will help the witness to remember.

B. CROSS EXAMINATION (questioning the other side's witness)

RULE 304: FORM OF QUESTION. An attorney may ask leading questions when cross-examining the opponent's witnesses. Questions that tend to evoke a narrative answer should be avoided in most instances.

RULE 305: SCOPE OF WITNESS EXAMINATION. Attorneys may only ask questions that relate to matters brought out by the other side on direct examination or to matters relating to the credibility of the witness. This includes facts and statements made by the witness for the opposing party. **Note that many judges allow a broad interpretation of this rule.**

Example:

If on direct examination a witness is not questioned about a topic, the opposing attorneys may not ask questions about this topic on cross examination.

Objection:

“Objection. Counsel is asking the witness questions which did not come up on direct examination.”

RULE 306: IMPEACHMENT. On cross-examination, the attorney may impeach a witness (show that a witness should not be believed) by (1) asking questions about prior conduct that makes the witness' credibility (truth-telling ability) doubtful, or (2) asking questions about previous contradictory statements. These kinds of questions can only be asked when the cross-examining attorney has information that indicates that the conduct actually happened.

C. RE-DIRECT EXAMINATION

RULE 307: LIMIT ON QUESTIONS. After cross-examination, up to three (3), but no more than three (3), questions may be asked by the direct examining attorney, but such questions are limited to matters raised by the attorney on cross-examination. (The presiding judge has considerable discretion in deciding how to limit the scope of the re-direct.)

NOTE:

If the credibility or the reputation for truthfulness of the witness has been attacked on cross-examination, the attorney whose witness has been damaged may wish to ask several more

questions. These questions should be limited to the damage the attorney thinks has been done and should be phrased so as to try to “save” the witness’ truth-telling image in the eyes of the court. Re-direct examination is limited to issues raised by the attorney on cross-examination. Please note that at times it may be more appropriate NOT to engage in re-direct examination.

D. RE-CROSS EXAMINATION

RULE 308: **LIMIT ON QUESTIONS.** Three (3) additional questions, but no more than three (3), may be asked by the cross-examining attorney, but such questions are limited to matters on re-direct examination and should avoid repetition. (The presiding judge has considerable discretion in deciding how to limit the scope of the re-cross.) Like re-direct examination, at times it may be more appropriate not to engage in re-cross examination.

Objection:

“Objection. Counsel is asking the witness about matters that did not come up on re-direct examination.”

4. HEARSAY

A. THE RULE

RULE 401: **HEARSAY.** Any evidence of a statement made by someone who is not the witness on the stand, which, if offered to prove the truth of the matter asserted in that out-of-court statement, is hearsay, and is not permitted.

Example:

An attorney for the Defense asks Misha Barnes, “What did you hear students saying who witnessed the alleged hazing at the Edge?”

Objection:

Objection. Counsel’s question is seeking a hearsay response.

Example:

Misha Barnes states, “I heard several people say that the worm incident was no big deal.”

Objection:

“Objection. The witness’ answer is based on hearsay. I ask that the statement be stricken from the record.”

Response to the Objections:

“Your Honor, the testimony is not offered to prove the truth of the matter asserted, but only to show...”

B. EXCEPTIONS

RULE 402: **ADMISSION AGAINST INTEREST.** A judge may admit hearsay evidence if it was said by a party in the case and contains evidence which goes against the party’s side.

RULE 403: **STATE OF MIND.** A judge may admit hearsay evidence if a person’s state of mind is an important part of the case and the hearsay consists of evidence of what someone said which described that particular person’s state of mind.

RULE 404: **BUSINESS RECORDS.** A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnosis, made at or near the time by or from information transmitted by a person with knowledge, if kept in

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

5. OPINION AND EXPERT TESTIMONY

RULE 501: OPINION TESTIMONY BY NON-EXPERTS. Witnesses who are not testifying as experts may give opinions which are based on what they saw or heard and are helpful in explaining their story. A witness may NOT testify to any matter of which the witness has no personal knowledge, nor may a witness give an opinion about how the case should be decided.

Example:

(General Opinion)

Defense attorney asks Jesse Black, “Do you think people who attended the 2003 Face-Off enjoyed themselves?”

Objection:

“Objection. Counsel is asking the witness to give an opinion.”

Example:

(Lack of Personal Knowledge)

Defense attorney asks Jesse Black, “Was the “Face-Off” from 2003 any different from the activities of Face-Offs in past years?”

Objection:

“Objection. The witness has no personal knowledge that would enable him/her to answer this question/ make this statement.”

Example:

(Opinion on Outcome of Case)

Defense attorney asks Misha Barnes, “Did hazing occur on the evening of June 7, 2003, at the “Face-Off?”

Objection:

“Objection. The question asks the witness to give a conclusion that goes to the finding of the Court.”

RULE 502: OPINION TESTIMONY BY EXPERTS. Only persons qualified as experts may give opinions on questions that require special knowledge or qualifications. An expert may be called as a witness to render an opinion based on professional experience. An expert must be qualified by the attorney for the party for whom the expert is testifying. This means that before the expert witness can be asked for expert opinion, the questioning attorney must bring out the expert’s qualifications, education and/or experience.

Example:

Defense attorney asks Cpl. Taka Noprizners, “From your investigation, do you believe that hazing took place on the evening of June 7, 2003?”

Objection: “Objection. Counsel is asking the witness to give an expert opinion for which the witness has not been qualified.”

RULE 503: VOIR DIRE. After an attorney who has called a witness questions him/her about his/her qualifications, and before the court qualifies the witness as an expert, the opposing counsel shall have the opportunity, if he/she chooses to do so, to conduct voir dire. After the voir dire examination has been conducted, the cross-examining attorney should advise the court as to whether there are any objections to the witness being qualified as an expert witness and/or whether there are any objections to the expert witness' expertise to give the specific opinion the opposing counsel is trying to elicit from this witness.

Example:

(after questioning by an attorney to create a foundation for his/her witness to be qualified by the Court as an expert witness): "At this time, your Honor, I request that the Court accept and qualify the witness as an expert in the field of child psychology."

Objection:

"Your Honor, we would like permission to voir dire the witness."

6. PHYSICAL EVIDENCE

RULE 601: INTRODUCTION OF PHYSICAL EVIDENCE. Physical evidence may be introduced if it is relevant to the case. Physical evidence will not be admitted into evidence until it has been identified and shown to be authentic or its identification and/or authenticity has been stipulated. That a document is "authentic" means only that it is what it appears to be, not that the statements in the document are necessarily true.

Physical evidence need only be introduced once. The proper procedure to use when introducing a physical object or document for identification and/or use as evidence is:

- a. Show the exhibit to opposing counsel.
- b. Show the exhibit and have it marked by the clerk/judge. "Your Honor, please have this marked as Plaintiff's Exhibit 1 for identification."
- c. Ask the witness to identify the exhibit. "I now hand you what is marked Plaintiff's Exhibit 1. Would you identify it, please?"
- d. Ask the witness about the exhibit, establishing its relevancy.
- e. Offer the exhibit into evidence. "Your Honor, we offer Plaintiff's Exhibit 1 into evidence at this time."
- f. The Judge will ask opposing counsel whether there is any objection, rule on the objection, and admit or not admit the exhibit into evidence.
- g. If the exhibit is a document, hand it to the clerk/judge.

