



2019-2020

The Vincent J. Apruzzese High School

Mock Trial Competition



HIGH SCHOOL WORKBOOK

★ Celebrating **38** years of service to the educational community ★



*Sponsored by the New Jersey State Bar Foundation in cooperation with
New Jersey's county bar associations and the New Jersey State Bar Association*

ATTENTION TEACHER-COACHES

CASE CLARIFICATIONS

We do not send mock trial case clarifications or updates by mail or email. It will be your responsibility to check our website, www.njsbf.org, periodically for possible updates or corrections.

CONTEST SCHEDULES

Amendment to Rule 2:2-2: It is the responsibility of the teacher-coach to review the dates (including snow dates) and times provided by the county coordinator with all team members, and to arrange for substitutes if needed (see R.2:13). The county coordinator may not be able to accommodate differing vacation and/or testing schedules.

Amendments to Rules 2:10, 2:11 and 2:12: It is the responsibility of the teacher-coach to be prepared for rescheduling in the event of inclement weather, and to arrange for substitutes if needed, as previously discussed in R.2:2-2. As with county competitions, the state coordinator may not be able to accommodate differing vacation and/or testing schedules.

CODE OF CONDUCT

Teacher- and attorney-coaches, students, parents and observers are expected to abide by the provisions of the competition's Code of Conduct. See Part I of this workbook for details.

UPDATES

Some changes have been made to the Rules of Evidence in Part VI. Please review carefully.

BEHAVIOR OF CONTESTANTS, JURORS AND OBSERVERS

Students and adults who participate in the New Jersey State Bar Foundation's High School Mock Trial Competition are expected to comport themselves properly in and out of the courtroom. Students and observers must respect their surroundings. Contestants and observers must (a) remove their litter from courtrooms and other areas and place trash in receptacles; (b) refrain from entering sections of the courthouses or other facilities where they are not authorized to be such as judges' chambers, conference rooms, offices, etc.; (c) refrain from using or removing property belonging to the courthouses or other facilities; (d) refrain from tampering with sound systems and (e) leave the courtrooms, jury rooms, restrooms, and common areas of the courthouses or other facilities in good order. Failure to do so may result in sanctions, including, but not limited to, the team's immediate disqualification from the competition.

Vincent J. Apruzzese
2019-2020 High School Mock Trial Competition
Sponsored by the New Jersey State Bar Foundation

OFFICIAL ENTRY FORM

In order to enter the competition, you must complete this Official Entry Form. All entries must be received no later than October 25, 2019. Please type or print clearly.

Name of School _____

School Address _____

_____ Zip _____

County in which School Is Located _____

Name of Teacher-Coach _____

Area Code, Telephone Number and Ext. (work) _____ (home) _____

School Fax Number _____ Date Submitted _____

E-mail Address _____

Please check the following where applicable:

- I need a lawyer-coach.
- I already have a lawyer-coach. His/her name is: _____
- This is my first year coaching mock trial.
- This is the school's first year of participation in mock trial.
- We are mock trial "veterans."
- Other (please explain): _____

Please return this completed entry form to: Sheila Boro, High School Mock Trial Competition, New Jersey State Bar Foundation, New Jersey Law Center, One Constitution Square, New Brunswick, NJ 08901-1520. Fax number: 732-828-0034; Email: sboro@njsbf.org.

Please Note: You must complete and return this form to the State Bar Foundation in order to enter the competition. Please keep a copy for your records.

Mock Trial Competition

Statement of Goals

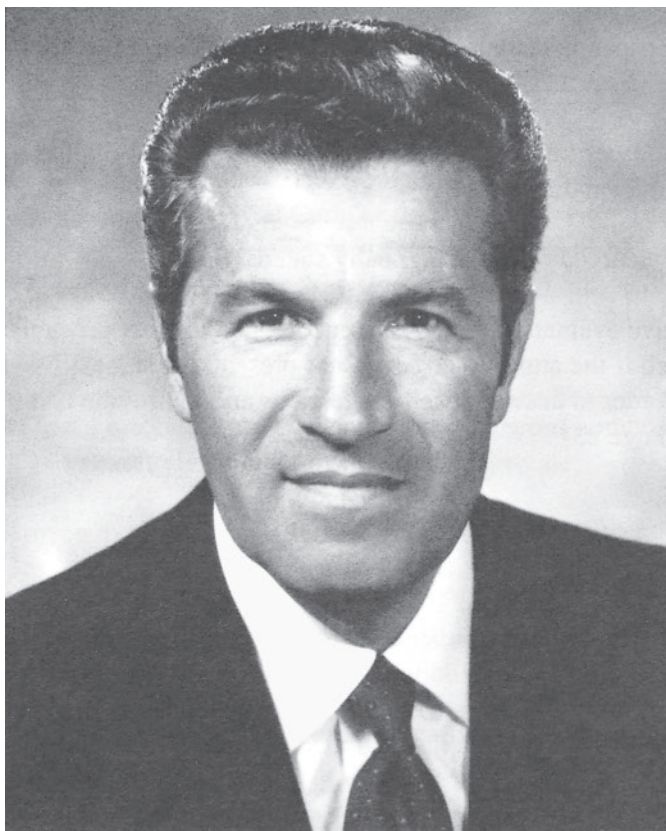
To increase comprehension of the historical, ethical and philosophical basis of the American system of justice.

To demystify the operation of the law, court procedures and the legal system.

To help students increase basic life and leadership skills such as listening, speaking, writing, reading and analyzing.

To heighten appreciation for academic studies and promote positive scholastic achievements.

To bring law to life for students through active preparation for and participation in the competitions. The goal is not to win for the sake of winning, but to learn and understand the meaning of good citizenship in a democracy vis-a-vis our system of law and justice. In this sense, all the students who participate will be winners.



Vincent J. Apruzzese, Esq.

In recognition of his many years of service, the New Jersey State Bar Foundation named its Mock Trial Competition in honor of Vincent J. Apruzzese, Esq. in 1991. Mr. Apruzzese is a past president of the New Jersey State Bar Association. He led the drive to build the New Jersey Law Center, served as the first chairman of the New Jersey State Bar Foundation, and was chair of the Foundation's Public Education Committee for several years. This competition is a fitting tribute to his leadership, indefatigable spirit and insight in implementing free law-related education programs for the public and particularly for young people.

VINCENT J. APRUZZESE

MOCK TRIAL

COMPETITION

Dear Educator:

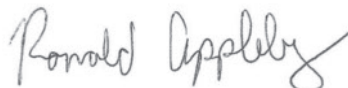
The New Jersey State Bar Foundation's Mock Trial Competition, now in its 38th year, is one of the nation's foremost contests of its kind for high school students. Our Mock Trial Competition has won many national awards for excellence in educational programming.

We thank you, the educators, and your students for your strong support and interest in the Mock Trial Competition. Last year 216 teams registered statewide. We look forward to working with you again in the year ahead.

The New Jersey State Bar Foundation's Mock Trial Competition is made possible by a network of support and cooperation from New Jersey's 21 County Bar Associations. County bar volunteers coordinate trials at the local levels and devote countless hours each year to bring this exciting educational program to students throughout the state. Volunteer attorneys from the counties will assist you and your team in preparing for the competition. This program is made possible through funding from the IOLTA Fund of the Bar of New Jersey.

We hope you'll join us in this classic educational event.

Sincerely,



Ronald C. Appleby, Jr., Esq.
Chair, Mock Trial Committee

VINCENT J. APRUZZESE
**MOCK TRIAL
 COMPETITION**
*Sponsored by the New Jersey State Bar
 Foundation*

**FREE
 Mock Trial
 Workshop for
 Teachers & Attorneys**

Learn how to conduct a mock trial and prepare your team for the New Jersey State Bar Foundation's High School Mock Trial Competition on **Thursday, October 24, 2019** at the New Jersey Law Center in New Brunswick from **9:00 a.m. to 1:15 p.m.**

The workshop is for teachers and attorneys (county coordinators and attorney-coaches) only. Due to space limitations, we regret that we cannot accommodate students.

Teachers attending the entire workshop will receive professional development hours.

An overview of the mock trial structure, from local contests through statewide finals, will be presented. Students will enact this year's case. A mock trial judge will explain how teams will be evaluated. The revised rules of evidence will be discussed.

