

2005 DELAWARE HIGH SCHOOL MOCK TRIAL COMPETITION

Presented by the

**Delaware Law Related Education Center, Inc.
301 N. Market Street
Wilmington, DE 19801**

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2005 Delaware Official Mock Trial Packet
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Rationale of the Delaware Mock Trial Competition

The Mock Trial activity has proven to be an effective and popular part of a comprehensive, law-focused program designed to provide students with an operational understanding of the law, legal issues, and the judicial process. Part of the appeal of a mock trial is the fun involved in preparing for and participating in a trial. Mock trials are exciting, but more importantly, they provide invaluable learning experiences.

Participation in and analysis of mock trials provides the students with an insider's perspective from which to learn about courtroom procedures. Mock trials help students gain a basic understanding of the legal mechanism through which society chooses to resolve many of its disputes. And while obtaining this knowledge, students develop useful questioning, critical thinking, and oral advocacy skills, as well as significant insight into the area of law in question.

The mock trial activity also provides an opportunity to incorporate field experiences and community resource persons into the educational process. Visits to local courts will make the activity a more meaningful learning experience. Inviting judges, attorneys, teachers, and other members of the community to take part in the mock trial will help bridge the gap between the simulated activity and reality, and also will provide an opportunity for the resource people to share their knowledge and experience with the students. Finally, the mock trial will give students practical knowledge about courts and trials which can be invaluable should they ever be jurors or witnesses in a real trial or principals in a legal action.

(Taken in part from *Update on Law-Related Education*, Winter, 1978. *Update* is an American Bar Association publication.)

Goals of the Delaware Mock Trial Competition

Benefits of the mock trial program extend beyond the rewards of competing against one's peers or winning a round of competition. The impact of the program is measured by successfully attaining the following objectives:

- to further understanding of court procedures and the legal system;
- to improve proficiency in basic skills of listening, speaking, reading and reasoning;
- to promote better communication and cooperation between the educational and legal communities;
- to provide a competitive event in an academic atmosphere; and
- to promote cooperation among students of various abilities and interests.

Education of high school students is the primary goal of the mock trial program. Healthy competition helps to achieve this goal. However, teachers are reminded of their responsibilities to keep the competitive spirit at a reasonable level. The reality of the adversary system is that one part wins and the other loses, and teachers should be sure to prepare their students to be ready to accept either outcome in a mature manner. Teachers can help prepare students for either outcome by placing the highest value on excellent preparation and presentation, rather than winning or losing the case.

Students need to be prepared for the agony of defeat as well as how to win with class. Hurt feelings, anger, and frustration are not the objectives of mock trial. We hope students view the event as a *fun* and exciting learning experience. An admonition to all students, sponsors, and coaches: "Lighten up and have a good time," regardless of the competition outcome!

Delaware High School Mock Trial Program Code of Ethical Conduct

The following Code of Conduct is to be read and sign by all team participants, faculty coaches and attorney advisors. The signed copies are to be presented to the Executive Director of the Delaware Law Related Education Center, along with the team roster prior to the beginning of the Competition.

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

As a means of diligent application of the Delaware Mock Trial Competition Rules, the Delaware Law Related Education Center encourages all participants to follow the Code of Ethical Conduct:

1. Team members promise to compete with the highest standards of deportment, showing respect for their fellow team members, opponents, judges, evaluators, attorney coaches, teacher coaches and Mock Trial personnel. All competitors will focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly, and with the utmost civility. Members will avoid all tactics they know to be wrong or in violation of the Rules, including the Invention of Facts. Members will not willfully violate the Rules of the competition in spirit or practice.
2. The student presentations shall be the work product of the students themselves. It is important that the opening and closing arguments, direct and cross examinations, testimony and all other presentations be the students' work, rather than the narration of words prepared by an adult.
3. Teacher coaches agree to focus attention on the educational value of the Mock Trial Tournament. They shall discourage the willful violation of the Rules. Teachers will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the competition Rules and this Code of Ethical Conduct.
4. Attorney Coaches agree to uphold the highest standards of the legal profession and will zealously encourage fair play. They will promote conduct and decorum in accordance

with the competition Rules and this Code of Ethical Conduct. Attorney coaches are reminded that they are in a position of authority and thus serve as positive role models for the students.

5. Attorney coaches and other legal advisors can help the team as constructive observers and critical teachers, by listening, suggesting, and demonstrating to a team. An attorney coach or legal advisor should:

- * Discuss the legal issues raised in the case;

- * Answer questions concerning general trial procedures;

- * Explain the reasons for and the sequence of the events and the procedures found in a trial;

- * Listen to the students' approach to the case; and

- * Discuss general strategies and raise key questions regarding the students' enactment of their roles in the trial.

6. All participants (including observers) are bound by all sections of this Code and agree to abide by its provisions. Teams are responsible for insuring that all observers are aware of the Code.

Signatures:

**2005 DELAWARE HIGH
SCHOOL
MOCK TRIAL COMPETITION**

PROBLEM

Pat Haddas vs Lou Temony

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

Pat Haddas, Personal)	
Representative of the Estate of)	Docket 4037
EDWARD HADDAS, Deceased)	
)	Page 999
Plaintiff,)	
)	
)	
vs.)	
)	
Lou Temony,)	
)	
Defendant.)	

Statement of the Facts

At approximately 8 p.m. on Friday, May 14, 2004, Pat Haddas gave his son Ed and Ed's best friend, Lee Freund, a ride to Lagoonville at the Waterfront in Wilmington, Delaware. As a graduation gift Pat bought Ed and Lee, 18-year-old seniors at Nobel High School, tickets to hear The Flaming Freaks, with lead singer Chris "8" Track.

During the concert the band ignited some fireworks. During the band's encore, somehow the fireworks ignited the curtains in the stage area. In the ensuing panic to exit the Ed Haddas was trampled to death. Pat Haddas, on behalf of his/her son's estate, is now suing the owner of Lagoonville, Lou Temony, for the negligence that caused Ed's death.

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
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Pat Haddas, Personal)	
Representative of the Estate of)	Docket 4037
EDWARD HADDAS, Deceased)	
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Plaintiff,)	
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vs.)	
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Lou Temony,)	
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Defendant.)	

Witnesses, Exhibits, Stipulations & Legal Authorities

Witnesses for the Plaintiff

Pat Haddas
Lee Freund
Inspector Jerri Goddart

Witnesses for the Defense

Lou Temony
Chris Track
Jackie Berger

Exhibits

1. Hand-held tally counter
2. Floor plan of ballroom
3. Death certificate
4. Label for fireworks
5. Photo of beer cans
6. 8-track's guitar

Both sides stipulate to the following facts:

Stipulations

1. All exhibits included in the case are authentic and accurate in all respects. No objections to the authenticity of the exhibits will be entertained.
2. The signatures on the witness statements are omitted due to the electronic delivery of the case.
3. The requirements for venue have been met.
4. Whenever a rule of evidence requires that reasonable notice be given, it has been given.
5. If the medical examiner were to testify at this trial, she would testify that Ed Haddas died as a result of blunt force trauma to the head and chest areas of his body; that the death has been ruled accidental, not criminal; that the approximate time of death was 12:30 a.m. on May 15, 2004.
6. Exhibit 5 is a true and accurate depiction of a photograph of beer cans. The photograph was taken by the Wilmington Police Department at Pat Haddas' house on the morning of May 15, 2004.

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Deposition of Pat Haddas

1. My name is Pat Haddas. I lost my son Ed in the fire at the Lagoonville
2 at approximately 12:30 a.m. on Saturday, May 15, 2004. I can't begin to
3 describe the devastation I feel. Ed was more than any parent could ever ask for in a son,
4 particularly in view of the fact that his mother/father passed away when he was only six
5 years old. He weathered that emotional storm, however, and became a genuinely
6 outstanding kid who was scheduled to graduate in the top 3% of his class from
7 Wilmington Nobel High School on June 7th. Perhaps because of the loss of his
8 mother/father Ed and I were particularly close as he grew up. We had many wonderful
9 times together with his younger sister, Sandy, who's now 15. He was such an outstanding
10 influence on her. In many ways she has lost not only a sibling, but also a second parent.
11 Ed was a skilled musician. He was twice selected for the Delaware All-State
12 Band, and was actually the first chair trumpet player his senior year. He didn't have a
13 mean bone in his body. Everybody liked him and looked to him as a natural leader. I think
14 this had everything to do with his election as president of his senior class and his election
15 as president of the Nobel chapter of the National Honor Society. Athletically Ed seemed
16 to be a natural. He started at defensive back for the Nobel Wizards football team from his
17 sophomore year on and was picked for the all conference team his junior and senior
18 seasons. His senior season he actually received honorable mention for the all-state team.
19 He started on the basketball team as a sophomore, but ultimately gave up basketball to
20 concentrate on his debating skills during his last two years of high school. That seemed
21 to have been a good decision. He was a member of the state championship debate team
22 both years. He also loved baseball, and started as shortstop for the Wizards throughout
23 his high school career.
24 Academically Ed was always exceptional. He hit the jackpot when he managed a
25 perfect score on the SAT test last summer. As a result of that score, his high school
26 academic record and his extracurricular participation, he was offered and had accepted a
27 full scholarship to attend Yale University in New Haven, Connecticut, beginning in
28 September, 2004. He planned to major in molecular biology with an ultimate eye toward
29 medical school. Ed honestly had the world on a string.

29 Unfortunately, Ed's world came crashing down around him on May 15th. On the
30 evening of the fire, Lee Freund, Ed's best friend who's also 18 years old and a senior at
31 Nobel, came to the house at about 6:30 just as Ed, Sandy and I were finishing up the
32 dinner dishes. Ed asked me to give them a ride to the club so they could hear some punk
33 band and watch the fireworks for which the band was apparently well known. Ed's car
34 was out of commission with transmission troubles. Lee, unfortunately, had lost his/her
35 license when he was cited under Delaware's zero tolerance law regarding alcohol
36 consumption by minors. I think Ed was trying hard to help Lee deal with his/her alcohol
37 problems. I tried not to get in the way.

38 On the way to the club at about 8:00 p.m., I noticed the smell of alcohol in the car.
39 It didn't occur to me that Ed had been drinking. I simply assumed that Lee had consumed
40 something of an alcoholic nature before he came to our house. It wouldn't have been all
41 that unusual. I dropped the kids off a block or so from the front entrance to the club. I
42 think they didn't want their friends to see that Ed's mom/dad had given them a ride. Lee
43 was very self conscious about having lost his license. From the club I drove directly
44 home.