NOTE:

After an affidavit has been marked for identification, a witness may be asked questions about it without its introduction into evidence.

7. INVENTION OF FACTS (Special Rules for the Mock Trial Competition)

RULE 701: DIRECT EXAMINATION. On direct examination, **the witness is limited to the facts provided in the casebook**. If a witness testifies in contradiction of a fact given in the witness' statement, opposing counsel should impeach the witness' testimony during cross-examination. **If the witness goes beyond the facts given, such that they directly conflict with the stipulated facts or witness affidavits, a bench conference may be requested by opposing counsel, at which time the counsel may object to invention of facts.** (It

should be noted that the granting of a bench conference is a discretionary decision of the judge. A request for a bench conference might not be granted.)

Objection to be made at a bench conference:

“Your Honor, the witness is creating facts which are not in the record.”

“Your Honor, the witness is intentionally creating facts which could materially alter the outcome of the case.”

RULE 702: **CROSS-EXAMINATION. Questions on cross-examination should not seek to elicit information that is not contained in the fact pattern.** If on cross-examination a witness is asked a question, the answer to which is not contained in the witness’ statements of the direct examination, the witness may respond with any answer which does not materially alter the outcome of the trial. An answer which is contrary to the witness’ affidavit may be impeached by the cross-examining attorney. If the witness invents facts material to the case, a bench conference may be called and, if granted, an objection made to the invention of facts.

Objection:

“Objection. The witness’ answer is inventing facts which materially alter the case.”

8. PROCEDURE RULES

RULE 801: **PROCEDURES FOR OBJECTIONS.** An attorney may object anytime the opposing attorney has violated the Rules of Evidence.

NOTE: The attorney who is objecting should stand up and do so at the time of the violation. When an objection is made, the judge will usually ask the reason for it. Then the judge will turn to the attorney who asked the question and that attorney will usually have a chance to explain why the objection should not be accepted (“sustained”) by the judge. The judge will then decide whether a question or answer must be discarded because it has violated a rule of evidence (“objection sustained”), or whether to allow the questions or answer to remain on the trial record (“objection overruled”).

RULE 802: **MOTIONS TO DISMISS.** Motions for dismissal at the end of the prosecution’s case are NOT permitted.

RULE 803: **CLOSING ARGUMENTS.** Closing arguments must be based on the evidence and testimony presented during the trial. Offering new information at this point is incorrect.

other fights sparked in which the outnumbered juniors were pummeled. Witnesses say Bobby and others cried for help, which led only to an increase in the level of violence.

At least six students were taken to the hospital, after an onlooker called police. Ten other students were treated at the scene for minor abrasions and contusions. Corporal Taka Noprizners responded to the call and interviewed those students who were still on the scene. Based upon these interviews and after an extensive investigation, three students, including the defendant in this case, were charged with violating Maryland's law against hazing, as well as second degree assault and reckless endangerment.

The School Board President has issued the following statement: "We sincerely regret the injuries sustained to our students. While we attempted to ascertain information about this event, students were not forthcoming with information. We wish we could have done more to prevent this reprehensible, so-called school tradition. Our primary concern is always that of the safety of our young people."

STATEMENT OF CHARGES AND DEFENSES

The State of Maryland charges Jesse Black with the following violations of the Maryland Code:

Count 1 - Criminal Hazing in violation of Maryland Criminal Law Code, Section 3-607.

Count 2 – Second Degree Assault, Maryland Criminal Law Code Section 3-203.

Count 3 - Reckless Endangerment, Maryland Criminal Law Code, Section 3-204.

Jesse Black denies all charges, claiming that the injuries to Bobby Jones were accidental, though serious, and a result of the alleged victim's own actions.

Stipulations

The parties have stipulated to the authenticity and factual accuracy of the following items. The parties have agreed that the items are not in dispute.

1. The crime lab report identifying the blood on Defendant's sweatshirt as that of Bobby Jones.
2. A copy of an e-mail announcing the activity, written by the Defendant
3. The Emergency Room Report
4. The Police Report
5. Greensborough Crime Scene Unit/ Crime Scene Map
6. The Reality of Hazing: Fact Sheet

The parties reserve the right to dispute any other legal or factual conclusions based on these items and to make objections to these items *based on evidentiary issues*.

WITNESSES TO APPEAR BEFORE THE COURT

WITNESSES FOR THE PROSECUTION/ STATE OF MARYLAND

Bobby Jones
Lu Blick
Corporal Taka Noprizners

WITNESSES FOR THE DEFENSE

Jesse Black, Defendant
Misha Barnes
Dr. Ichsnay Spiffey

Witness for the Prosecution

Bobby Jones

6688 Radcliff Road

Greensborough, MD 22993

As I think back to this past Spring, I was so excited about becoming a senior. Though I knew the initiation was not required, I thought it would be a good time. I wasn't sure what to expect, but since I knew that some senior class officers were involved in the planning, I figured that it couldn't be so bad. I had heard that if you wanted to be "anybody" in the Senior Class this was a "must attend" event.

I had fun for most of the day. The football game was awesome—I caught one of the touchdown passes that helped us to win the football game. I don't normally drink, but I thought that since everyone else was having some beer, I would too. I didn't drink that much and was in control of myself, even though I got a little buzzed. Everyone was laughing and joking.

Everything leads up to the initiation ceremony, otherwise known as the Face-Off. There was a feeling of excitement in the air—I guess it was a combination of not knowing what was going to happen plus knowing that summer was just around the corner. And after an afternoon of playing around and a few beers, I was feeling up for whatever came my way.

So when they said we would be eating worms, I thought to myself, "Yeah, right." At summer camp when I was a kid, we had activities in which we were blindfolded and told we were putting our hands in a bowl of eyeballs that turned out to be peeled grapes. That's the kind of thing I expected. It was all in good fun. They blindfolded us, but I heard Jesse Black say, "Let's see what kind of Senior you'll make!" Everyone was laughing hysterically and I heard my friend Shale say I was eating real worms. I didn't believe it at first until I felt this worm wiggling. I completely gagged at the thought of real worms. I freaked and I spit them out and was struggling to get up and get the blindfold off. People were laughing, thinking that it was all a joke. It wasn't a joke to me. I felt someone grab my arms and I really began to struggle. I told them to get off, but they wouldn't leave me alone. That's when I started swinging my arms to get away. The next thing I know, I'm on the ground, having worms smeared on my face. I had only gotten the blindfold partially off; I tried to keep the worms out of my eyes and mouth so I didn't yell too much at the time.

I kept kicking, and swinging my arms, trying to get away. They stopped smearing the worms, but they wouldn't let me go. Finally I started to get up and just then Jesse Black was on top of me pushing me down. Jesse piled on me and I felt a sharp pain in my side. I think that is when I broke my ribs. Someone told me that Jesse jumped on me like those WWF Smackdown maniacs jumping off the top rope. I couldn't see the other people who were around me. When the police arrived I was lying on the side of the field holding my side. I couldn't walk. I discovered later that my knee was sprained, three ribs were broken and I had deep scratches on my face. The police called my parents and they took me to the emergency room.