The workshop is free but reservations are required. Please complete and return the form below.

Please keep a copy of this workshop form for your records. Directions follow:

From NJ Turnpike: Take Exit 9 to Route 18 North to Route 1 South. Take Route 1 South to Ryders Lane, New Brunswick (FIRST EXIT). The Law Center is the first right turn off of Ryders Lane.

From Trenton: Take Route 1 North to second Ryders Lane sign (RYDERS LANE-NEW BRUNSWICK). Ryders Lane passes over Route 1. The Law Center is the first right turn off of Ryders Lane.

For further information about directions, call 732-249-5000 or visit our website at www.njsbf.org.

Please Note: This is a registration form for the workshop only. It is **not** an entry form. You must complete an **Official Entry Form** in order to enter the competition.

HIGH SCHOOL MOCK TRIAL WORKSHOP

Please register me/us for the free workshop on October 24, 2019. I understand that this workshop is for teachers and lawyers only, not students.

NAME(S) _____

SCHOOL OR LAW FIRM ADDRESS _____

WORK PHONE _____ HOME PHONE _____

I am a Teacher Attorney-Coach County Coordinator

Return to: Sheila Boro • New Jersey State Bar Foundation • One Constitution Square
 New Brunswick, NJ 08901-1520 • Fax number: 732-828-0034 • Email: sboro@njsbf.org

**VINCENT J. APRUZZESE
HIGH SCHOOL MOCK TRIAL COMPETITION**

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* The New Jersey State Bar Foundation gratefully acknowledges the assistance of the Mock Trial Committee and its case authors Chair Ronald C. Appleby Jr., Esq. and Edward Moody.

The Vincent J. Apruzzese High School Mock Trial Competition is sponsored by the New Jersey State Bar Foundation in cooperation with the New Jersey State Bar Association and New Jersey’s County Bar Associations, and is funded by the IOLTA Fund of the Bar of New Jersey.

PART I
CODE OF CONDUCT
For Participants in the
Vincent J. Apruzzese High School Mock Trial Competition

Please review the following revised code carefully. It is the teacher-coach's responsibility to obtain all required signatures.

OVERALL PURPOSE AND SPIRIT OF THE COMPETITION

The Vincent J. Apruzzese High School Mock Trial Competition (“Mock Trial Competition”) has been created for the purpose of stimulating and encouraging a deeper understanding and appreciation of the American legal system by high school students. Because of the competition’s experiential educational format, learning derives from various sources and results from both articulated and unarticulated messages. The students learn proper comportment from each other, their teacher-coaches, their attorney-coaches, the volunteer mock trial judges and their parents and other guest-observers in the courtroom. Given the multifarious sources of student learning in the Mock Trial Competition, this Code of Conduct interprets “Participants” to include not only the students, but all of those who have the potential to influence student learning. In keeping with this interpretation, “Extensions” of this Code of Conduct must be executed by the team members, the teacher-coach and the attorney-coach. **In addition, each teacher-coach is required to provide parents and other guest-observers with copies of this Code of Conduct.**

SPECIFIC GOALS OF THE MOCK TRIAL COMPETITION

All Participants shall in manner and in deed do their parts in helping the Mock Trial Competition achieve the following specific goals:

- Promote cooperation, academic integrity, honesty and fair play among students.
- Promote good sportsmanship and respect for others in both victory and defeat. Participants must also demonstrate respect for County Mock Trial Coordinators, mock trial personnel, mock trial judges and other volunteers who make this competition possible.
- Promote good faith adherence to the Mock Trial Competition rules and procedures.
- Improve proficiency in speaking, listening, reading, reasoning and analytical skills.
- Promote respect for the judicial system and instill a notion of proper courtroom decorum. This includes respect for the courthouse and other venues where mock trials take place.
- Promote congeniality and open communication between the educational and legal communities.

SPECIFICALLY PROHIBITED NEGATIVE BEHAVIORS

Although not exhaustive, the following list contains behaviors that are directly opposed to the goals and objectives of the Mock Trial Competition and which, if engaged in, will constitute grounds for such disciplinary action as the County Coordinator at the local level (or Mock Trial Committee at state regional, semi-final and final levels) deems appropriate given the circumstances:

- Failure of the teacher-coach (a) to familiarize all parents and guest-observers with the contents of this Code of Conduct, or (b) to submit Extensions of this Code of Conduct executed by the team members, teacher-coach, and attorney-coach to the County Coordinator prior to the first round of competition.
- Use of communications technology (audio recording, visual recording, cell phone recording, text-messaging by phone, laptop or other telecommunications device) by a team member (a) to communicate with any member of its team during an ongoing mock trial round, or (b) to record or in any way memorialize any portion of a round of the competition in which the team is not a participant. Students are not permitted to use iPads, laptops, cell phones or any electronic or telecommunication devices while competing.

- Acceptance of an audio, video, DVD recording, or other transcription of the performance of another team in a round that the recipient did not participate in, even if the recipient has not viewed the material, listened to the recording or read the transcript.
- Plagiarism by any member of a team or any team's use of material plagiarized by its teacher-coach, its attorney-coach, or by the parents or guest-observers of team members.
- Direct verbal or written communication outside of the courtroom with a volunteer mock trial judge by any team, its teacher-coach, its attorney-coach or the parents or guest-observers of team members, except as permitted after the trial for the teacher- or lawyer-coach under R.5:3-6.

ACCOUNTABILITY FOR AND CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT

All Participants, including parents and guest-observers, must adhere to the rules and procedures of the Mock Trial Competition and this Code of Conduct (which includes by this reference the Extensions signed by the student teams, teacher-coaches and attorney-coaches). Teacher-coaches must submit all three of the signed Extensions that follow to their County Mock Trial Coordinators prior to the first round of the local competitions. Failure to abide by the Mock Trial Code of Conduct is sufficient grounds for disqualification and dismissal of the team with which the offender(s) is directly or indirectly connected at the sole discretion of the County Coordinator at the local level or the Mock Trial Committee at the state regional, semi-final and final levels.

EXTENSION OF CODE OF CONDUCT

To Be Signed by Teacher-Coach Participants in the Vincent J. Apruzzese High School Mock Trial Competition

I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct in my role as teacher-coach, hereby agreeing to focus attention on the educational value of the Mock Trial Competition.

I agree to act as an adult role model for my students and to discourage willful violations of the rules. I will instruct my students as to proper procedure and decorum and will assist them in understanding and abiding by the competition rules and procedures as well as adhering to the spirit of this Code of Conduct. By action and by deed, I will teach my students the importance of treating others with respect and courtesy. In my interaction with other teacher-coaches, attorney-coaches, mock trial judges, county mock trial coordinators, other volunteers and mock trial personnel, I will set an example that my students can follow.

I understand that I have the following responsibilities for which I, alone, am accountable:

- Training students to fulfill the role of jurors and bringing a sufficient number of student jurors to each round of competition.
- Circulating the Code of Conduct to all parents and guest-observers in advance of their attending any of the rounds of competition.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, of my team as well as opposing teams, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions. See R.2:5-3.

I agree to act as a role model by carrying out my responsibilities as a teacher, never forgetting that I am representing the educational system in addition to coaching high school students as their mock trial advisor. Thus, I will zealously encourage fair play and promote conduct and behavior that is in keeping both with proper courtroom decorum and the spirit of the Mock Trial Competition. I will discourage skirting the rules and engaging in obstructionist behavior that interferes with the orderly flow of courtroom procedures. I agree to inculcate the highest standards of the education profession by discouraging a culture of win-at-any-cost and by promoting a spirit of willing compliance with the rules of the competition and the ethical guidelines provided by this Code of Conduct.

Date: _____

Teacher-Coach

School

EXTENSION OF CODE OF CONDUCT

To Be Signed by Attorney-Coach Participants in the Vincent J. Apruzzese High School Mock Trial Competition

I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct in my role as attorney-coach, hereby agreeing to abide by the rules and procedures of the Mock Trial Competition and to uphold the highest standards of the legal profession.