45 When I returned to our house at about 8:30 on Friday evening, I decided to take
46 the garbage out and pull the dumpster to the curb since the garbage truck was scheduled
47 to be there early Saturday morning. I opened the lid to the dumpster and noticed a paper
48 bag which appeared to have been partially hidden beneath some other refuse in the
49 container. When I dropped the bag of garbage on the hidden paper bag, I detected the
50 distinct sound of aluminum cans clanging together. Out of curiosity I pulled out the
51 paper bag and opened it. Inside I discovered 12 empty Bud Light cans. I knew the cans
52 weren't mine. I hate Bud Light. I put two and two together and realized almost
53 immediately that both the kids must have consumed these beers before I took them to the
54 club. It occurred to me to drive straight back to the club, find them and make them come
55 home, but I figured they couldn't get more beer at the club since they're both minors. I
56 understood that the show at the club was an "all ages" show and that they would be
57 required to show identification if they were to secure any more alcohol. I guess it didn't
58 really occur to me that one or both of them might have fake IDs. I thought they would
59 probably sober up and be just fine by the time the concert was over.

60 At about 12:45 a.m., I returned to the club expecting to pick up the kids. The
61 place was absolutely chaotic. There were flashing police car and fire engine lights
62 everywhere and people were milling all over the parking lot. I saw several police officers
63 talking with somebody, like he/she knew something about what was going on. I guess I
64 started to panic somewhat when I saw the mob scene. I ran over to the person the officers
65 were talking to. I grabbed his/her arm and yelled, "Where's my son?" He/she gave me a
66 strange, distant look and said, as if to no one in particular, "I had no idea they would be
67 so big." A police officer nearby whose name tag said "Officer K. W. Sprang" told me
68 that the person I'd just spoken with was Lou Temony, the owner of the club, and that
69 Mr./Ms. Temony knew before the concert started that the fireworks the band had brought
70 would likely cause problems. Having now seen Mr./Ms. Temony I recognize him/her as
71 the person with whom I spoke during the chaos at the club that night. After I spoke with
72 the police officer I tried to find a way inside the building, but the entrances were all
73 blocked and sentries were posted. I did, however, look inside and saw what appeared to
74 be a body on the dance floor surrounded by officials of one sort or another. I was

74 absolutely horrified at that point. I knew I couldn't find Ed and for some unexplained
75 reason, I knew the body on the dance floor must be his.

WITNESS ADDENDUM

I have reviewed this statement and I have nothing of significance to add. The material facts are true and correct.

Signed,

Pat Haddas

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2004-2005 Delaware State High School Mock Trial Competition.

Stephanie Bean Lorson, Notary Public
My Commission Expires: December 31, 2004

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
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Deposition of Lee Freund

1 My name is Lee Freund. I am 18 years old, and I graduated in June from
2 Wilmington Nobel High School. I was Ed’s best friend. I knew Ed since the 7th grade.
3 We met in band at Wilmington’s Thomas Garrett Junior High School. We became friends
4 immediately because we both love music. When Ed and I turned sixteen, we both got
5 jobs at the local record store, Only Vinyl.

6 That’s where we first heard about the band, Flaming Freaks. Ed really loved the
7 lead singer, “8-track,” and always said that he thought “8-track” was very talented.

8 We were both very excited when we heard about
9 the Flaming Freaks concert at The Lagoonaville, especially when we found out it was an
10 “All Ages Show.” For Ed’s graduation present, Pat Haddas bought us tickets to the
11 concert.

12 On May 14, 2004, the day of the show, I met Ed at his house. Pat Haddas
13 agreed to drive us to the concert so we didn’t have to worry about parking. Besides, Ed’s
14 car was in the shop—transmission problems, and my own driver’s license was suspended
15 under 16 the zero tolerance violation rule. Ed’s mom/dad also said “the concert was a
16 special occasion.” While we were getting ready for the concert at Ed’s house, Ed got out
17 some beer. I think our friend from the record store, Joey, bought the beer for Ed, because
18 Ed said, “Have one on Joey” when he cracked open the beer can. We each had a couple
19 of beers before we left for the concert. I’m not sure exactly how many beers either one of
20 us had to drink, but I was feeling a little buzzed.

21 When we got to the concert, we had to
22 show our IDs to the bouncer. All of the people who were under 21 received wristbands
23 that were neon orange. All of the people who were over 21 received wristbands that were
24 neon green. There were a lot of people in line waiting to get inside. There were some
25 tables set up by the door where the bouncer was checking IDs. They were set up so that
26 you could only get in one at a time. The people in line were getting pretty ticked off
27 about how long it was taking the bouncer to check IDs. A couple of people even started
28 yelling at the bouncer, and he looked really stressed out and was looking at the IDs very
29 quickly.

30 Ed and I each got out our IDs to show the bouncer. I showed the bouncer my ID
31 and received an orange wristband. Ed came in behind me so I didn't see him get his
32 wristband, but when we got inside, Ed said, "Cool!", and showed me a green wristband. I
33 don't know how he got the green wristband, but I've never known him to have a fake ID.
34 The bouncer must have misread the date of birth on Ed's ID.

35 While we were waiting for the concert to start, Ed went to the bar and got a beer.
36 I think he had a couple of beers during the whole evening. Ed gave me one of the beers
37 he bought. I still felt a little buzzed. I have seen Ed drunk before and he didn't seem that
38 drunk the night of the concert.

39 Once the concert started, we were able to push toward the middle of the crowd.
40 Ed really seemed to be having fun. As the concert went on, it seemed like there were
41 more and more people in the music hall. Toward the end of the concert, we could hardly
42 move. People were pushed against us from every direction.

43 During the show, the Flaming Freaks set off fireworks from the stage. It was
44 awesome! We had heard about the special effects at Flaming Freaks concerts and were
45 looking forward to seeing them. During their encore, the Freaks played their song, "Get
46 Away From Me." That's when the fireworks really kicked in. At first the crowd was
47 cheering, but I could tell there was a problem right away. Almost instantly the flames hit
48 the stage curtains. There was smoke everywhere. It was like an inferno.

49 Everyone started to panic, and there was a lot of confusion. It was pretty dark
50 without any lights on. I yelled to Ed that we needed to get out of there fast. We turned
51 toward the door we'd come in that night, but there were so many people. We pushed and
52 pushed toward the door we'd come in. I don't remember any other exits in the place. The
53 smoke and flames got worse. I do not remember the sprinklers going.

54 As we made our way to the door, I told Ed that I had dropped my cell phone. Ed
55 told me "Go ahead--I'll meet you outside," and headed back to where we had been
56 standing. There were so many people trying to get out the door. People were screaming
57 and coughing because of the smoke. Some of the girls were crying.

58 I was finally able to make my way to the door we'd come in that night. The
59 bouncer's tables near the door had been shoved toward the door by the crowd trying to
60 get out. We couldn't move the tables out of the way because there were so many people
61 pressed up against them, and more people were being shoved into them. I got all skinned
62 up and was black and blue for days. We were only able to exit the door single file.

63 Once I got outside, I couldn't find Ed. There was so much smoke pouring out of
64 the building. The fire department arrived shortly after I got outside. I tried to get back in
65 to find Ed, but they wouldn't let me in. I never saw Ed alive again.

WITNESS ADDENDUM

I have reviewed this statement and I have nothing of significance to add. The material facts are true and correct.

Signed,

Lee Freund

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2004-2005 Delaware State High School Mock Trial Competition.

Stephanie Bean Lorson, Notary Public
My Commission Expires: December 31, 2005

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Deposition of Inspector Jerri Goddard

1 My name is Inspector Jerri Goddard. I am a full-time building and codes inspector
2 for the City of Wilmington. I began this job last year, when my construction company
3 folded due to the recession. I am divorced and am raising my two teenage children
4 without help from my former spouse. I do not permit my children to attend the music
5 concerts at Lagoonville as I am unimpressed with the building and with the concerts.
6 My kids like this type of “music” but I can’t stand it.

7 I started building things in middle school. I had an uncle who was a jack-of
8 -all-trades, and I used to be his gopher. It gave me a real sense of accomplishment
9 whenever I could learn something new. I especially liked to know why things operate the
10 way they do.

11 I earned a Bachelor’s degree from Creighton University in Philosophy. I paid my
12 way through school by doing remodeling and repair jobs. Philosophers really do not earn
13 a lot of money so I started up my own construction company. I fixed a lot of homes
14 before I got this job.

15 The City gave me the two-volume, three-ring binder set containing the zoning
16 ordinances and the three-volume, three-ring binder set containing the building and safety
17 codes. It is my duty as a code inspector to observe and record my observations every
18 time I inspect a building. To train for my position, I rode along with Inspector Dole
19 during his last two weeks on the job. He did not seem too motivated.

20 Dole told me that Lou Temony was a penny pinching slug who drywalls over
21 defects rather than fix them. Dole said he had written up Lagoonville for
22 code violations in the past. However, I am uncertain if the violations occurred while
23 Temony has owned the building.

24 Dole and I inspected Lagoonville together in March of 2003. That inspection
25 revealed that the number of exit doorways was barely adequate for the listed occupancy
26 rate. The inspection also noted that several tables were too close to the exits. These tables
27 could operate to channel guests into a small bottleneck as they are trying to leave.
28 Temony was present during the inspection and told us that the tables were necessary to
29 prevent patrons from getting into the club without paying the cover charge. He also

30 explained that this is where identification is checked to tag minors with appropriately
31 colored wristbands.

The report also notes that there was no certificate showing when the emergency lighting system had replacement batteries installed. Temony could not remember when the batteries were changed last. I remember him/her saying something like "don't worry about it." I have not inspected the dance club since March of 2003. Exhibit Two is a true and accurate diagram of the building floor plan, drawn to scale. The occupancy for this building is set out in the code. This building will accommodate 300 people and that is the maximum occupancy permitted. The occupancy limit is a reflection of how many people can be safely inside a building at any one time. The number is determined by the number of exits, the structure of exits and the type of ventilation system available. It also takes into account whether there is an operational sprinkler system, the number of restrooms available and the proposed use of available space. A single doorway will not permit large numbers of people to leave in a hurry the same way that a double door will. That is obvious.