I missed playing tennis all summer, and I haven't been able to play soccer. It looks like lacrosse is out for the spring. My doctor is worried about nerve injury, and I'm concerned that I won't be able to play sports anymore, especially since I was hoping to get scouted for some athletic scholarships.

I thought the party would start my Senior year off right, and instead it has really screwed things up.

Bobby Jones

Bobby Jones

Witness for the Prosecution

Lu Blick

75 Hardwick Lane

Greensborough, MD 22993

I am a 17-year-old senior at Green Forest High School in Maryland. I do pretty well in school—my parents have always pushed me to study hard and it has paid off. I usually make the Honor Roll and I get involved in different extracurricular activities at school. I have also played lacrosse for Green Forest every year, making Varsity ever since my sophomore year. I have applied to several universities and have been accepted to two of them on partial scholarship. It's my hope to go into marketing and mass communications.

I wanted to attend the Face-Off. Friends of mine who are a year older said they had a lot of fun at their own Initiation and encouraged me to go.

Most of the day was a joke. There were some good-natured games going on as well as the flag football competition but overall people were just hanging out. I knew that most of the initiation stuff wouldn't start until later.

I don't know if it was the result of people drinking or what, but everything and everyone just seemed to do a "180" once the supposed Initiation Face-Off started. There is no question that Jesse was a part of the group of seniors who were hazing. I saw all of them—I took off my blindfold when I heard people shouting. Jesse was one of the people holding Bobby's arms while others were rubbing the worms in Bobby's face. I don't think there was any real intent to hurt anyone. But I do think they were getting each other and the juniors riled up which probably caused the clash.

I thought the fight that followed the whole worm incident was a joke until someone's fist hit my eye. I was hit so hard that I lost a contact lens. I got away from the pile and ran toward the woods—maybe about 40 yards away. In hindsight, I don't feel good about running away, but I avoided some injuries by getting out of there. I saw just about everything that happened. I saw Jesse Black running toward the group of people. First, Jesse was pulling people off the pile, but then Jesse leaped on top of the pile. When Jesse landed on the pile, I heard several people yell from what I am sure was pain. I don't know what Jesse was thinking.

Jesse and the other organizers warned there should be no alcohol, but nothing was done about it at the Face-Off. It was supposedly a secret that the alcohol was even there—yet everyone knew about it and where they could get it. And everyone was drinking.

I know I could have left the scene when I saw things getting out of hand, but I got a ride with friends and they didn't want to leave. Fights break out a lot at parties for no reason and end just as quickly as they began. We hoped this would end as quickly and everyone would go back to having a good time.

I was interviewed by Officer Noprizners. My intention was not to get anyone in trouble, but honestly, I think things got way out of hand. I felt sorry for Bobby that night and still do given the extent of the injuries suffered and the impact it has had on Bobby's chances for an athletic scholarship.

Lu Blick

Lu Blick

Witness for the Prosecution
Corporal Taka Noprizners
Arresting Officer
101 Gonnagitcha Avenue
Greensborough, Maryland 22993

I have been an officer for Greensborough County for just about 8 years. On the evening of June 7, 2003, I was on my regular shift of 3-11 p.m. and got a call about an incident at The Edge—an area where kids often hang out, especially during the summer months.

When I arrived at the scene, I saw a bunch of students standing around. Several of the kids were staggering around and were obviously drunk. One kid pointed in the direction of the side of the field, near the woods. When I looked over, I could see a figure laying on the ground. The person laying there turned out to be Bobby Jones, a student who attends Green Forest High School. Bobby was clearly in pain; even in the dark it was easy to see that. I asked Bobby if I should call an ambulance, to which Bobby responded, “No. Please just call my parents.” Within a few minutes, the Jones arrived to take Bobby to the ER.

Before they left for the Emergency Room, Bobby did inform me that Jesse was the one who caused some of the injuries.

While I was at the scene, I found a tattered flyer with Jesse’s name on it. I also spoke with several other students—few of the statements were consistent with one another. A couple of names kept coming up, however—particularly Jesse’s and Lu’s. The following day, I visited the homes of several students, including Lu Blick, in order to take their statements. Lu, did in fact, corroborate Bobby’s allegation concerning Jesse. After I had gathered several statements and obtained the identification of three students, including Jesse, I conferred with my Lieutenant who agreed with my determination that we have probable cause to arrest Jesse Black.

I have a fair amount of knowledge on delinquency given my years with the police department. Furthermore, as part of my undergraduate education at UNC, I completed a research study on the signs and effects of hazing. At the time I completed this study—now nearly nine years ago—I believe that hazing was more prevalent than it is now. Laws have gotten stricter as a result of injuries and deaths caused by hazing, and schools and campuses have educated their staff on how to prevent these sorts of activities. Penalties have become much stiffer, from both law enforcement agencies and campus administrations. Even nine years ago, the number of law suits that centered on hazing was going through the roof.

From my investigation, and from the interviews conducted with several of the kids who attended this event, there is no question in my mind that the “Face-Off” as they call it is some sort of ceremonial hazing. You’ve got all of the components: alcohol, kids who are moving “up” into an organized group, no adult presence, and the basic belief of everyone involved that this was going to be some type of initiation. On one hand, I believe we’re fortunate that nothing more serious resulted from this supposed ceremony. On the other hand, some of the kids who were involved weren’t so lucky. Unfortunately, they are still dealing with some of the scarier aspects of hazing such as long term injury.

Taka Noprizners

Take Noprizners, Cpl.

Witness for the Defense

Jesse Black, Defendant
31 Pinedale Drive
Greensborough, Maryland 22993

I can't believe this. I was just doing what I thought best. This event—the Face-Off— is a tradition that the whole town expects. Do you think my parents would let me attend if they didn't know what it was like? Seniors and juniors have been doing this for years. From the things I have heard, the activities we had planned were far tamer than what's been done in past years. We need to let off some steam. I admit that things got out of control, but it was not my doing. I tried to get the students to act more responsibly: I requested that they not bring alcohol and I talked to individuals and asked them to help keep order. I didn't plan the whole event. I just tried to help get it going.

I never went into the woods, so I don't know for sure what they were doing back there. Some of the others said that there were kegs, but I figured the less I knew the better. As long as they weren't doing it on the field, I couldn't be concerned. And I don't think many of the people went into the woods. I did see Bobby Jones go into the woods. I suspected that they were drinking, but didn't want to spoil the whole event because of a handful of people. We were having a good time. I couldn't have stopped the event if I had wanted to, because of the sheer size of the group.

I am an officer of the senior class. But this was no initiation for the senior class organization. As soon as you pass your junior year requirements, you are a senior. This is just an initiation for fun. In fact, the next senior class officers have already been elected for the coming year.