I agree to act as a role model of our honorable profession by carrying out my responsibilities as an officer of the court, never forgetting that I am representing the judicial system in addition to coaching high school students as their mock trial advisor. Thus, I will zealously encourage fair play and promote conduct and behavior that is in keeping both with proper courtroom decorum and the spirit of the Mock Trial Competition. I will discourage skirting the rules and engaging in obstructionist behavior that interferes with the orderly flow of courtroom procedures. I agree to inculcate the highest standards of the legal profession by discouraging a culture of win-at-any-cost and by promoting a spirit of willing compliance with the rules of the competition and the ethical guidelines provided by this Code of Conduct.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, of my team as well as opposing teams, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions. See R.2:5-3.

Date: _____

Attorney at Law, State of New Jersey

School

EXTENSION OF CODE OF CONDUCT

To Be Signed by Student Team Member Participants in the Vincent J. Apruzzese High School Mock Trial Competition

As a Team Member/Juror of _____ High School, I state that I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct as a condition of participation in the Mock Trial Competition and hereby promise to compete with the highest standards of comportment, showing respect for my fellow students, opponents, judges, attorney-coaches, teacher-coaches, county mock trial coordinators and mock trial personnel.

I agree to accept both defeat and success with dignity and restraint. I promise to avoid all tactics that I know are wrong or in violation of the rules. I make a commitment to comply with the rules of the competition in spirit and in practice. I will not plagiarize or accept plagiarized material. I will not use telecommunications technology to circumvent the rules or to gain unfair advantage. I understand that use of telecommunications technology in the courtroom by any Participant (with the exception of permissible video recording by participating teams per R.2:5-3) seeking to gain advantage for a team subjects that team to the risk of disciplinary action, which could result in an expulsion of the team from the competition or in the lesser penalty of a score reduction. I understand that I may be photographed, video recorded or audio recorded as part of my participation in the competition.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, of my team as well as opposing teams, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions. See R.2:5-3.

By signing below, I agree to vigorously uphold the Code of Conduct of the Mock Trial Competition:

Date: _____	_____
Date: _____	_____
Date: _____	_____
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PART II RULES OF GENERAL APPLICATION

RULE 2:1 APPLICABILITY, SCOPE, CONSTRUCTION AND CITATION OF RULES

2:1-1 APPLICABILITY; SCOPE

The Vincent J. Apruzzese Mock Trial Competition is governed by these Rules of Procedure and Evidence. Additional rules regarding the competition and its procedures are contained throughout this workbook. Please read the entire workbook carefully. **Other rules of procedure or evidence may not be raised.**

2:1-2 CONSTRUCTION

These rules shall be construed to secure a just determination, simplicity in procedure, and fairness in administration of the competition.

2:1-3 CITATION

Attorneys should be prepared to cite the specific rule number upon which an objection is based if requested to do so by judges.

RULE 2:2 GENERAL CONTEST FORMAT

2:2-1 LOCAL COMPETITIONS

Each team must compete in at least two trials, switching sides for the second trial. If there are an uneven number of teams in the initial two trials, the County Mock Trial Coordinator has the discretion to ask teams to volunteer to play both sides at the same time or to randomly assign team(s) to do so. Contestants must be prepared to field both sides simultaneously if necessary. If a team does not have enough members to play both sides at once, the teacher-coach must notify the County Mock Trial Coordinator in advance.

In the event of an emergency, last-minute cancellation by a team, or failure of a team to appear, which may create an uneven number of teams competing, the County Mock Trial Coordinator shall designate one team to field both sides.

After each team has had an opportunity to play both sides, the County Mock Trial Coordinator may elect to utilize a single-elimination or other format. The County Mock Trial Coordinator has the authority to configure local contest schedules. The County Mock Trial Coordinator will determine which teams advance based upon win/loss record and point scores. In a configuration where teams play only two rounds initially, a team with two losses should not advance and a team with two wins should advance. Where three rounds of competition are initially scheduled, a team with three losses should not advance and a team with three wins should advance.

If a team has questions about the local competition, the teacher-coach should contact the County Mock Trial Coordinator. Names and phone numbers of County Mock Trial Coordinators are posted on our website, www.njsbf.org.

2:2-2 DATES AND TIMES; FAILURE TO APPEAR

Local contest dates and times will be determined by county coordinators. **Failure to appear on the dates specified by the County Mock Trial Coordinator will result in forfeiture.** The county coordinator works very hard to arrange contest schedules, and teams should make every effort to participate in the local contest once they have entered. Last-minute cancellations create scheduling difficulties for everyone.

It is the responsibility of the teacher-coach to review the dates (including snow dates) and times provided by the county coordinator with all team members, and to arrange for substitutes if needed (see R.2:13). Remember that your jurors are permitted to serve as understudies per the parameters outlined in R. 2:13. The county coordinator may not be able to accommodate differing vacation and/or testing schedules due to deadlines for regionals.

2:2-3 POSTPONEMENTS

Postponements may be made only by the county coordinator.

2:2-4 CHANGES TO RULES AND PROCEDURES

No rule or procedure may be changed after the 30th day preceding the first contest.

2:2-5 OFFICIAL REPRESENTATIVE OF EACH TEAM

The official representative of a mock trial team is the teacher-coach, not students, lawyer-coaches or others. All communications regarding a team must be made by and through the teacher-coach as official team representative. **Communications received from students will not be answered.** See R.2:14-15. Teacher-coaches and attorney-coaches are prohibited from coaching more than one team in any given year.

2:2-6 WORKBOOKS

Workbooks may be photocopied as necessary, and permission to photocopy a workbook is hereby granted. Please download the workbook from the Foundation's website, www.njsbf.org.

RULE 2:3 TEAMS

2:3-1 TEAM MEMBERS

A competing team in any given round shall consist of no more than TEN (10) students—two (2) attorneys, three (3) witnesses and alternates—plus the teacher-coach. A school may enter ONE (1) team only. For any single trial, a team must consist of two (2) attorneys and three (3) witnesses. The competition is open to New Jersey high schools only. **For our policy regarding a combined team, please see the back of this workbook.**

2:3-2 IDENTIFICATION OF TEAMS

Teams will be identified by I.D. numbers, not high school names, and teams should not bring materials, such as notebooks, T-shirts, school newspapers, etc., that would identify their schools. Guests of each team should similarly be requested to refrain from wearing or bringing items to contests that would identify the schools with which they are affiliated. Contestants are not permitted to identify their school or the opposing team's school to the judges.

2:3-3 STUDENT JURIES

Each team should bring SIX (6) student jurors to each competition. Team members may serve as jurors in rounds in which their team is not playing, and jurors may serve as team members in rounds in which they are not serving as jurors. A student should not serve as a juror on a trial in which his or her school is participating unless there are extenuating circumstances, and except for county semi-finals, regional finals and state semi-finals. Rules pertaining to student jurors are set forth infra at R. 2:4.

RULE 2:4 STUDENT JURIES

2:4-1 PURPOSE OF STUDENT JURIES

The purpose is to provide students with a better understanding of the duties and responsibilities of jurors and to enable more students to participate in the competition.

2:4-2 JURY CHARGE

Because of time restraints, actual procedures for selection and "charge" of jurors will not be followed. Juries will render their decision based upon a simplified charge and upon the factual testimony they have heard during the course of the trial. (The charge to the jury is the final address by the judge to the jury before the verdict, in which the judge sums up the case and instructs the jury as to the rules of law which apply to its various issues and which they must observe.) The judge will not read the charge to the jury. Jurors are expected to be familiar with the contents of the jury charge.

2:4-3 JURY VERDICT

Student juries will be required to render a verdict based upon the merits of the case and applicable law. They will **not** at any time determine which team wins or advances to the next round. That decision will be made by the judges only. Jurors will neither score team performances nor will their verdicts or performances as jurors be scored.

2:4-4 PROHIBITIONS

Jurors are not allowed to take notes or use recording devices.

2:4-5 PROCEDURES

In all competitions, the jurors from losing teams will be released, except for the runners-up. In each phase, jurors from first runner-up teams will be eligible to act as jurors in the final competition on the local or regional level. The runners-up from the state semi-final competition will be eligible to serve as jurors in the final statewide championship round at the New Jersey Law Center.

In the statewide championship round, the jurors of winning teams will not participate, unless the runner-up team is not available. The runner-up team in the semi-finals will be requested to provide jurors for the championship round.