To my knowledge no permit to display fireworks has ever been requested for this building. Delaware Administrative Rules and Regulations Title 157, Chapter 3, Section 003 states, "Display permits shall be obtained by any person or organization intending to publicly exhibit or display fireworks." It is my opinion that it would be very dangerous to ignite fireworks inside Lagoonville because the club contains too much flammable material, the sprinkler system is old and may not operate properly and the ventilation system is, in my opinion, inadequate. It is also my opinion that the acoustic ceiling tiles, composed of old and less fire resistant materials than newer tiles, make the use of fireworks inside the club dangerous. The Lagoonville band stage is equipped with a retractable curtain, and it is my understanding that the curtain caught fire during the fireworks display that occurred on May 14, 2004.

After the fire was suppressed, I was allowed to enter the building with the fire investigators and police officers. They possessed the building inspection reports and acted as if I was negligent in not noticing safety hazards. They implied that I should have closed the place down. This fire was not my fault. However, it is my professional opinion that the fire investigators are correct in that the cause of the fire was fireworks igniting flammable materials positioned too close to the pyrotechnics.

Dole told me that the city used to inspect clubs like Lagoonville once every four months. However, due to budget restraints, it has been necessary to reduce the number of inspections and thus, reduce the frequency of inspections as well. It is unfortunate that someone did not request a permit to display fireworks. A request for a permit would have been denied without another inspection prior to issuing the permit to ensure that the club was not a fire hazard for such a display. It would also have resulted in an inspection of emergency lighting equipment and the sprinkler system. Additionally, if an inspection could not have been conducted before the concert, the club would have been told to not allow the fireworks display.

During the time I was in the club after the fire, I found a hand-held counter that appeared to be the type of device a business would use to keep track of the number of people who passed through the door. It was lying on the floor not far from the entrance. I picked it up and showed it to the fire investigators. They kept it. The numbers

71 displayed on the counter were 375. Of course, I don't know if some people left during
72 the show. Exhibit One looks like the device I found on the floor. The numbers on Exhibit
73 One read 375.

WITNESS ADDENDUM

I have reviewed this statement and I have nothing of significance to add. The material facts are true and correct.

Signed,

Jerri Goddart

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2004-2005 Delaware State High School Mock Trial Competition.

Stephanie Bean Lorson, Notary Public
My Commission Expires: December 31, 2005

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Deposition of Lou Temony, Defendant

1 My name is Lou Temony. I moved to Wilmington five years ago from Houston,
2 Texas. I was a professional tennis player until I was forced into retirement when I
3 suffered a career ending knee injury during the Australian Open. My spouse is from
4 Wilmington and talked me into coming here to raise our three children. They are now
5 students at Hockessin Middle School. My spouse is employed at CarbFree Foods, as
6 manager of the human resources department.

7 I own Lagoonville in Wilmington, Delaware. I bought the club for something to
8 do. I made a lot of money playing tennis and do not need a job, but thought it would be
9 fun to own a place where I can provide entertainment for the public. I have owned the
10 club for four years. Since becoming the club owner, I have hosted various music
11 concerts approximately six times per year. Normally, the concerts do not include a
12 fireworks display.

13 I did host a rock concert during my first year of operation and fireworks were part
14 of the entertainment. The band did not inform me ahead of time that such a display would
15 occur. Although I do not normally attend the performances, I was present that time and
16 remember being surprised when I saw the fireworks being ignited. When the fireworks
17 were displayed on that occasion, I became concerned that it was a fire danger. However,
18 the fireworks were limited in size and duration and provided an entertaining addition to
19 the music. Other than making the club ballroom smoky, there did not appear to be any
20 health concerns. The club exhaust system cleared the smoke within a matter of minutes
21 and no one seemed to suffer any adverse effects.

22 The city code inspectors come to the club approximately once per year. The
23 previous club owner told me that they would inspect more frequently than that. The last
24 time a code inspector inspected my building was in March of last year, more than
25 fourteen months ago. I was present during the inspection and the inspector noted some
26 minor problems with wiring and said we had just enough exit doorways for our
27 occupancy rate. It also seemed like s/he wanted to know why we have tables set up near
28 the entrance. I explained that they helped my bouncer and other employees prevent
29 unauthorized access to the club. The inspector did not tell me that our building was

30 unsafe or not in compliance with any code regulations. Since the fire on May 14, 2004, I
31 learned that a permit is required for a fireworks display.

32 I routinely ask club performers to give me an idea of what special effects they
33 may want to use during their performance. I recall a conversation with the band's
34 representative (I think his/her name is Chris 8-track) about the routine his band would use
35 during their performance. I believe he told me they would do the "usual stuff". I guess I
36 took that to mean strobe and laser lighting and other special effects, but nothing out of the
37 ordinary. His/her band has never performed at my club before and it did not occur to me
38 that just because the band's name is the "Flaming Freaks", that meant they were going to
39 light the place up. 8-track did ask if fireworks had ever been used before and I confirmed
40 that it had once several years before. However, I am certain neither 8-track, nor any
41 other band member contacted me to tell me they wanted to put on a fireworks display
42 during their performance.

43 I remember the Flaming Freaks setting up during the afternoon of May 14th. I
44 was at the club for a few minutes. I do not remember seeing any fireworks being set up.
45 However, I did not go to the stage and look around either. I do not make it a habit to
46 micro-manage stage setup for the bands that perform at the club. Even if I had seen
47 fireworks, I am not a fireworks expert. In fact I don't know anything about fireworks. I
48 would have no way of knowing whether the fireworks were so explosive that they would
49 present a fire hazard.

50 Normally, the stage curtains are pulled back away from the stage. Occasionally
51 the bands will move the curtains in order to adjust acoustics in the room. I do not
52 remember where the stage curtains were when the Flaming Freaks were setting up.
53 However, if anything was out of place or in need of attention, I am sure I would have
54 noticed and made any necessary corrections.

55 I am not certain whether I would have agreed to allow fireworks if the
56 Freaks had told me they wanted to use them. I have not added any safety exits or
57 equipment or remodeled the club in any way since the fireworks display conducted by the
58 other band several years ago.

59 I have been meaning to invest money to refurbish the club; however, the code
60 inspectors have never told me that the club did not meet code specifications. I like to be
61 present during the code inspections and talk to the inspectors. I have never been given
62 any deadlines to correct anything; nor have the inspectors ever threatened to shut the club
63 down.

64 I believe I have a well-trained staff. My bouncer is very conscientious about
65 insuring that minors have the correct colored wristband on and the bartenders make sure
66 that minors are not served alcohol. We are also very careful to ensure that adult patrons
67 do not provide alcohol to minors while they are in the club. My bouncer uses a hand held
68 counter to count the patrons as they enter to ensure they do not exceed our occupancy
69 limit. I think our limit is around 300 people.

70 I feel very bad about what happened to the young student who was killed during
71 he fire. After the fire, the police called me and I went to the club to see what
72 happened. I remember a parent talking to the police. He/She seemed very traumatized. I
73 tried to express my condolences. There is no way I can adequately tell him/her how sorry
74 I am about what happened to his/her son. I do not understand why he could not get out.
75 Everyone else got out alive. I wonder why that kid wasn't able to. But there is no way

76 that it is my fault.

WITNESS ADDENDUM

I have reviewed this statement and I have nothing of significance to add. The material facts are true and correct.

Signed,

Lou Temony

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2004-2005 Delaware State High School Mock Trial Competition.

Stephanie Bean Lorson, Notary Public
My Commission Expires: December 31, 2005

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

Pat Haddas, Personal)	
Representative of the Estate of)	Docket 4037
EDWARD HADDAS, Deceased)	
)	Page 999
Plaintiff,)	
)	
)	
vs.)	
)	
Lou Temony,)	
)	
Defendant.)	

Deposition of Chris Track

1 My name is Chris Track, but I go by "8-track." I'm the front-person for the
2 Flaming Freaks: singer, rapper, and guitarist. I grew up in Elkton, Maryland, listening to
3 head-banging groups like Metallica, but also rap like Public Enemy and Dr. Dre. I had a
4 speech impediment when I was a kid, and always felt embarrassed at school, but it would
5 go away when I'd start jammin' and playing my guitar. So that's always been my thing,
6 and I spent all my time practicing. When my high school friends and I started jamming
7 in my parents' garage, we tried to write songs that mixed metal and hip-hop, and I've
8 been working on it ever since.

9 After high school and some community college in Maryland, I went to Los
10 Angeles and scraped by for several years, bussing tables by day and playing in bands at
11 night. Eventually, that's where I met up with the other members of the Freaks and we
12 formed the band. We played hundreds of shows in California, and put out a couple
13 CD's, before we really got noticed. In the last couple years we've started to draw a
14 national following and even got some TV time on one of MTV's Spring Break shows.
15 And because of my connections in Maryland, we've toured a lot in the Mid-Atlantic
16 region.

17 We started using fireworks at our outdoor shows in California, and the crowds
18 loved it. Over the years, we've improved the stage show: strobe lights, a fog machine and
19 bigger fireworks. Before this happened at Lagoonville we'd played
20 several clubs and bars in Delaware, and never had any problems with fire. I spoke with
21 the club owner by telephone sometime in the weeks leading up to the Lagoonville
22 show. I'm pretty sure we talked about fireworks. How that conversation went,
23 exactly, I couldn't tell you. It probably happened while I was half asleep in the van on the
24 road somewhere. We keep a pretty brutal touring schedule. Anyway, I assumed the
25 owner would get whatever permit we needed for the fireworks, and that the club was
26 okay for our kind of show.

27 We got to the club during the afternoon of May 14, and started setting up our
28 equipment. The club owner stopped in sometime during the afternoon, and we talked for
29 a little while. The rest of the band was doing a preliminary sound and light check; I

30 remember that because we had to yell at times, and at other times it would be completely
31 dark while our tech people messed with the lights. The discussion took place maybe 20
32 feet from the stage.

33 I'm sure the fireworks were
34 already set up on the stage at that point, because we follow the same routine to prepare
35 for each show: set up the off-stage sound equipment; set up the fireworks, fog machine,
36 and lights; set up the instruments, microphones and amplifiers; connect all the wires and
37 power; then do the sound and light check. We always try to set up the fireworks in an
38 area that looks safe. The stage at this club looked a lot like the other clubs we play. I
39 remember seeing those curtains near some of the fireworks at the sides of the stage, but
40 they were tied back and didn't look like a problem. The owner sure didn't say anything
41 about the curtains.