The activities we planned were all in good fun. We told the younger students that they would be blindfolded and that we would feed them worms. Most people were given noodles. I admit that I mixed in some of the worms when it was Bobby's turn—I wasn't trying to pick on Bobby, but I figured it would be funny. You see worse things on television any night of the week. Turn on Fear Factor and you'll see people ingesting live spiders and organs of animals. A few worms aren't going to hurt anybody.

I didn't jump on anyone—and that includes Bobby. I was trying to pull people off the pile and stop them from fighting. I kept shouting: "Stop it." When I got the pile nearly off Bobby, someone from behind me barreled into me and knocked me onto the pile. That's probably when Bobby saw me. When I got up, I may have stepped on someone, but I didn't mean to. I don't know how I got blood on me or whose it was. I know I had some cuts and scrapes of my own. There were a lot of people involved and I don't think any one person should and can be held responsible. You just can't control a mob of people.

I am disappointed and I am sorry I couldn't do more. But I am no criminal. I worked hard to make a name for myself at Green Forest High. I played sports every year, was involved as a Senior Class officer, and volunteered on the Yearbook Staff. I think I have proven myself as a hard-working, devoted student. It really upsets me to know fingers are pointing at me as the culprit of a ceremony gone wrong when it has been a tradition for longer than I have been alive.

One of the worst things that has come of all of this is the pending status of my appointment to the Naval Academy. This is a dream of a lifetime for me and now it could be taken away. I am in utter disbelief that this situation has been taken as far as it has!

This whole thing has upset me so much that I have been seeing a shrink by the name of Dr. Ichsnay Spiffey. The sessions have really helped me to understand that I am not at fault, and to come to terms with all that has transpired since June 7. I have waived patient-doctor privilege in order that Dr. Spiffey can testify during this trial.

Jesse Black
Jesse Black

Witness for the Defense

Misha Barnes
9012 Lake Way
Greensborough, Maryland 22993

I am an 18 year old graduate of Green Forest High School, Class of '03. I currently attend the University of Mount Royal located here in Maryland. I am moving on with my life, just as Jesse should be—but is not because of these ridiculous allegations. I am pursuing my undergraduate degree in Political Science with the hope of going on to Law School.

Along with Jesse Black, I was also an Officer of the Senior Class. In fact, I have held the Office of Treasurer since my 10th grade year. In addition to being a Class Officer, I was an honor roll student almost every quarter and graduated 7th in my class. I also played lacrosse and ran inside track.

Jesse has been my best friend since second grade. I was there and I did not see Jesse jump on anybody, including Bobby. In fact, Jesse was helping people and yelling for people to stop. Jesse was pushed onto the pile of people—personally, I think Jesse was just as much a victim of all of this as Bobby.

Those juniors were jumping on us. I had to defend myself a couple of times against *them!* Plus, the juniors were drinking just as much as the Seniors were—maybe more. They weren't even supposed to know about the kegs of beer but they were all over them.

We were having a good time during the afternoon. I think things got a little out of hand but not so much that Jesse should be charged with crimes. Jesse certainly should not be held responsible for the actions of other students. A group of us planned this event; I admit Jesse took the lead in the organization of the event but many of us had a part in its coordination.

Anybody who came to the event attended of their own free will. And they didn't have to participate in anything. It's ridiculous that people would be treated differently if they didn't attend. I had to go away with my family when I was a junior and missed the initiation, but no one said anything to me. I don't believe that story for a minute.

Bobby is a nice kid and all, but Bobby tends to stretch the truth a bit. Like this summer, Bobby talked about working on the Justine Timberlake-Christina Aguilera tour. In reality, Bobby was handing out programs in the lobby of one of their concerts. Bobby went on and on about how the "crew" got really close. Later, I heard that Bobby didn't get within 10 feet of the stars, crew or the stage for that matter.

Personally, I think Bobby likes all the attention that has come of this, and it seems to have been blown way out of proportion.

Jesse is waiting for this trial to be over just to learn if the Naval Academy is still in the picture. Everyone thinks Bobby is the only victim? Hardly.

Misha Barnes

Misha Barnes

Witness for the Defense

Dr. Ichsnay Spiffey, Ph.D.
10 Beach Road
Greensborough, Maryland 22993

Regarding my credentials, I received my Bachelor of Arts degree from a small liberal arts college in Massachusetts by the name of Westerly School. The school allows its students to create their own course of study, exemplifying, in my opinion, an authentic liberal arts education. I focused my studies in several areas of counseling. During my undergraduate courses, I was fortunate to be able to study abroad in Germany for a semester.

It was during these months in Germany that I interned with the renowned Doctor Blecha Stogwart, and ultimately developed my interest in Regression Hypnosis. Dr. Stogwart mentored me and encouraged me to develop what became a real passion for a course of counseling, that while underestimated in the Americas, is nevertheless an excellent means of therapy. It actually amazes me the degree to which Americans denounce things they do not understand. In any case, after completing my Master's and Doctorate degrees at Westerly, I applied to the Stuttgart School of Regression Hypnosis in Stuttgart, Germany wherefrom I graduated at the top of my class of 17 students. This was in 1985. Since that time, I have continued to study and practice the art of Regression Hypnosis and have found it to be a vital means of therapy for those persons traumatized by an event in their lives. When possible, I enjoy speaking on the topic at national and international seminars and conferences. I have also begun the process of compiling my counseling experiences into a series of books; the first of which is due to be released next Fall, entitled, *Let Me Knock You Out: A Look at Regression Hypnotherapy*.

I feel quite privileged to be called to testify on behalf of such a fine young person. I was first contacted by Jesse's parents during the summer due to the unfortunate circumstances that occurred on June 7, 2003.

Since our first session in early July, I have counseled Jesse over the course of many, many hours. Jesse's parents discussed the possibility of testifying during this case, and I must admit my initial apprehension in doing so. I believe wholeheartedly in the concept of patient-doctor privilege and have researched situations in which psychiatrists break this oath with the permission of a willing patient. I have also discussed this situation, at length, with my own counselor and mentor. With her expertise and insight, I have moved beyond my original trepidation to a place where I now see clearly the positive outcome this will have for Jesse. I simply refuse to help destroy the life of a good person at a very tender age—even if it would be through my own inaction. To that end, and acknowledging the permission of Jesse and Jesse's guardians, I waive patient-doctor privilege.

During our sessions, Jesse has proven to be a responsible, mature young adult. From what the Blacks' family has discussed with me, Jesse has always been a diligent, well-rounded student. Excelling in academics, Jesse has taken on other activities such as that of class officer to boost the portfolio for college applications. In fact, Jesse has landed an appointment to the Naval Academy, which is currently on hold pending the outcome of these proceedings.

Jesse has a sense of "traditionalism" in that family time, friendships and good work ethics are important. To that end, I believe Jesse hoped to provide a bonding activity, based on a longstanding, expected tradition, for fellow classmates. Unfortunately, because of the actions of dozens of students, injuries resulted that are shedding a very negative light on Jesse, as *one of* the organizers of the event. I feel it important to emphasize that Jesse was one of perhaps four or five other students who assisted in planning this event.