Jurors should proceed immediately to the courtroom in which the trial they are assigned to will be conducted and shall seat themselves in the jury box. Jurors will only be triers of the facts. Their decisions will not affect which team wins.

At the conclusion of the trial, jurors will be allotted 15 minutes maximum to deliberate the facts and render a decision concerning those facts. Student jurors shall be responsible for electing a spokesperson from among the jury to advise the judge of the jury's verdict when the trial reconvenes. The spokesperson must briefly summarize the reasons for their verdict. Generally, jurors are requested to arrive at an unanimous decision.

Jurors are requested to take into consideration only the facts that are presented to them without considering testimony which may have been presented in a previous trial in which they acted as jurors.

RULE 2:5 GENERAL PROCEDURE FOR TRIALS

2:5-1 DETERMINATION OF SIDES — STATE LEVEL

Determination of which team will be prosecution/plaintiff and which team will be defense at the state level, which includes regionals, regional finals and state semi-finals as well as the final round, will be made by drawing lots a few minutes before each trial begins. However, if the same two teams have previously met in the statewide semi-finals and have both qualified for the statewide finals, the teams must switch sides in the championship round. At the regionals, teams that are eligible to advance to the next round will switch sides if possible. Where it is impossible for both teams to switch sides, a drawing of lots must be used to determine assignments in the next round.

2:5-2 DETERMINATION OF SIDES — LOCAL/COUNTY LEVEL

At the local/county level, sides for the initial round of competition may be preassigned at the discretion of the County Mock Trial Coordinator. Contestants in any subsequent round of a competition should automatically switch sides in the case for the next round (provided that they are eligible to advance to the next round). Where it is impossible for both teams to switch sides, a drawing of lots must be used to determine assignments in the subsequent round.

2:5-3 OBSERVATION OF TRIALS BY NON-PARTICIPANTS

Teams are permitted to observe mock trial contests, even if they are not participating in those contests. Note-taking by observers by any means during competitions is not permitted except for teacher-coaches and attorney-coaches of teams participating in that round. Teams that are not participating in a round shall not audio record or video record or use any other technological means to obtain auditory or visual information. Only participating teams will be allowed to video record or audio record mock trial contests. Each school will be allowed to designate one official video recorder/audio recorder. Experience has demonstrated that careful preparation has more impact on the quality of presentation and the final result than last-minute changes based on the above.

Those who are designated as the official video/audio recorders are reminded of the last paragraphs of the Extensions to the Code of Conduct which prohibit the distribution/dissemination/reproduction in ANY FORM of any portion of the competition without the express written consent of each student and parent/guardian as well as the student's coach.

RULE 2:6 PREPARATION OF MOCK TRIAL CONTESTS

2:6-1 MEETINGS WITH ASSIGNED ATTORNEYS

All teams are to work with their assigned attorneys in preparing their cases. It is recommended that teams meet with their lawyer-advisers at least six times prior to the contest. See Part VII for suggestions regarding the attorney-adviser's role in helping a team prepare for the competition.

2:6-2 DRESS REHEARSALS

All teams are required to conduct one full trial enactment (dress rehearsal) with attorney-advisers in attendance based on the case prior to the first round of the competition. Additional sessions devoted to the attorneys' questioning of individual witnesses are also recommended.

RULE 2:7 DECISIONS

The judge(s) will render a decision based on the quality of the students' performance in the case and the best team presentation. The judges have been instructed to rate the performance of all witnesses and attorneys on the team. (See Performance Rating Sheet.)

Judges will provide qualitative evaluations only, based on the categories in the rating sheet. Numerical scores will **not** be released. The purpose of this procedure is to re-emphasize the educational goals of the competition. Judges will provide evaluations and announce the winning team before the jury delivers its verdict. The jury verdict is not significant in the judges' evaluation.

Contestants may, as always, discuss their trials with judges after each contest if time permits. However, contestants are prohibited from contacting competition judges directly to complain about competition results. See Rule 2:14 and Rule 2:15.

The student jury will decide on the merits of the legal case and the applicable law. This decision of guilt or innocence in a criminal case, or finding in favor of the plaintiff or defendant in a civil case, does **not** determine which team wins or advances to the next round.

The decisions of the judges are final.

RULE 2:8 SCORING PERFORMANCES

While all possible measures are taken to encourage consistency in scoring, not all mock trial judges evaluate the performance of students identically. Even with rules and evaluation criteria for guidance, the competition reflects the subjective quality present in all human activities.

Please review the score sheet at the back of this workbook very carefully.

RULE 2:9 TIME LIMITS

The following time limits will be in effect:

Opening Statements—4 minutes for each side

Direct Examination—6 minutes for each witness

Cross-Examination—7 minutes for each witness

Closing Statements—8 minutes for each side

Every effort shall be made to respect these time limits. County coordinators are encouraged to appoint bailiffs to keep time. Bailiffs will also be appointed at the regional, statewide semi-final and statewide final levels. Bailiffs will keep time, and their decisions regarding timekeeping are final. Challenges to timekeeping will not be considered. Timekeepers may issue one-minute warnings verbally or through the use of a card or hand signals. When time is up, judge(s) must halt the trial. Regarding objections, the clock will be stopped.

Re-direct and re-cross (optional, to be used at the discretion of the team)— After cross-examination, additional questions may be asked by the direct-examining attorney, but questions must be limited to matters raised by the attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on re-cross, but such questions must be limited to matters raised on re-direct examination and should avoid repetition. **One minute will be allowed for re-direct and re-cross respectively. Judges should not deduct points if a team decides not to re-direct or re-cross. (See Part VIII.)**

RULE 2:10 REGIONAL COMPETITION

To reach the statewide finals, a team will have to compete in a two-part regional competition. Winning teams from each county qualify for the first stage of the regionals, consisting of two, single-elimination trials. Winners of the first stage will return for regional playoffs. Winners of the regional playoffs qualify for the statewide semi-finals. Winning semi-finalists will be eligible to compete in the statewide finals. If there is a tie score, the judge(s) will make the final determination based on overall team performance.

Please take note of all of the following contest dates before entering the competition in order to make sure your team can attend.

The New Jersey State Bar Foundation will be responsible for coordinating the regional competitions. **All regionals will be conducted at the New Jersey Law Center in New Brunswick as follows: Central - February 4, 2020; North - February 5, 2020; and South - February 6, 2020. Regional playoffs will be held on February 25, 2020.** Please reserve these dates. Inability to attend will result in forfeiture.

To find out which regional your county belongs in, please call 732-937-7519 or e-mail sboro@njsbf.org.

It is the responsibility of the teacher-coach to be prepared for rescheduling in the event of inclement weather, and to arrange for substitutes if needed, as previously discussed in R. 2:2-2. As with county competitions, the state coordinator may not be able to accommodate differing vacation and/or testing schedules.

RULE 2:11 SEMI-FINALS

Regional finals winners are eligible to compete in the statewide semi-finals scheduled for **March 3, 2020** at the New Jersey Law Center in New Brunswick. Please reserve this date. Inability to attend will result in forfeiture.

It is the responsibility of the teacher-coach to be prepared for rescheduling in the event of inclement weather, and to arrange for substitutes if needed, as previously discussed in R. 2:2-2. As with county competitions, the state coordinator may not be able to accommodate differing vacation and/or testing schedules.

RULE 2:12 STATEWIDE FINALS

The winners of the semi-finals are eligible to compete in the statewide championship round scheduled for **March 19, 2020** at the New Jersey Law Center in New Brunswick. Inability of finalist teams to attend will result in forfeiture. This will be a single elimination round. The judges' decision will be final.

It is the responsibility of the teacher-coach to be prepared for rescheduling in the event of inclement weather, and to arrange for substitutes if needed, as previously discussed in R. 2:2-2. As with county competitions, the state coordinator may not be able to accommodate differing vacation and/or testing schedules.

