

GUIDELINES FOR PRESIDING JUDGES - 2019

GENERAL ISSUES:

1. Rules of Trial: The mock trial format - including the order of trial, student roles, time limits, etc. - is governed by the Rules of Competition. Please consult the coordinator in charge of your trial if you have questions about format. Evidentiary issues that arise during trial are governed by the Mock Trial Rules of Evidence (fashioned after the Federal Rules of Evidence). While the Rules of Evidence are simplified, they encompass issues such as relevancy, hearsay and its exceptions, expert opinion, and others.
2. Case Materials and Supplement: All issues relevant for trial are included in the case materials, including a case supplement. The supplement was created to address questions raised after the case was posted. Some clarifications added substantive information to the case. Witnesses may testify to this new information, as permitted in the supplement.
3. Trial Roster - Anonymity: Each team should provide you with a roster, identifying the student roles and names. This form should not identify the schools involved. **Please do not inquire into or otherwise divulge the identity of the teams until after the jurors tabulate their scores.** Even then, the best practice is not to inquire.
4. Timekeeping: Each team is permitted to provide its own student timekeeper who may unobtrusively signal time to his/her team. We encourage that you permit them to sit in the jury box so long as they do not sit immediately next to or behind a juror (scoring judge).
5. Breaks Between Trial Segments: Please be mindful of the fact that the scoring judges need time to think about their scores and complete their ballots after each segment of the trial. The court should not recess, but you should allow a moment for them to complete their scores, preferably while the students are preparing for the next trial segment.
6. Media: Your cooperation in welcoming media to your courtroom is appreciated. Any objections to television cameras in the courtroom should be conveyed to the mock trial coordinator prior to the trial.

TRIAL ISSUES:

1. Witness Filibustering: We strongly discourage witness filibustering: our rules prohibit a witness (on cross) from being intentionally evasive or repetitive in order to use up the other team's time allotment (and cost them points). We instruct teams that the best method to avoid filibustering is for the cross-examining attorney to ask questions that call for "yes" or "no" answers. The rules of competition (Rule 6.24) permits a witness a

brief explanation. Lengthy explanations should be given on re-direct examination and counted against the time of the witness's own team.

Should such filibustering or stalling become excessive, the examining attorney or the bailiff may bring it to your attention and request that the clock be stopped or that the witness give his or her explanation on re-direct examination.

2. Unfair and Fair Extrapolations: Witnesses may not testify in contradiction of their statements. Nor may they testify beyond the scope of their statements unless asked a question on cross-examination that requires an answer outside the statement's scope. In that case, the witness may truthfully answer "I don't know" or "I do not have that information available to me," or the witness may invent facts helpful to his/her side.

"Fair extrapolations" of the witness statement are permitted, however. A fair extrapolation is one that is neutral and can be reasonably inferred from information in the statement. An "unfair" extrapolation is one that has no basis in the witness' statement and has been invented by the witness in order to strengthen his/her testimony. If this objection is raised, your ruling will be as follows: no extrapolation; fair extrapolation; unfair extrapolation, or taken under advisement. Typically, a fair extrapolation is one that does not make a fact at issue more or less likely; the converse is true of unfair extrapolations.

3. Questions Beyond the Scope of Direct Permitted: Student attorneys conducting cross examinations may ask questions beyond the scope of direct exam. Re-direct and re-cross examination are permitted, but are limited to the scope of the preceding examination.
4. Objections – Await for Response: If a student-attorney raises an objection during trial, **please refrain from ruling upon the objection until after the other side has responded**. Student attorneys are scored on their ability to respond.
5. Objections – During Opening/Closings: Teams are prohibited from raising any objection during an opening statement or closing argument. However, following the opening/closing, the attorney may stand to be recognized and may say, "If I had been permitted to object during the opening statement (or closing argument), I would have objected to the opposing team's statement that _____." You should note the objection but not rule upon it. The opposing team *is* permitted a short rebuttal.

POST TRIAL:

1. Dispute Resolution of “Inside the Bar” issues: - If a team believes that a substantial rule violation has occurred during the trial, one of the participating student attorneys must, immediately upon the conclusion of trial, inform you that s/he intends to file a dispute on the appropriate form. Only student attorneys may raise these issues, though they may briefly consult with their teacher coach and/or attorney advisor before doing so. Please consult with your coordinator and Rule of Competition 9.2.1 as to the procedure for resolving these issues. If this procedure is invoked, please do not excuse the jury until after the dispute is resolved.
2. Presiding Judge Critique: Following closing arguments, the jurors will exit to tally their scores. This is the appropriate time for a short comment from the bench. As the courtroom is typically filled with nervous students, their parents, and teachers, brief critiques and positive observations, preferably ones applicable to both teams, are greatly appreciated.
3. Presiding Judge Verdict: In addition to a critique, you have the option of rendering a verdict on the merits based on who you thought won the legal arguments. We discourage judges from doing so, however, because the students will look to that verdict as a clue as to who won the case, even if they are told not to do so.

Please refrain from commenting on the weight of the evidence or the burden of proof. Comments that one side had an easier time based on the problem, though well-intentioned, undercut the sense of fairness everyone involved in the program works so hard to foster.

4. Best Advocate and Witness Certificates: Following your comments, each team will present to the other team a “Best Advocate” and “Best Witness” certificate which will be provided by the coordinator or timekeeper. The students are to choose the recipients of these awards without the help of parents, teachers or attorney advisors.
5. Jury Verdict (Which Team Won the Trial): After the jury members tabulate their scoresheets, they will return to the courtroom. Some coordinators may wish to announce the trial winner at that point. Others may wish to wait until they have had a chance to double-check the scoring ballots for errors. Please confirm your coordinator’s preference before the trial. Regardless, once the scoring judges return, the Court may be adjourned and the jury excused.

The mock trial competition is intended as a learning experience for the students, the teachers and all spectators. Although the competitive nature of the event may not always reflect this emphasis, the learning experience should be stressed whenever possible. Many participants and observers have never been in a courtroom or before a judge. This reality should not be forgotten as you preside over the trial and critique the participants.

Thank you for your support of the mock trial competition. Please feel free to offer the mock trial coordinator any suggestions for improvement of the program.