For a long time, Jesse was unable to recall some of the events that occurred. During the same time, Jesse was suffering from violent nightmares and sleep deprivation, which ultimately affected the things Jesse holds important in life. In my opinion, this was not due to suppression or post-traumatic stress, but rather to the confusion of the evening as well as the many renditions of the evening that transpired in the days and weeks to follow. With the Blacks' permission and willingness, Jesse decided to undergo hypnosis with the hope that, by bringing everything to the surface, Jesse would be able to finally put the anxiety and guilt to rest.

As it turned out, Jesse was an excellent candidate for hypnosis. We completed three sessions of hypnosis, and as we delved further into the evening in question, Jesse was able to clearly recall everything that occurred. One of the things that became very apparent to me was the fact that Jesse experienced a level of panic on the evening of June 7 that, prior to hypnosis, was undetected. Specifically, in the second and third sessions of hypnotherapy, Jesse was able to re-experience the level of alarm felt during the event as kids piled on top of one another. Jesse recalled at least four attempts to pull people off the pile, before an unknown person, from behind, pushed Jesse on to the pile.

It is quite easy for me to recognize that others may have perceived this as Jesse jumping on the pile. From everything we have gathered during hypnosis, Jesse was pushed very hard onto the pile of people—to the point where Jesse experienced that undeniable feeling of having the wind knocked out of you. Even then, Jesse continued shouting for people to get off the pile, afraid someone underneath would be hurt.

For anyone inexperienced with hypnotherapy, it is a very exhausting and emotional process. Images and memories are recalled so vividly, that the body and mind are literally transported back to the event or time. When a person is brought out of hypnosis, it is virtually impossible to restore a high energy level like is often depicted in movies or television. Rather, in my experience, the person often feels very sleepy and lacks energy for several hours after the experience. However, as in Jesse's case, it is usually worth the relief and clarity brought about as a result of the hypnotherapy.

From our more recent sessions, it appears that Jesse is able to better handle the memory of June 7, 2003. As the court dates have approached, Jesse has, of course, been dealing with more anxiety. In my opinion, Jesse, along with all of the students who were involved in this event, should be allowed to move on with their lives. The trauma experienced in the aftermath, along with the various penalties received from the school, is more than enough to hold these kids accountable.

Jesse is no more guilty of any wrongdoing than any other students who attended the event. It just so happens that Jesse was the easiest person to whom others could point their fingers. And, as is often the case, people seem to feel better when we can place the blame on someone—even if it is a good and responsible young adult like Jesse Black.

Ichsnay L. Spiffey

Ichsnay L. Spiffey, Ph.D.

REGIONAL FORENSIC LABORATORY
Greensborough County, MD 22993

OFFICIAL LABORATORY REPORT

Laboratory No. 860430 – 0623

Date of Analysis: 6/25/2003

JESSE BLACK

Laboratory analysis of the evidence submitted revealed the following information:

1. Pants – no trace of evidence of value detected
2. T-shirt – no trace of evidence of value detected
3. Sweatshirt – small trace of blood collected found to be consistent with samples submitted from Bobby Jones.
4. Right shoe – no trace evidence of value detected
5. Left shoe – no trace evidence of value detected

Date: 6/25/2003

Signed: Barbara Carabello

Typed: Barbara Carabello

Title: Criminalist



EMAIL EXPRESS

REPLY	REPLY ALL	FORWARD	PRINT	DELETE	ADDRESSES
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From:	Jesse Black
Date:	May 14, 2003, 5:02 pm
To:	GF Juniors and Seniors
Subject:	Face-Off

Hey Everybody!
This is the announcement you've been waiting for!
Get ready for anything at the annual junior-senior Face-Off. It's sure to be a great time.

Join us at the Edge...mark your calendars NOW!
Saturday, June 7, 2003
3 pm - 'til the sun don't shine
Jesse

P.S. Let's keep it clean. No alcohol or drugs.



GREENSBOROUGH MEDICAL FACILITY/ EMERGENCY ROOM REPORT

The patient was seen by Dr. Freddie Lang at approximately 10:30 p.m. on the 7th of June, 2003.

CHIEF COMPLAINT: The patient complains of chest pain, back pain, and knee pain/ stiffness.

HISTORY OF PRESENT ILLNESS: not applicable

PAST MEDICAL HISTORY: Admitted for appendicitis in the winter of 1993 and was treated successfully. History of patient otherwise unremarkable.

ALLERGIES: None.

CURRENT MEDICATIONS: not applicable

PHYSICAL EXAMINATION:

VITAL SIGNS: Blood pressure 125/76, pulse 60, respirations 18, temperature 96.5.

GENERAL: The patient is well-developed and well-nourished in no acute distress. The patient is alert and oriented and lying relatively comfortably on the bed.

NECK: Supple with full range of motion. No rigidity or meningismus.

CHEST: Patient complains of pain in chest and back, attributable and characteristic of broken ribs. Redness and tenderness present, also attributable to broken ribs.

LUNGS: Clear to auscultation.

HEART: Regular rate and rhythm. No murmur.

ABDOMEN: Soft, nondistended, nontender with active bowel sounds. No masses or organomegaly. No costovertebral angle tenderness.

EXTREMITIES: Lacerations on face and chest, no stitches required. Bruising and extensive swelling on knee cap. Otherwise, unremarkable.

NEUROLOGIC: Unremarkable.

EMERGENCY DEPARTMENT LABS: The patient had a CBC, minor chemistry, and cardiac enzymes, all within normal limits. Chest x-ray, as read by me, indicated three broken ribs. Electrocardiogram, as read by me, showed normal sinus rhythm with no acute ST or T-wave segment changes. There were no acute changes seen on the electrocardiogram. O2 saturation, as interpreted by me, is 99%. Knee x-ray, as read by me, indicated no breaks.

EMERGENCY DEPARTMENT COURSE: The patient had a stable, uncomplicated emergency department course. The patient received 800mg of ibuprofen with some relief of chest and knee pain. The patient also received topical antibiotic ointment for lacerations suffered on face.

AFTERCARE AND DISPOSITION: The patient was discharged from the emergency department in stable, ambulatory, good condition with instructions to use Ibuprofen for chest and knee pain and to follow up with regular doctor in the next one to two days. Additional treatment of sprained knee was suggested using the standard RICE formula (Rest, Ice, Compression, Elevation). Rest the knee while it aches and ice it intermittently several times a day. Wrap it in an elastic bandage in between icings and keep it elevated as much as possible. Otherwise, return to the emergency department as needed for any problem. The patient was given a copy of labs and electrocardiogram. The patient was advised to decrease level of activity for the next several weeks until healing of knee and ribs could occur. Patient was provided crutches upon leaving the hospital. The patient left with final diagnosis of:

Three fractured ribs	Severely sprained knee	Lacerations on face
Dr.'s Signature: <u>Freddie Lang, M.D.</u>		Date: <u>6.7.2003</u>