2:13 STUDENT ILLNESS POLICY

In the event that one or more members of a team cannot compete due to illness, another member or members of that team may substitute for them. The substitutes must be team members who are not already playing in that round. In addition, jurors may serve as substitutes unless they are already serving as jurors in a round. One attorney cannot play the roles of both attorneys in any given round. Likewise, one witness cannot play the roles of other witnesses in the same round. A student-lawyer cannot play the role of a witness in the same round nor can a witness play the role of a lawyer in the same round. If a contestant becomes ill while a trial is in progress, judge(s) may grant a 15-minute recess. During that time, the teacher-coach may arrange for another team member or juror to continue in place of the ill student. The team with the ill student and their teacher-coach and attorney-coach may communicate about the ill student and his or her replacement during the emergency recess. If the ill student cannot continue to compete, and a substitution cannot be made, the team must forfeit the round. It is recommended that teacher-coaches prepare "understudies" in case of illness, or other conflicts.

2:14 COMPLAINT PROCEDURE

No one shall contact any competition judge to complain about competition results. **Only teacher- or attorney-coaches are authorized to communicate about questions, problems, comments or complaints about contests. Communications received from students will not be answered.** Students should discuss issues or concerns with their teacher-coaches. Complaints about county competitions must be submitted in writing, via e-mail to your County Mock Trial Coordinator. Names and addresses of the County Mock Trial Coordinators will be posted on the New Jersey State Bar Foundation's website, www.njsbf.org. Please remember that, as stated in R. 2:7, the decisions of the judges are final. If a teacher-coach, as official team representative, wishes to file a grievance regarding another coach's/team's conduct or alleged rule violation, such complaint should be emailed promptly to the County Coordinator at the county level or to the Mock Trial Committee at the state regional, semi-final and final level. The County Coordinator or Mock Trial Committee shall forward the grievance to the teacher-coach of the team against which it is lodged and shall give that party a specific time period in which to respond. Final disposition of the grievance rests with the County Coordinator at the local level or the Mock Trial Committee at the state level.

2:15 QUESTIONS REGARDING CASE OR RULES

Contestants who have questions about the mock trial case and/or rules should submit them through their teacher- or attorney-coaches. Teacher- or attorney-coaches should e-mail or fax their questions to Sheila Boro, director of mock trial programs, at sboro@njsbf.org or fax to 732-828-0034. **Communications received from students will not be answered.** Please identify yourself, your school, whether you are the teacher-or attorney-coach, and provide a daytime phone number.

PART III

HINTS ON PREPARING FOR A MOCK TRIAL COMPETITION

The following tips have been developed from previous experiences in training a mock trial team.

All students should read the entire set of materials and discuss the information/procedures and rules used in the mock trial contest.

The facts of the case, witnesses' testimony, and the points for each side in the case then should be examined and discussed. Key information should be listed as discussion proceeds so that it can be referred to at some later time.

All team roles in the case should be assigned and practiced.

Credibility of witnesses is very important to a team's presentation of its case. As a result, students acting as witnesses need to really "get into" their roles and attempt to think like the persons they are playing. Students who are witnesses should read over their statements (affidavits) many times and have other members of the team or their class ask them questions about the facts until they know them cold.

Student team members have primary responsibility for deciding what possible questions should be asked of each witness on direct and cross-examination. Questions for each witness should be written down and/or recorded.

The best teams generally have students prepare their own questions, with the teacher-coach and attorney-adviser giving the team continual feedback and assistance on the assignment as it is completed. Based on the experience of these practice sessions, attorneys should revise their questions, and witnesses should restudy the parts of their witness statements where they are weak.

Opening and closing statements should also be written out by team members. Legal and/or non-legal language should be avoided where its meaning is not completely understood by attorneys and witnesses.

Closing statements should not be totally composed before trial, as they are supposed to highlight the important developments for the prosecution or plaintiff and the defense which have occurred during the trial. The more relaxed and informal such statements are, the more effective they are likely to be. Students should be prepared for interruptions by judges who like to question the attorneys, especially during closing argument.

As a team gets closer to the first round of the contest, the competition requires that it conduct at least one complete trial as a kind of "dress rehearsal." All formalities should be followed and notes taken by the teacher-coach and students concerning how the team's presentation might be improved. A team's attorney-adviser should be invited to attend this session and comment on the enactment.

The ability of a team to adapt to different situations is often a key part in a mock trial enactment since each judge—or lawyer acting as a judge—has his or her own way of doing things. Since the proceedings or conduct of the trial often depend in no small part on the judge who presides, student attorneys and other team members should be prepared to adapt to judicial rulings and requests, even if they appear contrary to outlined contest procedures and rules.

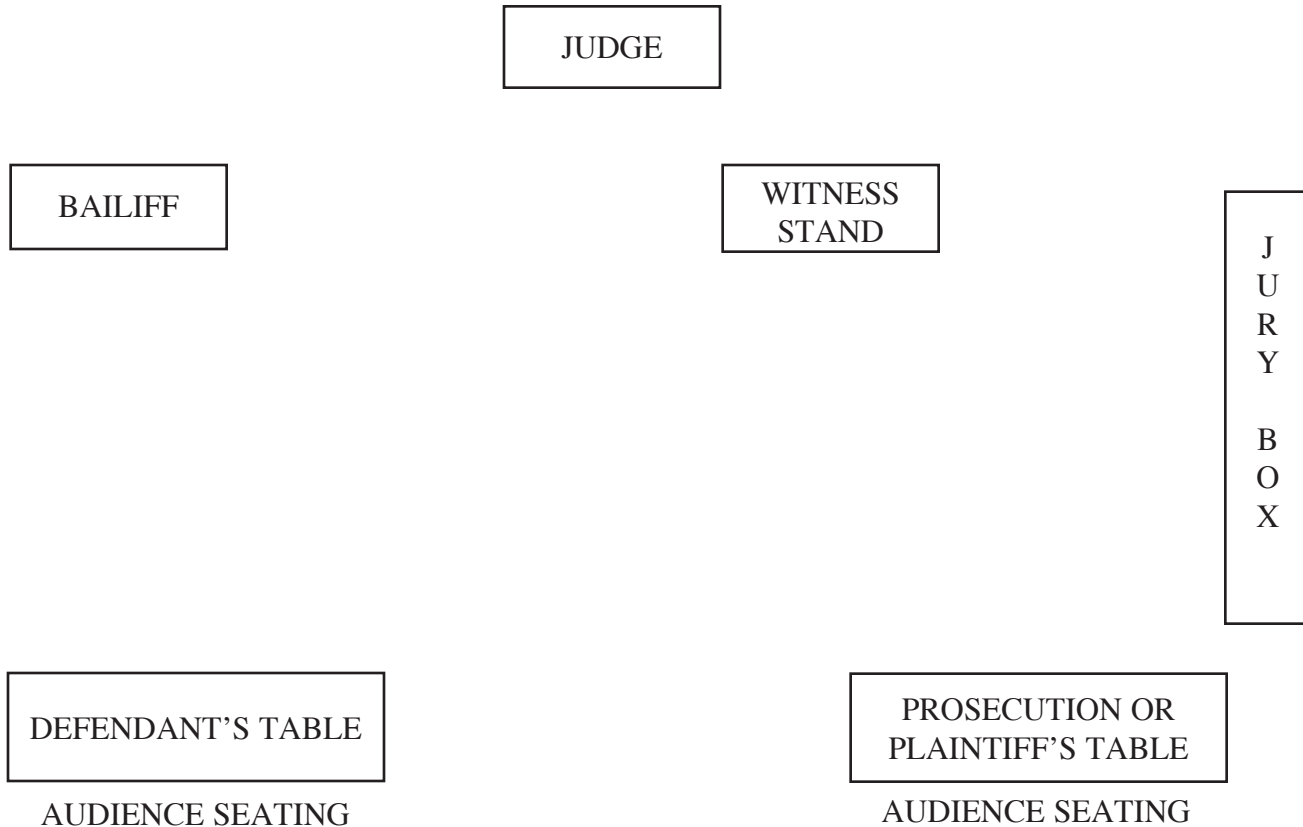
Some of the things most difficult for team members to learn to do are:

- (a) To decide which are the most important points to prove their side of the case and to make sure such proof takes place;
- (b) To tell clearly what they intend to prove in an opening statement and to argue effectively in their closing statement that the facts and evidence presented have proven their case;
- (c) To follow the formality of court, e.g., standing up when the judge enters; or when addressing the judge, to call the judge “your honor,” etc.;
- (d) To phrase questions on direct examination that are not leading (carefully review the rules and watch for this type of questioning in practice sessions);
- (e) Not to ask so many questions on cross-examinations that well-made points are lost. When a witness has been contradicted or otherwise discredited, student attorneys tend to ask additional questions which often lessen the impact of points previously made. (Stop — recognize what questions are likely to require answers that will make good points for your side. Rely on the use of these questions. Avoid pointless questions!)
- (f) To think quickly on their feet when a witness gives an unexpected answer, an attorney asks unexpected questions, or a judge throws questions at the attorney or witness. (Practice sessions will help prepare for this.)