42 I asked the owner if everything looked okay, and the answer was "fine." I guess I
43 don't know if the owner actually saw the fireworks, but it seemed like everything was
44 cool. The owner apologized a little bit for the condition of the club, and mentioned
45 "fixing it up" soon. It looked kinda run down compared to some of the places we play –
46 peeling paint, dingy walls, that kind of thing.

47 The show that night went really well, until the fire. That place was packed, and
48 the crowd was stoked. There were even 5 or 10 kids who got up on stage with us,
49 jumping around and doing stage-dives into the crowd.

50 We try to keep track of how many people come to our shows, by talking to the
51 owners or management the next day, to see what head count the bouncers got at the door.
52 We didn't do that after this one, of course, but from the stage it looked like several
53 hundred.

54 The fireworks went off during the show like usual, and there were no problems
55 until the very end. During the encore we like to set off the really big ones--end the show
56 with a bang. They went off and at first I didn't notice anything. Then there was this
57 smoke, and I saw one of the curtains on fire. It looked like the curtain had shut at least
58 part-way. Our assistant was over there during part of the show, setting off the fireworks,
59 but he told me later that he never messed with the curtain. Maybe some of those kids got
60 tangled up in it while they were on-stage, or maybe the club people didn't tie it back good
61 enough. Who knows?

62 The stage filled up with smoke fast, and I was trying to find my lucky guitar,
63 which I only play during certain songs. Then our drummer grabbed me and started
64 pulling me toward the stage door. Before we got there, I remember seeing the crowd,
65 through the smoke, as they headed for the main door. The closer they got to the
66 door, and to those tables, the tighter and tighter they were packed together. Just a mob. I
67 remember hearing people shouting, "Quit shoving!" and stuff like that, and people just
68 freaking out and screaming. Then we couldn't see anything in that direction. It was
69 getting smokier all the time, and almost completely dark. The house lights didn't come
70 on for some reason.

71 We headed for the stage door that we had brought our equipment in through that
72 afternoon. I'm thinking there was an "Exit" sign over that door. I remember it vaguely
73 from the afternoon, but you couldn't see it during the fire. I think maybe the red light
74 bulbs behind the "Exit" were burned out. Or maybe the curtain from the stage kind of
75 spilled over and covered part of the door. Anyway, you couldn't see the Exit sign,

76 and we were feeling along the wall when some light came through from outside. A few of
77 the kids in the crowd found the door. We ran out that way, along with maybe 25 kids. No
78 problem. I guess everybody else went to the main door, where that kid Ed got trampled.
79 I didn't even know what happened until we were outside a while and the ambulance
80 pulled up. The other Freaks and I were trying to figure out if it was safe to go back and
81 try to save some of our equipment. We lost several thousand bucks worth of equipment
82 in there: guitars, amps, everything. I personally lost that guitar, the one I bought in L.A.
83 after we signed our first recording deal. What a tragedy. I mean, that guitar and I had an
84 almost mystical connection; it was like my baby.

85 Another thing: this whole thing delayed our tour and recording schedule, and I'm
86 afraid we missed our shot at the big time. Before this happened we were talking with
87 Limp Bizkit about opening for them in Chicago, but now we're lucky to book any shows
88 at all. We're going into debt just to keep the band together.

89 Don't get me wrong, I feel bad about what happened to that kid Ed, too. In fact,
90 we wrote a song dedicated to him. But what I can't figure out is why the owner didn't tell
91 us not to use the fireworks, and why no sprinklers went off when the fire started. What's
92 up with that?

WITNESS ADDENDUM

I have reviewed this statement and I have nothing of significance to add. The material facts are true and correct.

Signed,

Chris Track

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2004-2005 Delaware State High School Mock Trial Competition.

Stephanie Bean Lorson, Notary Public
My Commission Expires: December 31, 2005

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

Pat Haddas, Personal)	
Representative of the Estate of)	Docket 4037
EDWARD HADDAS, Deceased)	
)	Page 999
Plaintiff,)	
)	
)	
vs.)	
)	
Lou Temony,)	
)	
Defendant.)	

Deposition of Jackie Berger

1 My name is Jackie Berger. I have been involved with well over 100 explosives
2 cases, including the 1993 Oklahoma City Federal Building bombing and the Branch
3 Davidian debacle in Waco. Most recently, I was called in to assist with the World Trade
4 Center bombing in New York City.

5 I was born in Shellfire, Oklahoma, and was raised watching my daddy extinguish
6 the oil rig fires that often exploded ‘round these parts. I’m truly fascinated by anything
7 that ignites, blows-up or burns. There’s not a fire or explosion that I can’t figure out.

8 I have a bachelor’s degree from the University of Texas in pyrotechnology, a
9 master’s degree in explosives education from Baylor, and a doctorate degree in incendiary
10 devices from Rice. My friends jokingly call me “Doctor Bomber.”

11 I usually charge \$300 per hour for my expert services, but because Lou
12 Temony is an old friend of mine from my college bar stompin’ days in Austin, I’m not
13 chargin’ him/her anything. When s/he called me and told me that s/he was in a jam and
14 was wonderin’ if I could “help him/her out,” I said “you bet, anything for you, Lou.” Even
15 though Lou is a good college friend, my opinions are as true as the Texas sun is hot---and
16 I wouldn’t compromise the truth for anyone or anything.

17 I went to Lagoonaville on May 16, 2004, to thoroughly examine the scene
18 where Lagoonaville caught on fire. I have also examined the evidence collected by the
19 City Code Inspector and the State Fire Marshal. The following are my opinions and
20 conclusions related to my investigation:

21 1. Lagoonaville Floor Plan: I have examined the floor plan of
22 Lagoonaville. Working exits are marked. Comparing the number of exits to
23 the city code requirements for exits shows that Lou Temony, the owner, had complied
24 with the city code for such exits-- provided that the occupancy capacity of 300 persons
25 was not exceeded. Further, an examination of each exit door reveals that all doors, and
26 the exit lights above the doors, were properly functioning on the date of the incident, the
27 same being May 14, 2004.

28 2. Pyrotechnic Devices (PTDs): Most people think of pyrotechnic devices as
29 merely harmless “fireworks.” Those are the people who usually have the most problems

30 with the devices.
31 Analyzing the PTDs used by the Flaming Freaks shows the following:
32 The leader of the Flaming Freaks, Chris Track, was the person who seemed to be in
33 charge of the fireworks. I do not know if Chris or any of the other Flaming Freaks band
34 members were drinking or using drugs when they set-up or ignited the PTDs used that
35 evening.

36 A total of 12 PTD fountains or torches, as shown by evidence collected by the
37 State Fire Marshal, were used by the band over their entire performance: four Crack the
38 Whips at the start of the show; two Silent Nights at the beginning of the second set; two
39 Yellow Bees at the start of the third set; and four California Candles during the encore at
40 the end of the show. The problems occurred during the encore when one of the
41 California Candles ignited the right side of the stage curtain that apparently was moved
42 too close to the Candle - - causing the curtain to ignite. Lou told me that the stage
43 curtains are always tied back away from the stage after the start of any show. The
44 responsibility for properly securing the curtains has always been that of the band's stage
45 hands.

46 Having conducted chemical analysis on the remnants of the Crack the Whips,
47 Silent Nights, and Yellow Bees, I conclude, to a reasonable degree of scientific certainty,
48 that all of the previously mentioned fountain PTDs were within manufacture's standards
49 related to "permissible fireworks" in that they all appear to have contained a total
50 explosive composition not exceeding 50 milligrams in weight. My chemical analysis of
51 the fireworks' contents is consistent with the manufacturer's information printed on the
52 fireworks' labels.

53 Analysis of the California Candles, however, indicates that each Candle contained
54 approximately 200 milligrams of explosive composition. Such "display" fireworks are
55 approved for indoor public exhibitions as long as such use meets the city code. It would
56 surprise me if a permit would have been issued for use of the California Candles at the
57 Flaming Freaks' show because the ceiling height of the club would not have been
58 conducive to the safe use of this type of PTD. This is because California Candles
59 typically emit a spark-shower height of at least 12 to 15 feet. Note that the measured
60 distance from the level where the California Candles were placed on the stage to the top
61 of the ceiling was 16 feet. Also, using the California Candles at the club requires
62 adequate space, ventilation and a properly operating sprinkler system to minimize the
63 safety risks in the event of a problem. Still, in more common Texas vernacular, lightin'
64 those Candles in the ballroom was riskier than slappin' an angry nest o' hornets with a
65 buzzin' bee tickler. Watch out!

66 Noteworthy also is that the Freaks had set out six one gallon containers filled with
67 Sparkle Matches, Champagne Party Poppers, and Blaster Balls on the stage perimeter.
68 While no permit is required to dispense such items in Delaware, all three items create
69 either smoke or noise. Four of the 6 containers were completely empty when I examined
70 them on May 16, and the remaining 2 containers were almost empty.

71 In essence, my thorough analysis of the evidence found following the Freaks'
72 show indicates that the most readily apparent cause of the fire was the right stage curtain
73 being pulled or loosened from its tied-down location and being ignited by one of the
74 California Candles during the Freaks' encore. I make all of the above conclusions to a
75 reasonable degree of scientific certainty.

WITNESS ADDENDUM

I have reviewed this statement and I have nothing of significance to add. The material facts are true and correct.

Signed,

Jackie Berger

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2004-2005 Delaware State High School Mock Trial Competition.

Stephanie Bean Lorson, Notary Public
My Commission Expires December 31, 2005

JURY INSTRUCTIONS

Now that you have heard the evidence and the arguments of counsel, it is my duty to instruct you about the law governing this case. Although you as jurors are the sole judges of the facts, you must follow the law stated in my instructions and apply the law to the facts as you find them from the evidence. You must not single out one instruction alone as stating the law, but must consider the instructions as a whole.

Nor are you to be concerned with the wisdom of any legal rule that I give you. Regardless of any opinion you may have about what the law ought to be, it would be a violation of your sworn duty to base a verdict on any view of the law other than what I give you in these instructions. It would also be a violation of your sworn duty, as judges of the facts, to base a verdict on anything but the evidence in the case.