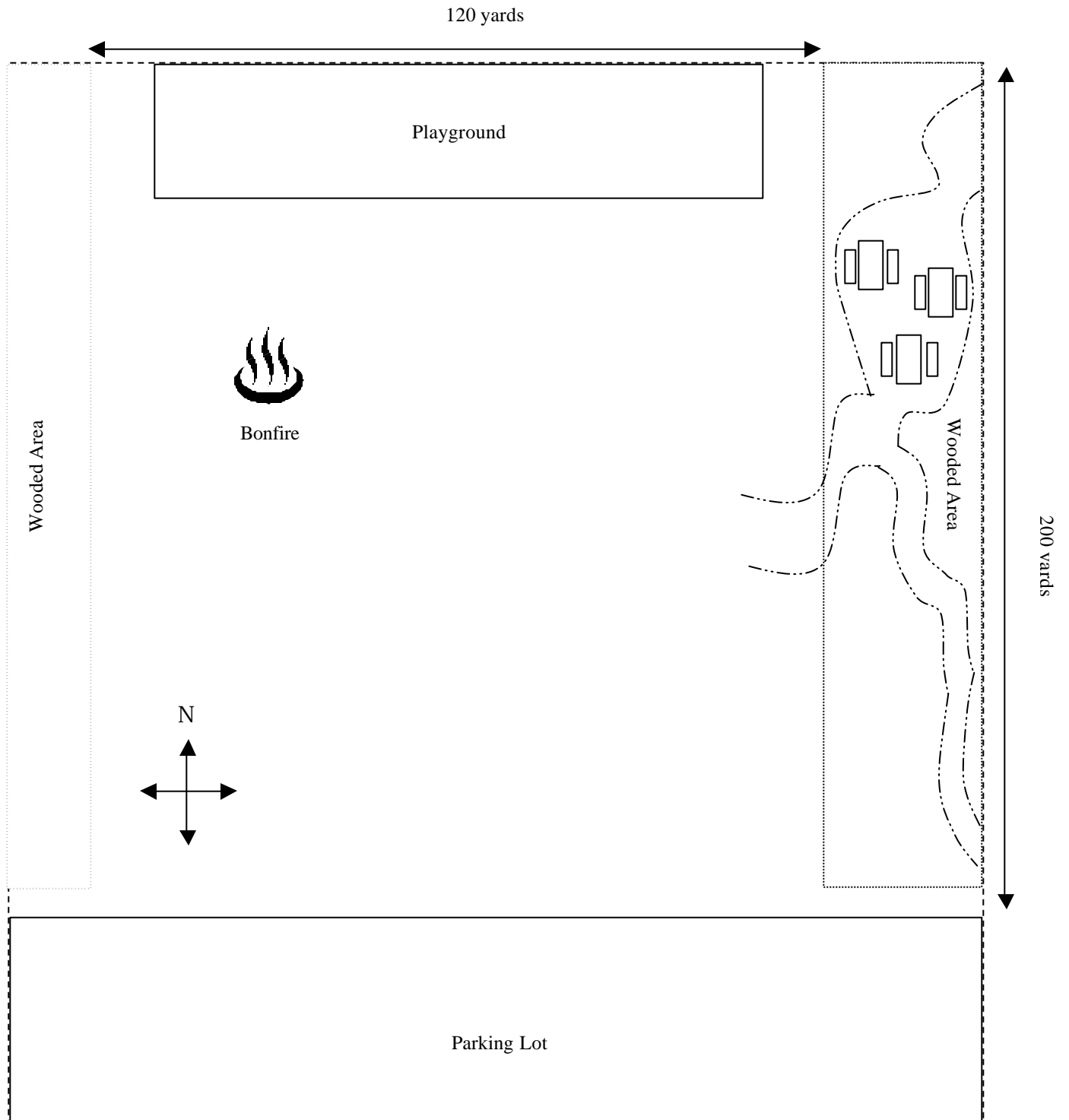


**POLICE DEPARTMENT
GREENSBOROUGH COUNTY, MARYLAND**

**FORM: 83/11
OFFENSE / INCIDENT REPORT
PAGE 1 OF 1**

1.) Juvenile's Name (Last, First, MI): Black, Jesse, M.		2.) Age: 18	3.) Complaint No. 039G13080	
4.) Address: 31 Pinedale Drive		5.) City: Greensborough	6. State: MD	7.) Zip: 22993
8.) DOB: 1/26/1985	9.) Res. Phone: 301.555.2789	10.) School: Green Forest High School		11.) Grade: 12
12.) Photo? <input checked="" type="checkbox"/> Y ? <input type="checkbox"/> N	13.) Finger Printed? <input checked="" type="checkbox"/> Y ? <input type="checkbox"/> N	14.) Nickname: n/a	15.) Place of Birth: MD	
16.) Incident: Criminal Hazing, Second Degree Assault, Reckless Endangerment			17.) Date of custody: 06/08/03	
18.) Sobriety: sober	19.) Narcotic: ? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	20.) Time: 3:05 p.m.		
22.) Location of Incident: field at Greensborough Community Park, aka "the Edge"				
23.) Reporting Officer: Cpl. Taka Noprizners #32				
24.) Released to (Signature): n/a, own recognizance		Date & Time: 06/08/2003, 6:55 p.m.		
25.) Releasing Officer: Phillip Moore		Signature, Releasing Officer: <i>Phillip Moore</i>		
26.) Narrative: At the Edge I ascertained who was injured and spoke with a number of witnesses. The A.V. identified Jesse Black as the A.P. After determining the injuries were not life threatening I asked the A.V. if transport to the ER was requested. The A.V. asked that I call the parents. The next day I visited a number of students including Lu Blick, whom I spoke with at length. The E.W. identified Jesse Black as the A.P. I then proceeded to the A.P.'s house, followed the Miranda arrest procedures and the A.P. was arrested without incident from family's house, transported to the District HQ, processed and released on own recognizance.				
<p>IMPORTANT NOTICE FROM THE CIRCUIT COURT OF GREENSBOROUGH COUNTY, DIVISION FOR JUVENILE CAUSES</p> <p>You will receive a summons if a complaint is filed with the Greensborough Circuit Court. You are required to notify the Court Clerk's Office, Room 119 Courthouse, Mackly and Frankfurt Streets, 22993, 301-555-6787 of any change of address for you. Failure to obey a Court summons or give notification of change of address will result in re-arrest and a proceeding against you for Contempt of Court.</p> <p>I acknowledge receipt of this notice: <i>Jesse Black</i> Date: <u>6/8/2003</u></p>				

**Greensborough Crime Scene Unit
Crime Scene Map
Location: Greensborough Community Park
Complaint #: 039G13080
Investigator: Charlie Beck**



The Reality of Hazing

According to StopHazing.org “frequent misconceptions about hazing include the idea that hazing is nothing more than harmless pranks and that it is a practice largely isolated to college fraternities. The reality is that hazing activities occur in many different arenas.” Hazing at any age can be exceedingly harmful, but particularly so at the high school level, “because the developmental stages of adolescence create a situation in which many students are more vulnerable to peer pressure. Further, danger of hazing at the high school level is heightened by the lack of awareness and policy development and enforcement around this issue.”