PART IV TRIAL PROCEDURES

Before participating in a mock trial, it is important to be familiar with the physical setting of the courtroom as well as with the events that generally take place during the exercise and the order in which they occur.

COURTROOM LAYOUT



PARTICIPANTS

- The Judge(s)
- The Attorneys
 - Prosecutor–Defendant (Criminal Case)
 - Plaintiff–Defendant (Civil Case)
- The Witnesses
 - Prosecutor–Defendant (Criminal Case)
 - Plaintiff–Defendant (Civil Case)

STEPS IN MOCK TRIALS

The Opening of the Court

Either the clerk of the Court or the judge will call the Court to order.

When the judge enters, all participants should remain standing until the judge is seated.

The case will be announced, i.e., “The Court will now hear the case of _____ v. _____ .”

The judge will then ask the attorneys for each side if they are ready.

Appearances

Opening Statements to the Jury

(1) Prosecution (in criminal case)/Plaintiff (in civil case)

The prosecutor in a criminal case (or plaintiff's attorney in a civil case) summarizes the evidence which will be presented to prove the case.

(2) Defendant (in criminal or civil case)

The defendant's attorney in a criminal or civil case summarizes the evidence which will be presented to rebut the case the prosecution or plaintiff's attorney has made.

Direct Examination by Prosecution or Plaintiff's Attorney

The prosecutor(s) or plaintiff's attorney(s) conduct direct examination (questioning) of each of their own witnesses. At this time, testimony and other evidence to prove the prosecution's or plaintiff's case will be presented. The purpose of direct examination is to allow the witness to narrate the facts in support of the case. Direct examination is limited by the scope of the affidavits and/or the exhibits contained in this workbook.

NOTE: The attorneys for both sides, on both direct and cross-examination, should remember that their **only function is to ask questions which elicit the most important facts of the case**; attorneys themselves may not testify or give evidence, and they must avoid phrasing questions in a way that might violate this rule.

Cross-Examination by Defendant's Attorney

After the attorney for the prosecution or plaintiff has completed questioning each witness, the judge then allows the other party (i.e., defense attorney) to cross-examine the witness. The cross-examiner seeks to clarify or cast doubt upon the testimony of opposing witnesses. Inconsistency in stories, bias, and other damaging facts may be pointed out through cross-examination.

Direct Examination by Defendant's Attorneys

Direct examination of each defense witness follows the same pattern as the preceding which describes the process for prosecution's/plaintiff's witnesses.

Cross-Examination by Prosecution or Plaintiff's Attorneys

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

Closing Arguments to the Jury

(1) Defense

The closing statement for the defense is essentially the same as for the prosecution/plaintiff. Counsel for the defense reviews the evidence as presented, indicates how the evidence does not satisfy the elements of the charge or claim, stresses the facts favorable to the defense and asks for a finding (verdict) of not guilty (criminal case) or judgment for the defense (civil case). The defense will give its closing argument first, followed by the prosecution/plaintiff, as done in real trials.

(2) Prosecution or Plaintiff

A closing statement is a review of the evidence presented. It should indicate how the evidence has satisfied the elements of the case, and ask for a finding (verdict) of guilty (criminal case).

THE JUDGE'S ROLE

The judge is the person who presides over the trial to ensure that the parties' rights are protected, and that the attorneys follow the rules of evidence and trial procedure. In trials held without a jury, the judge also has the function of determining the facts of the case and rendering a judgment. (The student jurors will render a verdict, but will not determine which team wins. That will be decided by the judges.)

At all levels of the competition, a panel of two judges will judge the contests wherever possible. This may include two judges, sitting or retired, one judge and one lawyer, or two lawyers. If, for any reason, only one judge is available for any given contest, the contest shall proceed with one judge.

THE STAFF'S ROLE

Staff of the New Jersey State Bar Foundation attend the regional, semi-final and final contests in order to handle room and luncheon arrangements. **Please do not ask staffers to get involved in the competition proceedings. Student team members are responsible for pointing out infractions, if any, to judge(s). The judge(s) will then decide.** (See Parts V and VI for further details, particularly the section dealing with objections.)

PART V

RULES OF PROCEDURE

RULE 5:1 GENERAL PROCEDURE DURING TRIALS

5:1-1 USE OF EXHIBITS

The use of evidentiary or demonstrative exhibits not contained in this Mock Trial Workbook is not permitted. Use of props, visual and illustrative aids, other than what is specified in this workbook, is prohibited. Case materials cannot be enlarged unless specifically stated. It is assumed that once an exhibit has been put into evidence, it has been published to the jury. As such, copies of the exhibits shall not be distributed to the jury.

5:1-2 STATEMENT OF FACTS AND STIPULATIONS

The Statement of Facts, if provided, and any additional stipulations may not be disputed. The Statement of Facts is not admissible as an exhibit.

5:1-3 MOTIONS

No motions of any kind are allowed. For example, defense cannot make a motion to dismiss after the prosecution has rested its case. Motion for directed verdict is also prohibited.

5:1-4 VOIR DIRE

Voir dire, the preliminary examination of a witness or juror to determine his or her competency to give or hear evidence, is prohibited.

5:1-5 COURTROOM DECORUM

Usual rules of courtroom decorum apply to all participants. Appropriate, neat appearance is required.

RULE 5:2 OBJECTIONS

5:2-1 IN GENERAL

Procedural objections and objections to evidence are restricted to those in the Mock Trial Rules of Evidence. Other objections found in the New Jersey and Federal Rules of Evidence are not permitted. All objections, except those relating to openings or closings, shall be raised immediately by the appropriate attorney. When an objection is made, each side will usually have at least one fair opportunity to argue the objection before the presiding judge rules. Sidebars are not permitted. Competitors shall refrain from interrupting an adversary during opening statements or closing arguments. See Mock Trial Rule of Evidence 1201.

5:2-2 TIME FOR OBJECTIONS

A student attorney can object any time that the opposing team has violated the rules of evidence or has violated the rules or procedures of the Mock Trial Competition. **IMPORTANT:** Only student attorneys may object to any violations they believe have occurred, and they must object directly to the judge during the trial at the time of the violation, except with respect to opening statements and closing arguments. See Mock Trial Rule of Evidence 1201.

5:2-3 LIMITATION ON OBJECTIONS

Objections made after the trial has concluded cannot be addressed. NJSBF staff members cannot object on your behalf. Please do not ask staffers to intervene in the competition.

5:2-4 MANNER OF OBJECTIONS

The attorney wishing to object should stand up and do so at the time of the violation, except as set forth in Rule 1201. When an objection is made, the judge will ask the reason for it. Then the judge will turn to the attorney who asked the question, and that attorney usually will have a chance to explain why the objection should not be accepted (“sustained”) by the judge. The judge will then decide whether a question or answer must be disregarded because it has violated a rule of evidence or mock trial procedure (“objection sustained”) or whether to allow the question or answer to remain on the trial record (“objection overruled”). When objecting to a competition rule or procedural violation, student attorneys should be prepared to refer to the appropriate rule number in this workbook if requested to do so by judges. All objections should be made succinctly, with the reason for the objection publicly stated.

RULE 5:3 PROCEDURE REGARDING ATTORNEYS

5:3-1 MANDATORY ATTORNEY PARTICIPATION IN EXAMINATIONS

Each attorney shall conduct the examination of three witnesses (1 direct and 2 cross-examinations or 2 direct and 1 cross-examination).

5:3-2 ATTORNEY OPENINGS/CLOSINGS

Each team must present an opening statement and closing argument. An attorney for a team presenting the opening statement may not make the closing argument. An attorney is not permitted to advise the jury of facts in opening for which there is no good faith basis in the Mock Trial Workbook materials. In closing argument, an attorney is not permitted to comment on evidence that was not presented or evidence which was excluded by the presiding judge. In an opening or closing, an attorney is allowed to make arguments from a fair extrapolation of the facts in the Mock Trial Workbook. "Fair extrapolation" refers to an inference that can be reasonably made from the facts stated in the Mock Trial Workbook or from testimony adduced during the course of the trial. The defendant's attorney shall make the first closing statement, followed by the prosecuting/plaintiff attorney. No rebuttal statements are permitted.