Justice through trial by jury always depends on the willingness of each juror to do two things: first, to seek the truth about the facts from the same evidence presented to all the jurors; and, second, to arrive at a verdict by applying the same rules of law as explained by the judge.

You should consider only the evidence in the case. Evidence includes the witnesses' sworn testimony and the items admitted into evidence. You are allowed to draw reasonable conclusions from the testimony and exhibits, if you think those conclusions are justified in light of common experience. In other words, use your common sense to reach conclusions based on evidence.

You have been chosen and sworn as jurors in this case to decide issues of fact. You must perform these duties without bias for or against any of the parties. The law does not allow you to be influenced by sympathy, prejudice, or public opinion. All the parties and the public expect that you will carefully and impartially consider all the evidence in the case, follow the law, and

reach a just verdict, regardless of the consequences.

In a civil case such as this one, the burden of proof is by preponderance of the evidence. The plaintiff has the burden of proving the elements of his/her claim. The defendants have asserted the defense of contributory negligence. They have the burden of proving that defense by a preponderance of the evidence. Proof by a preponderance of the evidence means proof that something is more likely than not. Preponderance of the evidence does not depend on the number of witnesses. If the evidence on any particular point is evenly balanced, the party having the burden of proof has not proven that point by a preponderance of the evidence, and you must find against the party on that point.

In deciding whether any fact has been proved by a preponderance of the evidence, you may, unless I tell you otherwise, consider the testimony of all witnesses regardless of who called them, and all exhibits received into evidence regardless of who produced them. Each side has alleged that the other was negligent. Each side has the burden of proving their allegations of negligence.

Generally speaking, there are two types of evidence from which a jury may properly find the facts. One is direct evidence - - such as the testimony of any eyewitness. The other is indirect or circumstantial evidence - - circumstances pointing to certain facts.

As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires that the jury find the facts from all the evidence in the case: Both direct and circumstantial.

If you find that witness made an earlier sworn statement that conflicts with witness's trial testimony, you may consider that contradiction in deciding how much of the trial testimony, if any, to believe. You may consider whether the witness purposely made a false statement or

whether to was an innocent mistake; whether the inconsistency concerns an important fact or a small detail; whether the witness had an explanation for the inconsistency; and whether that explanation made sense to you.

Your duty is to decide, based on all the evidence and your own good judgment, whether the earlier statement was inconsistent; and if so, how much weight to give to the inconsistent statement in deciding whether to believe the earlier statement or the witness's trial testimony.

A witness may be discredited by evidence contradicting what that witness said, or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness's present testimony.

It's up to you to determine whether a witness has been discredited, and if so, to give the testimony of that witness whatever weight that you think it deserves.

You are the sole judges of each witness's credibility. That includes the parties. you should consider each witness's means of knowledge; strength or memory; opportunity to observe; how reasonable or unreasonable the testimony is; whether it is consistent or inconsistent; whether it has been contradicted; the witnesses' biases, prejudices, or interest; the witnesses' manner or demeanor on the witness stand; and all circumstances that, according to the evidence, could affect the credibility of the testimony.

If you find the testimony to be contradictory, you must try to reconcile it, if reasonably possible, so as to make on harmonious story of it all. But if you can't do this, then it is your duty and privilege to believe the testimony that, in your judgment, is most believable and disregard any testimony that, in your judgment, is not believable.

Expert testimony is testimony from a person who has a special skill or knowledge in some science, profession, or business. This skill or knowledge is not common to the average

person but has been acquired by the expert through special study or experience.

In this case, Pat Haddas is suing for damages as the Personal Representative of the Estate of Edward Haddas. Haddas alleges that Edward's death was caused by the negligence of Lou Temony. Temony has denied that he is negligent. He alleges that Edward was contributory negligent. To state a cause of action against a defendant, the law requires plaintiff three things. First, that the defendant was negligent; second, that the plaintiff was injured; and third, the negligence of the defendant was the proximate cause of plaintiff's injuries.

Negligence is the lack of voluntary care; that is, the absence of the kind of care a reasonably prudent and careful person would exercise on similar circumstances. That standard is your guide. The mere fact that an accident occurred isn't enough to establish negligence.

Plaintiff has alleged that the defendant was negligent in one or more of the following ways:

1. He either created a condition on his premises, knew of the condition, or, by the exercise of reasonable care, would have discovered the condition;
2. He should have realized that the condition involved an unreasonable risk of harm to visitors such as the plaintiff's decedent, Ed Haddas;
3. He should have expected that visitors such as the plaintiff's decedent either:
 - a. would not discover or realize the danger; or
 - b. would fail to protect themselves against the danger; and
4. He failed to use reasonable care to protect visitors against the danger;

The plaintiff need only prove one allegation of negligence.

A business owner owes a duty to the public to see that its premises are kept in a reasonably safe condition. The owner must take reasonable steps to make the premises safe. The owner of the premises may relieve itself of liability even though a person may be injured on

the premises by taking reasonable steps to make the area safe. An owner is responsible for injuries that are caused by defects or conditions if the owner knew or should have known the dangerous and/or hazardous conditions or that could have been discovered by reasonably prudent inspection.

A business owner is also under a duty to properly supervise its agents, servants and/or employees so that these employees do not create a dangerous condition. Where an employer fails to adequately supervise its agents, servants and/or employees and this lack of supervision causes injury, the employer is responsible.

Under the law, an owner is not an insurer of the safety of an invitee. Mere ownership does not make one liable for injuries sustained by persons who have entered on land. The liability for unintentional injuries must be based on negligence; and the law does not presume that the owner was negligent merely because a person was injured while on the premises.

The defendant claims that the plaintiff's decedent, Ed Haddas, was himself negligent in one or more of the following:

1. He failed to exercise ordinary care for his own well-being;
2. He was, at the time and place of the fire, acting under the influence of intoxicating substances; or
3. He moved himself from a place of safety to a place of danger when he knew or should have known that to do so would expose him to an unreasonable risk of harm.

If you find contributory negligence, you must determine the degree of that negligence, expressed as a percentage, between the parties using 100% as the total combined negligence of the parties. I will furnish you with a special verdict form for this purpose.

A party's negligence, by itself, is not enough to impose legal responsibility on that party.

Something more is needed: the party's negligence must be shown by a preponderance of the evidence to be a proximate cause of the accident.

Proximate cause is a cause that directly produces the harm, and but for which the harm would not have occurred. A proximate cause brings about, or help to bring about, the accident and it must have been necessary to the result. In this case the question is whether any action of Temony caused injury to Edward. If you find defendants' actions caused the injury, then proximate cause has been established. If, however, you find that Edward's injury was not caused by the actions of the defendant, but by his own action, then your verdict must be in favor of the defendant.

Nothing I have said since the trial began should be taken as an opinion about the outcome of the case. You should understand that no favoritism or partisan meaning was intended in any ruling I made during the trial or by these instructions. Further, you must not view these instructions as an opinion about the facts. You are the judges of the facts, not me.

How you conduct your deliberations is up to you. But I would like to suggest that you discuss the issues fully, with each of you having a fair opportunity to express your views, before committing to a particular position. You have a duty to consult with one another with an open mind and to deliberate with a view to reaching a verdict. Each of you should decide the case for yourself, but only after impartially considering the evidence with your fellow jurors. You should not surrender your own opinion or defer to the opinions of your fellow jurors for the mere purpose of returning a verdict, but you should not hesitate to reexamine your own view and change your opinion if you are persuaded by another view.

Your verdict must be unanimous.

VERDICT SHEET

1. Do you find that the Defendant was negligent, proximately causing some injuries to Edward?

Yes _____ No _____

If you answer Question 1 no, return to the Courtroom. If you answered Question 1 yes, proceed to Question 2.

If you answer to Question 1 no, return to the Courtroom. If you answered Question 1 yes, proceed to Question 2.

2. Do you find that Edward Haddas acted negligently proximately causing him some injuries?

Yes _____ No _____

Answer Question 3 only if you answered Question 1 and 2 yes.

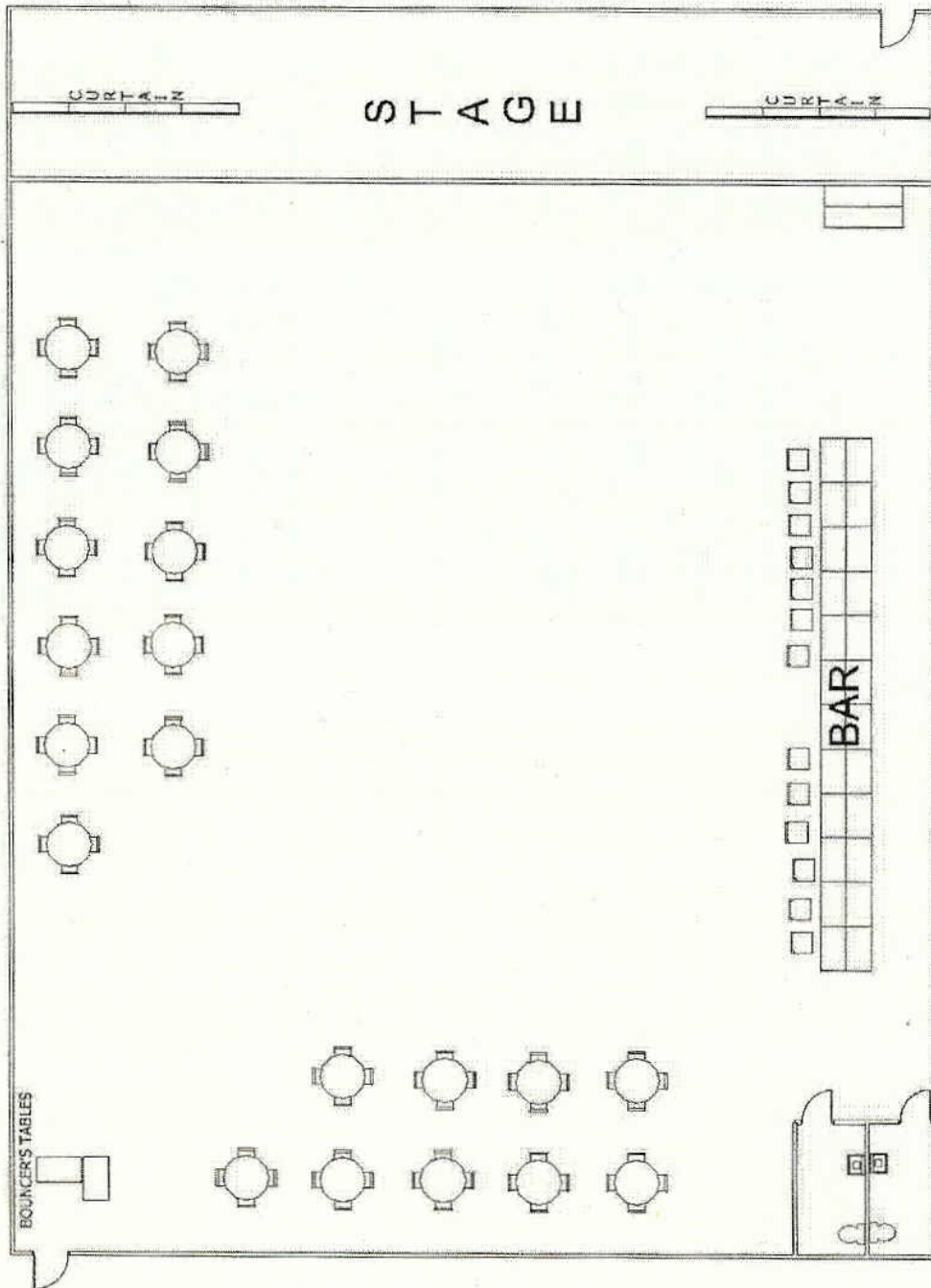
3. Percentage of fault of Edward Haddas _____