“A major part of the problem is the lack of understanding among the general population about hazing. Hazing practices in high schools are often overlooked and dismissed as mere “traditions” because students, parents, teachers, coaches and administrators do not understand the definition of hazing and how it operates in society. Many who are aware of hazing activities do not concern themselves with confronting the behavior because of the popular myths and misconceptions that are attached to the term. Hazing is not about harmless traditions or silly antics—hazing is about abuse of power and violation of human dignity.”

Information below provided by: Hoover, Nadine C., Ph.D. and Pollard, Norman J., Ed.D. *Initiation Rites in American High Schools: A National Survey*. Alfred University. August, 2000.

Hazing is prevalent among American high school students.

- 48 percent of students who belong to groups reported being subjected to *hazing* activities.
- 43 percent reported being subjected to *humiliating* activities.
- 30 percent reported performing potentially illegal acts as part of their initiation.

All high school students who join groups are at risk of being hazed.

- Both female and male students report high levels of hazing, although male students are at highest risk of *dangerous* hazing.
- Almost every type of high school group had significantly high levels of hazing. Even groups usually thought to be safe haze new members. For example, 24 percent of students involved in church groups were subjected to hazing activities.

Hazing starts young and continues through high school and college.

- Twenty five percent of those who reported being hazed were first hazed before the age of 13.
- Dangerous hazing activities are as prevalent among high school students (22%) as among college athletes (21%).
- Substance abuse in hazing is prevalent in high school (27%) and increases in college (51%).

Hazing was defined as “any humiliating or dangerous activity expected of you to join a group.”

Humiliation was defined as socially offensive, isolating or uncooperative behaviors.

Dangerous hazing was defined as hurtful, aggressive, destructive and disruptive behaviors.

Percent of students subjected to hazing behaviors.

Humiliation	Percent of students subjected to hazing behaviors.			Dangerous Hazing	Percent of students subjected to hazing behaviors.		
	Male	Female	Total		Male	Female	Total
Be yelled, cursed, or sworn at	20%	14%	17%	Make prank phone calls or harass others	11%	9%	10%
Associate with specific people, not others	15%	16%	16%	Destroy or vandalize property	10%	8%	9%
Act as a personal servant to older members	14%	11%	12%	Steal, cheat, or commit a crime	9%	7%	8%
Undress or tell dirty stories or jokes	12%	10%	11%	Beat up others or pick a fight with someone	9%	5%	7%
Embarrass yourself publicly	10%	13%	11%	Inflict pain on self, brand, participate in satanic rite	5%	6%	6%
Be thrown into a pool, ocean, pond, or toilet	12%	8%	10%	Be tied up or exposed to extreme cold	7%	5%	6%
Skip school/ refuse to do school work/ chores	10%	10%	10%	Be physically abused or beaten	8%	5%	6%
Tattoo, pierce, or shave yourself or each other	11%	8%	9%	Be cruel to animals	4%	3%	3%
Eat or drink disgusting things	8%	9%	8%	One or more dangerous hazing activity	27%	17%	22%
Deprive yourself of food, sleep, or cleanliness	8%	7%	7%				
One or more humiliating hazing activity	48%	39%	43%	Substance Abuse	Male	Female	Total
				Drink alcohol	16%	11%	13%
				Participate in drinking contests	13%	10%	12%
				Smoke cigarettes or cigars, or use tobacco	12%	10%	11%
				Use illegal drugs	12%	9%	11%
				Drink or exercise until you pass out	11%	8%	9%
				One or more substance abuse activity	24%	18%	23%

Applicable Law
MARYLAND CRIMINAL LAW (2002)

§ 3-607. **Hazing**

(a) Prohibited. -- A person may not recklessly or intentionally do an act or create a situation that subjects a student to the risk of serious bodily injury for the purpose of an initiation into a student organization of a school, college, or university.

(b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$ 500 or both.

(c) Prohibited defense. -- The implied or express consent of a student to **hazing** is not a defense under this section.

ELEMENTS OF OFFENSE. --The anti-**hazing** statute only reaches conduct "which recklessly or knowingly subjects a student to the risk of serious bodily injury," and enforcement only occurs when serious bodily injury is actually sustained. *McKenzie v. State*, 131 Md. App. 124, 748 A.2d 67 (2000).

§ 3-201. **Definitions**

(a) In general. -- In this subtitle the following words have the meanings indicated.

(b) **Assault**. -- "**Assault**" means the crimes of **assault**, battery, and **assault** and battery, which retain their judicially determined meanings.

(c) Serious physical injury. -- "Serious physical injury" means physical injury that:

- (1) creates a substantial risk of death; or
- (2) causes permanent or protracted serious:
 - (i) disfigurement;
 - (ii) loss of the function of any bodily member or organ; or
 - (iii) impairment of the function of any bodily member or organ.

§ 3-203. **Assault in the second degree**

(a) Prohibited. -- A person may not commit an **assault**.

(b) Penalty. -- A person who violates this section is guilty of the misdemeanor of **assault** in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$ 2,500 or both.

§ 3-204. **Reckless endangerment**

(a) Prohibited. -- A person may not recklessly:

- (1) engage in conduct that creates a substantial risk of death or serious physical injury to another; or
- (2) discharge a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another.

(b) Penalty. -- A person who violates this section is guilty of the misdemeanor of reckless endangerment and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$ 5,000 or both.

(c) Exceptions. --

- (1) Subsection (a)(1) of this section does not apply to conduct involving:
 - (i) the use of a motor vehicle, as defined in § 11-135 of the Transportation Article; or
 - (ii) the manufacture, production, or sale of a product or commodity.
- (2) Subsection (a)(2) of this section does not apply to:
 - (i) a law enforcement officer or security guard in the performance of an official duty; or
 - (ii) an individual acting in defense of a crime of violence as defined in Article 27, § 441 of the Code.

Appendix A: Guidelines for Attorney Coaches

Please also refer to Appendix B: Guidelines for Judges.

I. Approaches to Student Coaching

A. Initial Sessions

The first session with a student team should be devoted to the following tasks:

- Answering questions that students may have concerning general trial practices;
- Discussing court etiquette
- Explaining the reasons for the sequence of events/procedures found in a trial;
- Listening to the students' approach to the assigned case; and
- Discussing general strategies as well as raising key questions regarding the enactment.

B. Subsequent Sessions

Subsequent sessions should center on the development of proper questioning techniques by the student attorneys and sound testimony by the witnesses. Here, an attorney can best serve as a constructive observer and critical teacher—listening, suggesting, and demonstrating techniques to the team.

Students develop a better understanding of the case and learn more from the experience if the attorney coaches **do not** figure out the angles, fill in the gaps, and determine trial strategy for the team. Coaching, guiding, and asking questions of the students is far more beneficial than telling them how to proceed.

If the competition is to realize its full potential, it is crucial that you help discourage a “win-at-all-costs” attitude among your team members. Please coach your team on proper decorum when a case, or decisions throughout the case, are not decided in their favor.

It is extremely important that students are coached on and understand the “human” element of judging and how that fits into the nature of our judicial process. Part of your focus should rest upon the fact that law is not black and white, and that individuals will interpret the law differently. Similarly, as in the real world court proceedings will vary in relation to the presiding judge; accordingly, scores, interpretations, and outcomes will vary. What is permitted in one courtroom may not be permitted in another; what is successful in one case, may not be successful in another.