5:3-3 DESIGNATION OF ATTORNEY PERMITTED TO OBJECT

Only one attorney may address any one witness. The attorney who will examine or cross-examine the witness is the only attorney who may make an objection. Likewise, only the attorney who will open may object to the opposition's opening statement and only the lawyer who will close may object to the opposition's closing.

5:3-4 USE OF NOTES BY ATTORNEYS

Attorneys are permitted to use notes in presenting their cases.

5:3-5 COMMUNICATION BETWEEN AND AMONG TEAM MEMBERS AND OTHERS

A. During a trial, law instructors, coaches, and all other observers may not talk to, signal or otherwise communicate, in any manner whatsoever, with or, in any way, coach or attempt to coach any members of the team.

B. No team member shall seek to communicate, verbally, non-verbally or in writing, with any witness who is in the act of testifying.

C. Only the two participating student-attorneys may communicate with each other during the five-minute pre-summation recess.

Failure to comply with the aforementioned shall be considered a violation of the mock trial rules. Should any team member participating in that round observe any conduct which is in violation of this rule, s/he shall immediately and unobtrusively bring the alleged violation to the attention of the appropriate student attorney. The student attorney, at his/her discretion, may then object to the presiding judges. Any such objection must be made at the time the violation is noted, and in the case of Section B above, prior to the witness leaving the witness stand.

The judge(s) shall immediately make an inquiry into the matter and may deduct one or more points at their discretion. The deduction may come from the score of the witness, the attorney(s), and/or the overall team score.

5:3-6 COMMUNICATION WITH JUDGES

No one affiliated with a competing team is permitted to have any contact with competition judges before or during the competition. Only student-attorneys and student-witnesses may communicate with the judges during a trial. After a trial has concluded, judges may meet privately with the attorney-coach, or teacher-coach if the attorney-coach is not present, for at least five minutes in order to answer specific questions and to provide additional evaluation of students' performances.

RULE 5:4 WITNESS TESTIMONY

5:4-1 FACTS RELIED UPON FOR TESTIMONY

Each witness is bound by the facts contained in his/her own witness statement, the facts contained in the Statement of Facts, if provided, and the necessary documentation provided in the competition workbook. A witness is not bound by facts contained in other witness statements.

5:4-2 WITNESS' PHYSICAL APPEARANCE

A witness' physical appearance in the case is as he or she appears in the trial enactment.

5:4-3 WITNESS' GENDER

Contestants cannot change the gender of witnesses as provided in the case unless it is indicated that a witness can be male or female. Male or female contestants, however, may play the roles of any witnesses.

5:4-4 REQUIRED EXAMINATION OF WITNESSES

Each team of attorneys must engage in either the direct examination or cross-examination of each witness. Direct examination is limited by the scope of the affidavits and/or the exhibits contained in the workbook.

5:4-5 FAIR EXTRAPOLATION

A witness who is testifying may use fair extrapolations from his or her own statement. "Fair extrapolation" refers to an inference that can be reasonably made from the facts stated in the witness statement of the testifying witness. A witness who is testifying on direct examination, in responding to questions of counsel, may utilize the reasonable and logical inferences from his or her own statement. Testimony which is unsupported by the facts in a witness' own statement and/or intended solely for the purpose of materially strengthening his or her team's position, is "unfair extrapolation" and is in violation of the rules and spirit of the competition. If a witness invents an answer which is favorable to his or her side, but not fair extrapolation, the opposition may object; the judge will decide whether to allow the testimony. An exception to this rule can occur when an attorney on cross-examination asks a question, the answer to which is not included in the witness statement. The witness is then free to "create" an answer.

5:4-6 IMPEACHMENT

On cross-examination, the attorney may want to show the court that the witness should not be believed. This is called impeaching the witness. A witness may be impeached by showing that he or she has given a prior statement that differs from his or her trial testimony, that he or she has some interest in the outcome of the case, that he or she has a bias for or against any other party or person, that he or she has some other motivation to either lie or be untruthful, or that he or she is simply mistaken as to what he or she has seen or heard.

5:4-7 USE OF NOTES BY WITNESSES

Witnesses are not permitted to use notes while testifying during the trial.

5:4-8 REQUIRED WITNESSES

All three witnesses for each side must testify. Teams may not call another team's witnesses.

5:4-9 SEQUESTERING WITNESSES

Sequestering witnesses is not permitted.

RULE 5:5 INTRODUCTION OF PHYSICAL EVIDENCE

5:5-1 PRE-TRIAL CONFERENCE

Physical evidence must be relevant to the case and the attorney must be prepared to define its use on that basis. In an actual trial an attorney introduces a physical object or document for identification and/or use as evidence during the trial. **For the purposes of this mock trial competition, there will be a pre-trial conference, lasting no more than five minutes, in which both prosecution's/plaintiff's and defendant's attorneys get together to present pre-marked exhibits for identification before trial. The issue of admissibility cannot be addressed at this stage.**

The purpose of the pre-trial procedure is to avoid eroding into each team's time limitations during the trial and to help students understand that attorneys, while they are adversaries, can also work cooperatively to benefit their clients. During this pre-trial, students should introduce themselves and the roles they will play. Remember to give the judges scoresheets with the names of the students at this time. See "Important Notice" preceding scoresheets for details.

PART VI

MOCK TRIAL RULES OF EVIDENCE

In American courts, complex rules are used to govern the admission of proof (both oral and physical evidence). These rules are to ensure all parties a fair hearing as well as to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. Attorneys must use the evidence rules, by making objections, 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 the New Jersey Rules of Evidence and their parallel numbering system. **Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure.** The High School Mock Trial Rules of Evidence are fully set forth below. DO NOT refer to any other outside materials or source other than these rules when making or responding to objections. Rules 1201 and 1202 have been added as no parallel rules exist in either the Federal or State Rules of Evidence.

Not all judges will interpret the Rules of Evidence (or procedure) in the same way, and mock trial attorneys should be prepared to point out specific rules for reference (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate. Judges are asked to adjust scoring to reflect how well attorneys pose and respond to objections. Judges are encouraged to have attorneys explain their positions more than might be expected in a real courtroom, so you may demonstrate your knowledge of how the evidence rules apply in court.

While the evidence rules are numbered, attorneys are expected to refer to the rules by description but may also refer to them by number. Memorizing the evidence rule numbers is not necessary. However, if a Judge asks for a rule number, the mock trial attorney should be prepared to give the rule number referenced. Note that multiple evidence objections may be under a single rule number. Additionally, where a witness makes a statement which is objected to and the Judge sustains the objection, the mock trial attorney may also request: “I ask that the jury be directed to disregard the witness’s last statement” or “I ask that the witness’s last statement be stricken from the record.”

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 401. Test for Relevant Evidence

Evidence is relevant if:

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

Rule 402. General Admissibility of Relevant Evidence

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

Example of objection to irrelevant evidence: “I object, your Honor. This testimony is not relevant to the facts of the case.”

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

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

The probative value of evidence is the tendency of the evidence to establish the proposition that it is offered to prove. In determining the probative value of evidence, the focus is upon the logical connection between the proffered evidence and the fact in issue.

Example of objection to compound question: “Objection. Counsel is asking the witness a compound question.”

Example of objection to mischaracterization of testimony: “Objection. Counsel is mischaracterizing the witness’s testimony.”

Example of objection to assuming facts not in evidence: “Objection. Counsel’s question (or closing argument) assumes facts which are not in evidence.”

Example of objection to unfair extrapolation: “Objection, the witness’ unfair extrapolation is in violation of Rule 5:4-5 in that it goes beyond the witness’ statement/deposition/testimony or any reasonable inference to be drawn therefrom.”

NOTE: While “needless presentation of cumulative evidence” may support the objection that a question was already “asked and answered,” this objection is **not** allowed in Mock Trial Rules. The prescribed time limits already discourage repetitive questioning.