Percentage of fault of Defendant _____

(The total percentage must equal 100%)

Exhibit 1





**STATE of DELAWARE
Certificate of Death**

Decedent Name B Last/First/Middle

Sex DOB

HADDAS	Edward	Pat	M	01	20	1986
--------	--------	-----	---	----	----	------

Decedent Address B Street/City/State/Zip

2230 N Baynard Street	Wilmington	DE	19802
-----------------------	------------	----	-------

Decedent Occupation B Business Address

Student	Wilmington Nobel High School
---------	------------------------------

Next of Kin - Name/Address/Telephone

Pat Haddas 2230 N Baynard Street, Wilmington DE 10902 B 302.778.0000

Notification of Next of Kin B Time/Date/Method/Person

May 15, 2004	2:00 a.m.	In Person	Officer K. W. Sprang B WPD
--------------	-----------	-----------	----------------------------

Location/Date/Time of Incident

Location Type

Lagoonville at the Waterfront May 15, 2004 12:30 am	<input type="checkbox"/> Private Residence <input type="checkbox"/> Public Space <input type="checkbox"/> Hospital <input type="checkbox"/> Public Transportation <input type="checkbox"/> Nursing Facility <input type="checkbox"/> School/Govt facility <input checked="" type="checkbox"/> If commercial B specify: <u> dance club </u>
---	--

Description of Incident

Trampled by crowd in fire

Cause of Death B Primary/Secondary (if indicated)

Blunt force trauma	Carbon Dioxide Poisoning
--------------------	--------------------------

Certification of Death B Date/Time

May 15, 2004	4:30 a.m.
--------------	-----------

Certification of Death B Physician/ Location

Christiana Hospital	Susan Ellicot, MD
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Police Report B Date/Case Number/Officerbadge/agency

May 15, 2004	04-33846	Officer K. W. Sprang B 911 B Wilmington PD
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Each unit contains less than two hundred (200) milligrams of explosive composition impregnated with 2.5 grams of silver fulminate.



CAUTION

EMITS SHOWERS OF SPARKS

Use only under close adult supervision. Place on level surface. Light fuse and get away. Do not hold in hand. Never have any part of your body over the device when lighting the fuse.

EXHIBIT 5



EXHIBIT 6



RULES OF THE COMPETITION
SIMPLIFIED RULES OF EVIDENCE
AND
PROCEDURES

The Delaware High School Mock Trial Championship is governed by the Rules of the Competition, The Rules of Procedure and the Rules Governing Teaching and Legal Advising. Any clarification of rules or case materials will be issued in writing to all participating teams.

All teams are responsible for the conduct of persons associated with their teams throughout the mock trial event.

I. Rules of the Competition

A. Administration

- 1. Rules.....Rule 1.1
- 2. Code Conduct.....Rule 1.2
- 3. Emergencies Rule 1.3

B. The Problem

- 1. The ProblemRule 2.1
- 2. Witnesses Bound by Statements..... Rule 2.1
- 3. Unfair Extrapolation Rule 2.3
- 4. Gender of Witnesses Rule 2.4
- 5. Voir Dire Rule 2.5

C. Teams

- 1. Team Eligibility Rule 3.1
- 2. Team CompositionRule 3.2
- 3. Team PresentationRule 3.3
- 4. Team Duties.....Rule3.4

5. Team Roster Form.....Rule 3.5

D. The Trial

1. Courtroom Setting.....Rule 4.1

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3. Reading Into The Record Not Permitted.....Rule 4.3

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III. Rules Governing Teaching and Legal Advising

I. RULES OF THE COMPETITION

A. ADMINISTRATION

Rule 1.1. Rules

All trials will be governed by the Rules of the Delaware High School Mock Trial Championship and the Delaware High School Mock Trial Rules of Evidence.

Questions or interpretations of these rules are within the discretion of the Mock Trial Committee ("Committee"), whose decision is final.

Rule 1.2. Code of Conduct

The Rules of Competition, as well as proper rules of courthouse and courtroom decorum and security, must be followed. The Committee possesses discretion to impose sanctions, up to and including forfeiture or disqualification, for any misconduct, flagrant rule violations or breaches of decorum which affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge or the mock trial program.

Rule 1.3. Emergencies

During a trial, the presiding judge shall have discretion to declare an emergency and adjourn the trial for a short period of time to address the emergency.

In the event of an emergency that would cause a team to be unable to continue a trial or to participate with less than six members, the team must notify the Committee as soon as is reasonably practical. If the Committee, or its designee(s), in its sole discretion, agrees that an emergency exists, the Committee, or its designee(s), shall declare an emergency and will decide whether the team will forfeit or may direct that the team take appropriate measures to continue any trial round with less than six members. A penalty may be assessed.

A forfeiting team will receive a loss and points totaling the average number of the ballots and 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, reduction of points, or advancement, will be made by the Committee.

B. THE PROBLEM

Rule 2.1. 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 charges, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered.

The problem shall consist of three witnesses per side, all of whom shall have names and characteristics which would allow them to be played by either males or females. All three of the witnesses must be called.

Rule 2.2. Witnesses Bound by Statements

Each witness is bound by the facts contained in his/her own witness statement, the Statement of Facts, if present, and/or any necessary documentation relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 2.3, "unfair extrapolation."

A witness is not bound by facts contained in other witness statements.

Rule 2.3. Unfair Extrapolation

A fair extrapolation is one that is neutral. Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial.

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.

Attorneys for the opposing team may refer to Rule 2.3 in a special objection, such as "unfair extrapolation" or "This information is beyond the scope of the statement of facts."

Possible rulings by a judge include:

- a) No extrapolation has occurred;
- b) An unfair extrapolation has occurred;
- c) The extrapolation was fair; or
- d) Ruling is taken under advisement.

The decision of the presiding judge regarding extrapolations or evidentiary matters is final.

When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings.

Rule 2.4. Gender of Witnesses

All witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any student may portray the role of any witness of either gender.

Rule 2.5. Voir Dire

Voir dire examination of a witness is not permitted.

C. TEAMS

Rule 3.1. Team Eligibility

No institution may field more than one team, except that a B team from a school may compete if there otherwise would be an odd number of teams competing. The B team will be selected by a random draw. The B team is not eligible to advance to the semi-final and final rounds of the competition.

Rule 3.2. Team Composition

Teams consist of **twelve** members assigned to roles representing the prosecution/plaintiff and defense/defendant sides. Only **six** members may participate in any given round. (See Rule 3.3 for further explanation referring to team participation).

Student timekeepers may be provided by the teams; however, these persons are not considered "official timekeepers" in the tournament.

At no time may any team for any reason substitute any other persons for official team members. The Team Roster will become official at the time of **on site** registration.

Rule 3.3. Team Presentation

Teams must present both the Prosecution/Plaintiff and Defense/Defendant sides of the case, using six team members in each trial round. For each trial round, teams shall use three students as attorneys and three students as witnesses.

Rule 3.4. Team Duties

Team members are to evenly divide their duties. Each of the three attorneys will conduct one direct examination and one cross-examination; in addition, one will present the opening statements and another will present the closing arguments. In other words, the eight attorney duties for each team will be divided as follows:

1. Opening Statements
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 4.5]

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

The attorney who examines 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 cross-examines a witness will be the only one permitted to make objections during the direct examination of that witness.

Each team must call three witnesses. Witnesses must be called only by their own team during their case-in-chief and examined by both sides. Witnesses may not be recalled by either side.

Rule 3.5 Team Roster Form

Copies of the Team Roster Form must be completed and duplicated by each team prior to arrival at the courtroom for each round of competition. Teams must be identified by the code assigned at registration. No information identifying team origin should appear on the form. Before beginning a trial, the teams must exchange copies of the Team Roster Form. The Form should identify the gender of each witness so that references to such parties will be made in the proper gender. Copies of the Team Roster Form should also be made available to the judging panel and presiding judge before each round.

D. THE TRIAL

Rule 4.1. Courtroom Setting

The Plaintiff/Prosecution team shall be seated closest to the jury box. No team shall rearrange the courtroom without prior permission of the judge.

Rule 4.2. Stipulations

Stipulations shall be considered part of the record and already admitted into evidence.

Rule 4.3. Reading Into The Record Not Permitted

Stipulations, the indictment, or the Charge to the Jury will not be read into the record.

Rule 4.4. Swearing of Witnesses

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 will occur in one of two ways. Either the presiding judge will indicate all witnesses are assumed to be sworn, or the above oath will be conducted by (a) the presiding judge, (b) a bailiff, provided by the host state; or (c) the examining attorney. The host state will indicate which method will be used during all rounds of the current year's tournament. Witnesses may stand or sit during the oath.