After twenty successful years, it has been shown time and time again that the best teams are those that view defeats as opportunities to learn. Debriefing with team members after wins and losses helps everyone to improve their skills and increase their understanding of the law.

II. Time Commitment

There is no pre-determined amount of time that attorney coaches are expected to spend coaching their teams. Some attorneys are available for one to two sessions per month, and others are available on a daily or weekly basis. Attorneys who have caseloads which do not permit them to coach in the afternoons have worked with teams on weekday evenings or weekends.

While most teams work with one attorney coach throughout the competition season, there are a handful of teams which have opted for a “team” of attorney coaches, so that the time commitment of each attorney is decreased.

Appendix B: Guidelines for Competition Judges

I. Procedures for Scoring Competitions

Rankings are determined by both wins and points. Therefore, it is essential that the presiding judge carefully rate each team on all elements listed on the Performance Rating Sheet.

A. Special Point

Always award the Special Point immediately after the close of the trial, and before adding the scores. This point will be used only in the event of a tie.

B. Decorum

Please be sure to score each teams' overall performance in decorum in the space provided on the rating sheet.

C. Announcing Your Decision

1. After awarding, tallying and double-checking the rest of the scores, your first announcement to the teams should focus on the general student performance, decorum, and legal understanding that you just witnessed.
2. Your second announcement should be which team prevailed, based on the merits of the case.
3. Your last announcement should declare who prevailed based on student performance (the score sheet).

II. Time Limitations

Students have been asked to limit their presentations to the timeframes listed below. It is particularly helpful for teams to know in advance how you will handle the time guidelines. Some judges prefer to give a warning, for instance, when there is one minute left; others expect students to be mindful of the time on their own. Still others prefer not to watch the time at all, though this has, at times, led to lengthy competitions. Students should not base an objection on the time. This is left to your discretion as the presiding judge. Competitions should last approximately 1 ½ to 2 hours.

- Opening/Closing Statements— 5 minutes each;
- Direct Examination— 7 minutes/witness;
- Cross-Examination—5 minutes/witness;
- Voir Dire, as part of cross-examination—2 minutes per expert witness (in addition to the 5 minutes permitted for the cross-examination); and
- Re-Direct and Re-Cross Examination— 3 minutes and a maximum of 3 questions

III. Mock Trial Simplified Rules of Evidence

The rules of evidence governing trial practice have been modified and simplified for the purposes of mock trial competitions. They are to govern proceedings. Other more complex rules are NOT to be raised during the trial enactment.

Attorneys and witnesses may neither contradict the Statement of Facts or Affidavits, nor introduce any evidence that is not included in this packet of materials. As with any perceived violation of a rule of evidence, students should object or request a bench conference.

IV. Trial Procedures

A. Motions to Dismiss

The purpose of the competition is to hear both sides; therefore, motions to dismiss, etcetera, are not allowed. There shall be no sequestration of witnesses at any time during the trial. If such a motion is made, the motion MUST be denied.

B. Opening/ Closing Arguments

Competition procedures permit only one opening and one closing statement for each team. In Mock Trial Competition, the Defense Team will always make the first closing argument, followed by the Prosecution/Plaintiff. There is no rebuttal in Mock Trial.

C. Direct and Cross Examinations

Each attorney (three for each side) must engage in the direct examination of one witness and the cross-examination of another.

**Maryland State Bar Association
2003-2004
STATEWIDE HIGH SCHOOL MOCK TRIAL COMPETITION**

Registration Deadline.....Thursday, November 6, 2003
Mock Trial Guides Distributed to teams who have registered and paid by 11/6/03...Friday, November 7, 2003
Circuit Competitions (1st level of competition).....January 5-March 30, 2004

**Note: All Circuit competitions MUST be declared to CLREP no later than 5:00 p.m.
on Tuesday, March 30, 2004.**

Regional Competitions (2nd Level).....Monday, April 19- Tuesday, April 20, 2004
(The eight Circuit Champions compete against one another in a single elimination round)

Semi-Final Competitions: Annapolis, MD.....Thursday, April 29, 2004

Statewide Finals: Annapolis, MD.....Friday, April 30, 2004

**Note: All competition dates are final.
A change by the Chief Judge of the State of Maryland is the only exception.**

Organizing Local Competitions

The Citizenship Law-Related Education Program will:

- a. provide Mock Trial Guides and rules for each State competition;
- b. disseminate information to each circuit;
- c. provide technical assistance to Circuit Coordinators;
- d. provide all registered participants who compete for the season with a certificate of participation;
- e. assist in recruitment of schools;
- f. act as a liaison in finding legal professionals to assist teams;
- g. develop press releases, beginning at the Regional Level of Competition.

The role of the Bar Association is:

- a. to advocate involvement of local attorneys in preparing teams and hearing trials;
- b. to provide support to schools;
- c. to assist the Circuit Coordinator.

The role of the Circuit Coordinator is:

- a. to make decisions/ mediate at the local level when problems or questions arise;
- b. to establish the circuit competition calendar;
- c. to arrange for courtrooms, judges, and attorneys for local competitions;
- d. to inform and attempt to recruit all schools in the circuit;
- e. to work with the local Bar Associations to set court dates, recruit attorney advisors, and establish local guidelines;
- f. to arrange general training sessions if necessary.

The role of the individual school/teacher coach is:

- a. to DEMONSTRATE that winning is secondary to learning;
- b. to coach and mentor students about the “real-world” aspect of judging in competitions;
- c. to teach sportsmanship, team etiquette and courtroom decorum;
- d. to recruit students for the team;
- e. to arrange training sessions and scrimmages;
- f. to arrange transportation to competition
- g. to supervise the team during practices and competitions;
- h. to work with partners to recruit attorney advisors;
- i. to ensure that the team arrives at all scheduled mock trial competitions.

Mock Trial State Champions

2002-2003

Elizabeth Seton High School, Prince George's County

2001-2002

Towson High School, Baltimore County

2000-2001

DeMatha Catholic High School, Prince George's County

1999-2000

Broadneck High School, Anne Arundel County

1998-1999

Towson High School, Baltimore County

1997-1998

Pikesville High School, Baltimore County

1996-1997

Suitland High School, Prince George's County

1995-1996

Towson High School, Baltimore County

1994-1995

Pikesville High School, Baltimore County

1993-1994

Richard Montgomery High School, Montgomery County

1992-1993

Elizabeth Seton High School, Prince George's County

1991-1992

Oxon Hill High School, Prince George's County

1990-1991

Westmar High School, Allegany County

1989-1990

Bishop Walsh High School, Allegany County

1988-1989

Lake Clifton/Eastern High School, Baltimore City

1987-1988

Pikesville High School, Baltimore County

1986-1987

Thomas S. Wootton High School, Montgomery County

1985-1986

Old Mill High School, Anne Arundel County

1984-1985

High Point High School, Prince George's County

1983-1984

Worcester County Team