Rule 4.5. Trial Sequence and Time Limits

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)

The Prosecution/Plaintiff gives the opening statement first. The Prosecution/Plaintiff gives the closing argument first; the Prosecution/Plaintiff may reserve a portion of its closing time for a rebuttal. The Prosecution/Plaintiff's rebuttal is limited to the scope of the Defense's closing argument.

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

Rule 4.6. Timekeeping

Time limits are mandatory and will be enforced. Each team is permitted to have its own timekeeper and timekeeping aids; however, an official timekeeper will be assigned to each trial where available.

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.

Time does not stop for introduction of exhibits.

Rule 4.7. Time Extensions and Scoring

The presiding judge has sole discretion to grant time extensions. If time has expired and an attorney continues without permission from the Court, the scoring judges may determine individually whether or not to discount points in a category because of over-runs in time.

Rule 4.8. Motions Prohibited

No motions may be made.

Rule 4.9. Sequestration

Teams may not invoke the rule of sequestration.

Rule 4.10. 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 4.11. Supplemental Material/Costuming

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 of the case materials will be permitted. Absolutely no props or costumes are permitted unless authorized specifically in the case materials.

The only documents which the teams may present to the presiding judge or scoring panel are the individual exhibits as they are introduced into evidence and the team roster forms. Exhibit notebooks are not to be provided to the presiding judge or

scoring panel.

Rule 4.12. Trial Communication

Coaches, teachers, alternates and observers shall not talk to, signal, communicate with, or coach their teams during trial. This rule remains in force during any emergency recess which may occur. 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.

Coaches, teachers, alternates and observers must remain outside the bar in the spectator section of the courtroom. Only team members participating in this round may sit inside the bar and communicate with each other.

Rule 4.13. Viewing a Trial

Team members, alternates, attorney/coaches, teacher-sponsors, and any other persons directly associated with a mock trial team, except for those authorized by the Committee, are not allowed to view other teams' performances in the competition, so long as their team remains in the competition.

Rule 4.14. Videotaping/Photography

Any team has the option to refuse participation in videotaping, tape recording, and still photography by opposing teams.

Media coverage will be allowed.

Media representatives authorized by the host committee or the Committee will wear identification badges.

Rule 4.15. Jury Trial

The case will be tried to a jury; arguments are to be made to judge and jury. Teams may address the scoring judges as the jury.

Rule 4.16. Standing During Trial

Unless excused by the judge, attorneys will stand while giving opening and closing statements, during direct and cross examinations, and for all objections.

Rule 4.17. Objections During Opening Statement/Closing Argument

No objections may be raised during opening statements or during closing arguments.

If a team believes an objection would have been proper during the opposing team's opening statement or closing argument, one of its attorneys may, following the opening statement or closing argument, stand to be recognized by the judge and may say, "If I had been permitted to object during closing arguments, I would have objected to the opposing team's statement that _____." The presiding judge will not rule on this "objection."

Presiding and scoring judges will weigh the "objection" individually. No rebuttal by opposing team will be heard.

Rule 4.18. Objections

1. **Argumentative Questions:** An attorney shall not ask argumentative questions.
2. **Lack of Proper Predicate/Foundation:** Attorneys shall lay a proper foundation prior to moving the admission of evidence. After the exhibit has been offered into evidence, the exhibit may still be objected to on other grounds.
3. **Assuming Facts Not in Evidence:** Attorneys may 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 evidence (sometimes called a "hypothetical question").

4. **Questions Calling for Narrative or General Answer:** Questions must be stated so as to call for a specific answer. (Example of improper question: "Tell us what you know about this case.")

5. **Non-Responsive Answer:** A witness' answer is objectionable if it fails to respond to the question asked.

6. **Repetition:** Questions designed to elicit the same testimony or evidence previously presented in its entirety are improper if merely offered as a repetition of the same testimony or evidence from the same or similar source.

Teams are not precluded from raising additional objections which are available under the *Delaware High School Mock Trial Rules of Evidence*.

Rule 4.19. Reserved.

Rule 4.20. Procedure for Introduction of Exhibits

As an example, the following steps effectively introduce evidence:

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. ___?"
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 be 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."

Rule 4.21. Use of Notes

Attorneys may use notes in presenting their cases. 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 4.22. Redirect/Recross

Redirect and Recross examinations are permitted, provided they conform to the restrictions in Rule 611(d) in the Delaware High School Mock Trial Rules of Evidence.

Rule 4.23. Scope of Closing Arguments

Closing Arguments must be based on the actual evidence and testimony presented during the trial.

Rule 4.24. The Critique

The judging panel is allowed 10 minutes for debriefing. Presiding judges are to limit critique sessions to a combined total of ten minutes.

Judges shall not make a ruling on the legal merits of the trial. Judges may not inform the students of score sheet results.

Rule 4.25. Offers of Proof.

No offers of proof may be requested or tendered.

E. JUDGING AND TEAM ADVANCEMENT

Rule 5.1. Finality of Decisions

All decisions of the judging panel are FINAL.

Rule 5.2. Composition of Judging Panels

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 host director, with the same format used throughout the competition, as follows:

1. One presiding judge and two scoring judges (all three of whom complete score sheets); or
2. One presiding judge and three scoring judges (scoring judges only complete score sheets); or,
3. One presiding judge and two scoring judges (scoring judges only complete score sheets and presiding judge completes a form which selects only the winner and does not assign point totals for either team).

The scoring judges may be persons with substantial mock trial coaching or scoring experience or attorneys. Each scoring panel shall include at least one attorney. The presiding judge shall be an attorney and/or a judge.

The semifinal and/or final may have a larger panel.

Rule 5.3. Score Sheets/Ballots

The term "ballot" will refer to the decision made by a scoring judge as to which team made the best presentation in the round. The term "score sheet" is used in reference to the form on which speaker and team points are recorded. Score sheets are to be completed individually by the scoring judges. Scoring judges are not bound by the rulings of the presiding judge. The team that earns the highest points on an individual judge's score sheet is the winner of that ballot. The team that receives the majority of the three ballots wins the round. The ballot votes determine the win/loss record of the team for power-matching and ranking purposes. While the judging panel may deliberate on any special awards (i.e., Outstanding Attorney/Witness) the judging panel should not deliberate on individual scores.

Rule 5.4. Completion of Score Sheets

Each scoring judge shall record a number of points (1-10) for each presentation of the trial. At the end of the trial, each scoring judge shall total the sum of each team's individual points, place this sum in the Column Totals box, and enter the team ("P" for prosecution/plaintiff or "D" for defense/defendant) with the higher total number of points in the Tiebreaker Box. NO TIE IS ALLOWED IN THE COLUMN TOTALS BOXES.

In the event of a mathematical error in tabulation by the scoring judges which, when corrected, results in a tie in the column Totals boxes, the Tiebreaker Box shall

determine award of the ballot.

Rule 5.5. Team Advancement

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

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

Rule 5.6. Power Matching/Seeding

A random method of selection will determine opponents in the first round. A power-match system will determine opponents for all preliminary rounds. The four teams emerging with the strongest record from the preliminary rounds will advance to the semifinals.

Power matching will provide that:

1. Pairings for the first round will be at random;
2. All teams are guaranteed to present each side of the case at least once;
3. Brackets will be determined by win/loss record. Sorting within brackets will be determined in the following order: (1) win/loss record; (2) ballots; (3) speaker points; then (4) point spread. The team with the highest number of ballots in the bracket will be matched with the team with the lowest number of ballots in the bracket; the next highest with the next lowest, and so on until all teams are paired;
4. If there is an odd number of teams in a bracket, the team at the bottom of that bracket will be matched with the top team from the next lower bracket;
5. Teams will not meet the same opponent twice;
6. To the greatest extent possible, teams will alternate side presentation in subsequent rounds. Bracket integrity in power matching will supersede alternate side presentation.

In the semifinal rounds there will be brackets of teams determined by win/loss record. Teams will not meet the same opponent twice prior to the semifinal round. In the preliminary rounds the Committee has the right to reseal teams within a bracket in

order to ensure that teams have an opportunity to present each side of the case.

Rule 5.7. Selection Of Sides For Championship Round.

In determining which team will represent which side in the Championship Round, the following procedure shall be used:

1. The team with the letter/numerical code which comes first will be considered the "Designated Team."
2. The coin will be tossed by a designee of the host state coordinator.
3. If the coin comes up heads, the Designated Team shall represent the plaintiff/prosecution in the Championship Round. If the coin comes up tails, the Designated Team shall represent the defendant.

Rule 5.8. Effect of Bye/Default

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

The host state has the discretion on how to handle a bye in all rounds of the tournament, including having the discretion to have a second host state team participate in the Championship.

F. DISPUTE RESOLUTION

Rule 6.1. Reporting a Rules Violation/Inside the Bar

Disputes which 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.

If any team believes that a substantial rules violation has occurred, one of its student attorneys must indicate that the team intends to file a dispute. The scoring panel will be excused from the courtroom, and the presiding judge will provide the student attorney with a dispute form, on which the student will record in writing the nature of the dispute. The student may communicate with counsel and/or student witnesses before lodging the notice of dispute or in preparing the form.

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

Rule 6.2. Dispute Resolution Procedure/Inside the Bar

The presiding judge will review the written dispute and determine whether the dispute should be heard or denied. If the dispute is denied, the judge will record the reasons for this, announce her/his decision to the Court, retire to complete his/her score sheet (if applicable), and turn the dispute form in with the score sheets. If the 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 sponsors or coaches communicate or consult with the student attorneys. After the hearing, the presiding judge will adjourn the court and retire to consider her/his ruling on the dispute. That decision will be recorded in writing on the dispute form, with no further announcement.

Rule 6.3. Effect of Violation on Score

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

Rule 6.4. Reporting of Rules Violation/Outside the Bar

Disputes which 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 a trial coordinator or a member of the Committee, who will ask the complaining party to complete a dispute form. The form will be taken to the tournament's communication's 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 or may assess an appropriate penalty.

The dispute resolution panel will be designated by the Committee.

DELAWARE HIGH SCHOOL MOCK TRIAL 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 Delaware High School Mock Trial 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. Text in italics or underlined represent simplified or modified language.

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 and these Delaware High School Mock Trial Rules of Evidence govern the Delaware High School Mock Trial Championship.

Article I. General Provisions

Rule 101. Scope

These Delaware High School Mock Trial Rules of Evidence govern the trial proceedings of the Delaware High School Mock Trial Championship.

Rule 102. Purpose and Construction

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

Article II. Judicial Notice

Not Applicable

Article III. Presumptions in Civil Actions and Proceedings

Not applicable

Article IV. Relevancy and its Limits

Rule 401. Definition of "Relevant Evidence"

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

Rule 402. Relevant Evidence Generally Admissible: Irrelevant Evidence Inadmissible

All relevant evidence is admissible, except as otherwise provided *in these Rules*. *Irrelevant evidence is not admissible.*

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

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

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

(a) Character Evidence. -- Evidence of a person's character or *character trait*, is not admissible to prove *action regarding* a particular occasion, except:

- (1) Character of accused. -- Evidence of a pertinent character trait offered by an accused, or by the prosecution to rebut same;
- (2) Character of victim. -- Evidence of a pertinent character trait of the victim of the crime offered by an accused, or by the prosecution to rebut same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the aggressor;
- (3) Character of witness. -- Evidence of the character of a witness as provided in Rules 607, 608 and 609.

(b) Other crimes, wrongs, or acts. -- Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person in order to show an action conforms to character. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Rule 405. Methods of Proving Character

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

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

Rule 406. Habit; Routine Practice

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

Rule 407. Subsequent Remedial Measures

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

Rule 408. Compromise and Offers to Compromise

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

Rule 409. Payment of Medical or Similar Expenses

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

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

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

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

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

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

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

Article V. Privileges

Rule 501. General Rule

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

- (1) communications between husband and wife;*
- (2) communications between attorney and client;*
- (3) communications among grand jurors;*
- (4) secrets of state; and*
- (5) communications between psychiatrist and patient.*

Article VI. Witnesses

Rule 601. General Rule of Competency

Every person is competent to be a witness.

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless *the witness has personal knowledge of the matter*. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses. (See Rule 2.2.)

Rule 607. Who may Impeach

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

Rule 608. Evidence of Character and Conduct of Witness

(a) Opinion and reputation evidence of character. -- The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence, or otherwise.

(b) Specific instances of conduct. -- Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be asked on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

Testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination with respect to matters related only to credibility.

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

(a) General Rule. -- For the purpose of attacking the credibility of a witness, evidence that a witness other than the accused has been convicted of a crime shall be admitted if elicited from the witness or established by public record during cross-examination, but only if the crime was punishable by death or imprisonment in excess of one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.

(b) Time Limit. -- Evidence of a conviction under this Rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the Court determines that the value of the conviction substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) Effect of pardon, annulment, or certificate of rehabilitation. -- Evidence of a conviction is not admissible if (1) the conviction has been the subject of a pardon or other equivalent procedure based on a finding of the rehabilitation of the person convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, other equivalent procedure based on a finding of innocence.

(d) Juvenile adjudications. Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) Not applicable.

Rule 610. Religious Beliefs or Opinions

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

Rule 611. Mode and Order of Interrogation and Presentation

(a) Control by Court. -- The Court shall exercise reasonable control over *questioning* of witnesses and presenting evidence so as to (1) make the *questioning* and presentation effective for ascertaining the truth, (2) to avoid needless *use* of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of cross examination. -- The scope of cross examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.

(c) Leading questions. -- Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness' testimony). Ordinarily, leading questions are permitted on cross examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used.

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

Rule 612. Writing Used to Refresh Memory

If a written statement is used to refresh the memory of a witness either while 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. Prior Statements of Witnesses

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

Extrinsic evidence of prior inconsistent statement of witness.-- Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate.

Article VII. Opinions and Expert Testimony

Rule 701. Opinion Testimony by Lay Witness

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

Rule 702. Testimony by Experts

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

Rule 703. Bases of Opinion Testimony by Experts

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

Rule 704. Opinion on Ultimate Issue

(a) *Opinion or inference testimony* otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.

(b) *In a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused.*

Rule 705. Disclosure of Facts or Data Underlying Expert Opinion

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

Article VIII. Hearsay

Rule 801. Definitions

The following definitions apply under this article:

(a) **Statement.** -- A "statement" is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.

(b) **Declarant.** -- A "declarant" is a person who makes a statement.

(c) **Hearsay.** -- "Hearsay" is a statement, other than one made by the declarant

while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) Statements which are not hearsay. -- A statement is not hearsay if:

(1) Prior statement by witness. -- The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is (A) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or

(2) Admission by a party-opponent. -- The statement is offered against a party and is (A) the party's own statement in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a co-conspirator of a party during the course in furtherance of the conspiracy.

Rule 802. Hearsay Rule

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

Rule 803. Hearsay Exceptions, Availability of Declarant Immaterial

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

1) Present sense impression. -- A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited utterance. -- A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then existing mental, emotional, or physical conditions. -- A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purposes of medical diagnosis or treatment. -- Statements made for the purpose of medical diagnosis or treatment.

(5) Recorded Recollection. -- A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted

by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly.

(6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, 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 information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(8) Public Records or Reports. -- Records, reports, statements or data compilations in any form of a public office or agency setting forth its regularly conducted and regularly reported activities, or matters observed pursuant to duty imposed by law.

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

(21) Reputation as to character. -- Reputation of a person's character among associates or in the community.

(22) Judgment of previous conviction. -- Evidence of a judgment finding a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused.

Rule 804. Hearsay Exceptions; Declarant Unavailable

Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant:

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or

(2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or

(3) testifies to a lack of memory of the subject matter of the declarant's statement; or

(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

(b) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement under belief of impending death. In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be impending death.

(3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

(6) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

Rule 805. Hearsay within Hearsay

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

in these rules.

ARTICLE X - Contents of Writing, Recordings and Photographs - Not applicable.

ARTICLE XI - Other

Rule 1103. Title

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

III. RULES GOVERNING TEACHING AND LEGAL ADVISING

The student presentations shall be the work product of the students themselves. It is important that the opening and closing arguments, direct and cross examinations, testimony and all other presentations be the students' work, rather than the narration of words prepared by an adult.

Legal advisors can help the team as constructive observers and critical teachers, by listening, suggesting and demonstrating to the team. A legal advisor should:

Discuss the legal issues raised in the case;

Answer questions concerning general trial practices;

Explain the reasons for and the sequence of the events and procedures found in a trial;

Listen to the students' approach to the case; and

Discuss general strategies and raise key questions regarding the students' enactment of their roles in the trial.

**DELAWARE
HIGH SCHOOL
MOCK TRIAL
COMPETITION**

SCORESHEET

Date: _____ Round (Circle one) **1 2 3 4**
Championship

Plaintiff: _____ Defense: _____
(Team Code) (Team Code)

On a scale of 1 to 10 rate the teams for the Plaintiff and Defendant in the categories below, recording one score in each blank box. Do NOT use fractional points. Please use ballpoint pen and press down hard.

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

		Plaintiff		Defendant	
OPENING STATEMENT		→	←	→	←
PLAINTIFF'S FIRST WITNESS	Direct Examination by attorney (P)	→	←		
Name:	Cross Examination by attorney (D)			→	←
	Witness' Performance (P)	→	←		
PLAINTIFF'S SECOND WITNESS	Direct Examination by attorney (P)	→	←		
Name:	Cross Examination by attorney (D)			→	←
	Witness' Performance (P)	→	←		
PLAINTIFF'S THIRD WITNESS	Direct Examination by attorney (P)	→	←		
Name:	Cross Examination by attorney (D)			→	←
	Witness' Performance (P)	→	←		
DEFENSE'S FIRST WITNESS	Direct Examination by attorney (D)			→	←
Name:	Cross Examination by attorney (P)	→	←		
	Witness' Performance (D)			→	←
DEFENSE'S SECOND WITNESS	Direct Examination by attorney (D)			→	←
Name:	Cross Examination by attorney (P)	→	←		
	Witness' Performance (D)			→	←
DEFENSE'S THIRD WITNESS	Direct Examination by attorney (D)			→	←
Name:	Cross Examination by attorney (P)	→	←		
	Witness' Performance (D)			→	←
CLOSING ARGUMENTS (and rebuttal, if any)		→	←	→	←
SUBTOTAL		→	←	→	←
TEAM POINTS (1-10) (No tie scores are allowed)		→	←	→	←
TOTAL POINTS (maximum 120 per side) (No ties allowed)		→	←	→	←

Scoring Judge's Signature

**National High School Mock Trial
Explanation of the Performance Ratings Used on the Scoresheet**

Points	Performance	Criteria for Evaluating Student Performance
1-2	Not Effective	Unsure of self, illogical, uninformed, not prepared, speaks incoherently, definitely ineffective in communication.
3-4	Fair	<i>Minimally</i> informed and prepared. Performance is <i>passable</i> , but lacks depth in terms of knowledge of task and materials. Communications lack clarity and conviction.
5-6	Good	Good, solid, but less than spectacular performance. Can perform outside the script, but with less confidence than when using script. Logic and organization are adequate but not outstanding. Grasps major aspects of the case, but does not convey mastery of same. Communications are clear and understandable, but could be stronger in fluency and persuasiveness.
7-8	Excellent	Fluent, persuasive, clear and understandable. Organizes materials and thoughts well and exhibits mastery of the case and materials.
9-10	Outstanding	Superior in qualities listed for "Excellent" rating. Thinks well on feet, is logical, and keeps poise under duress. Can sort out essential from the non essential and uses time effectively to accomplish major objectives. Demonstrates unique ability to use all resources to emphasize vital points of the trial.

Factors to Consider in Scoring

Opening Statements

Provided a case overview, mentioned the key witnesses; stated the relief requested; and provided a clear and concise description of their case.

Direct Examination

Used properly phrased questions (who, what, where, when, how); used proper courtroom procedure; demonstrated understanding of issues and facts; proper introduction of evidence; defended objections in clear concise terms; used time effectively; complied with rules of the competition and spirit of fair play

Cross Examination

Used leading questions; properly impeached witnesses; raised proper objections and stated reasons clearly; knew Rules of Evidence and did not overuse objections; courteous to opponent; and complied with rules of competition and spirit of fair play.

Witnesses

Credible; understood facts; responded spontaneously; poised, and observed courtroom decorum.

Closing Arguments

Summarized the evidence; emphasized the supporting points of their own case and damaged the opponent's; concentrated on the important, not the trivial; applied the applicable law, and responded to the judge's questions with poise.