Rule 404. Character Evidence not Admissible to Prove Conduct; Exceptions

(a) Character Evidence Generally. Evidence of a person’s character or character trait, including a trait of care or skill or lack thereof, is not admissible for the purpose of proving that on a particular occasion the person acted in accordance with the character or character trait.

This rule does not apply to evidence admissible under Rule 406, however.

Example of objection to improper character testimony: “Objection. Counsel’s question is inadmissible, as it goes to the witness’s character.”

NOTE: That is, you cannot show that someone acted a certain way just because they did a similar act in the past. BUT see habit evidence, Rule 406, below.

(b) Crimes, Wrongs, or Other Acts

(1) Prohibited Uses. Evidence of a crime, wrong or other act is not admissible to prove a person’s character in order to show that on a particular occasion the person acted in accordance with the character.

(2) Permitted Uses. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or lack of accident when such matters are relevant to a material issue in dispute.

(c) Character and Character Trait in Issue. Evidence of a person’s character or trait of character is admissible *when that character or trait is an element of a claim or defense.*

Rule 405. Methods of Proving Character

(a) Reputation or opinion. When evidence of character or a trait of character of a person 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. When character or a trait of character of a person is an essential element of a charge, claim, or defense, evidence of specific instances of conduct may also be admitted.

Rule 406. Habit, Routine Practice

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

The witness’ knowledge must be that the person or organization has engaged in the habit or routine practice on many occasions.

The habit or routine practice must be specific, or else it is inadmissible under Rule 404(a) as character evidence.

NOTE: For example, if a witness knows X *always* uses his/her seatbelt when getting into a car, as the witness has often seen him/her get into a car many times and buckle the seatbelt, the witness may be permitted to testify to this habit. The key to admissibility is that X engages in the conduct of wearing his/her seatbelt on a regular basis. The habit must be specific or routine must be specific in nature. The witness cannot make the broad statement, for example, that X is a careful driver.

ARTICLE VI. WITNESSES

Rule 601. Competency to be a Witness

Each mock trial witness is competent to be a witness and may testify in accordance with his/her witness statement, deposition, prior testimony, the facts contained in the Statement of Facts and the documents provided. A witness may testify as to any reasonable inference to be drawn from these facts.

Example of objection to unfair extrapolation: “Objection, the witness’ unfair extrapolation is in violation of Rule 5:4-5 in that it goes beyond the witness’ statement/deposition/testimony/Statement of Facts/documents or any reasonable inference to be drawn therefrom.”

Rule 602. Need for Personal Knowledge

A witness may testify to a matter only if evidence is introduced establishing that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness’s own testimony. This rule does not apply to a witness’s expert testimony, which is governed by Rule 703.

Example of objection to lack of personal knowledge: “Objection. The witness has no personal knowledge that would enable him/her to answer this question.”

Example of objection to speculation: “Objection. The question calls for speculation on the part of the witness.”

Rule 607. Who May Impeach a Witness

Any party, including the party that called the witness, may attack the witness’s credibility. Also see R.5:4-6.

NOTE: That is, an attorney may ask questions to show that the witness is lying or lied on a prior occasion.

Rule 608. Evidence of Character for Truthfulness or Untruthfulness and Conduct of Witnesses

(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, provided, however, that (1) the evidence relates only to the witness’ 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’ character for truthfulness may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into 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.

Rule 611. Mode and Order of Interrogation and Presentation

(a) Control by the Court; Purposes.

The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to

- (1) make those procedures effective for determining the truth and
- (2) protect witnesses from harassment or undue embarrassment.

Example of objection to argumentative question: “Objection. Counsel’s question is argumentative.”

(b) Leading and Narrative Questions.

Leading questions should not be used on direct examination or re-direct examination of one's own witness. Ordinarily, the court should allow leading questions on cross-examination and re-cross-exam. Narrative questions (questions that call for a narrative answer) are generally not permitted on direct or re-direct exam or cross or re-cross exam.

NOTE: Direct examination may cover all facts relevant to the case of which the witness has firsthand knowledge. It is limited by the scope of the witness statements and/or the exhibits in this workbook and the Statement of Facts or stipulated facts if he/she has knowledge of them. Any factual areas examined on direct examination may be subject to cross-examination. On direct examination, a witness is not permitted to quote from the witness statement of another witness. Fair extrapolation, as defined in Rule 5:4-5, is permitted.

In direct examination, attorneys call and question witnesses. Witnesses may not be asked leading questions by the attorney who calls them. A leading question is one that suggests to the witness the answer desired by the examiner, and often suggests a "yes" or "no" answer. Direct questions generally are phrased to evoke a set of facts from the witness.

Example of direct question: "Mr. Hudson, when did you meet June Harris?"

Example of a leading question: "Mr. Hudson, isn't it true that you first met June Harris on April 14, 1981?"

Example of objection to leading question: "Objection. Counsel is leading the witness." (Remember, this is only objectionable when done on direct examination or re-direct examination of one's own witness).

Example of objection to non-responsive answer: "Objection. The answer is not responsive."

Example of objection to question calling for a narrative answer: "Objection. Counsel's question calls for a narrative answer."

Note: Narrative questions (questions that call for a narrative answer) and narrative answers are generally not permitted, especially in direct examination. While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions should not be so broad that the witness is allowed to wander or narrate a whole story. The opposing team will likely want to object to a question on direct examination calling for a narrative response.

At times, a direct question may be appropriate, but the witness' answer may go beyond the facts for which the question was asked. This may also happen when a leading question is asked on cross-examination and the answer given is in a narrative form.

(c) 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. Opposing counsel may also inquire into any omissions from the witness' statement that are otherwise material and admissible and/or into any issue potentially affecting the credibility of the witness.

NOTE: An attorney may ask leading questions when cross-examining the opponent's witnesses, but asking that opposing witness a narrative question is generally not wise, since it gives the witness an opportunity to stress facts that favor his/her own side.

While the purpose of direct examination is to get the witness to tell a story, the questions in cross-examination and re-cross should ask for specific information. It is not in the cross-examining team's interest to ask an opposing witness questions that are so broad that the witness is allowed to wander or narrate a whole story. Questions tending to evoke a narrative answer often begin with "how," "why" or "explain." An example of a narrative question is: "Mr. Hudson, what went wrong with your marriage?"

On cross-examination, a witness is permitted to invent an answer which is not included in his/her witness statement only as permitted by Rule 5:4-5. If that answer is inconsistent with any other evidence, including statements of that witness, the Statement of Facts, or any other stipulations, the cross-examining attorney may impeach or object as may be appropriate. For example, he/she may object to an answer as being non-responsive.

(d) Re-Direct and Re-Cross Examination.

After cross-examination, additional non-leading questions may be asked by the direct-examining attorney on re-direct examination, but questions must be limited to matters raised by the opposing attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on re-cross, but such questions must be limited to matters raised on re-direct.

NOTE: Re-direct and re-cross are optional, to be used at the discretion of the team. One minute will be allowed for re-direct and re-cross respectively. Judges should not deduct points if a team decides not to re-direct or re-cross.

Example of objection to questions beyond the scope: On re-direct or re-cross, the opposing party may object as follows: “Objection. This question is beyond the scope of cross-examination (or re-direct).”

(e) Permitted Motions.

The judge is presumed to strike testimony elicited by a question following a successful objection to its admission.

NOTE: For the purpose of mock trial, it is assumed that when an objection is sustained, the response is stricken. If the witness has responded in a meaningful way, mock trial attorneys need not but may move to have the testimony stricken from the record. Counsel should **not** refer to stricken testimony in closing arguments.

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

A written statement is used to refresh the memory of a witness, but while on direct examination, a witness cannot read from the witness’ own statements to bolster testimony (that is, to show that the witness said something earlier). The adverse party may cross-examine the witness on the material and introduce into evidence those portions of the written statement that relate to the testimony of the witness.

Rule 613. Witness’s Prior Statement

The statements of witnesses, whether in affidavit or deposition format, are not admissible into evidence, but may be used during cross-examination for impeachment purposes. When examining a witness about the witness’ prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, indicate the relevant segment of the statement for opposing counsel. Counsel may show the document for impeachment, or on re-direct examination, may show the same document to rebut the impeachment.

NOTE: It is best to briefly show the exhibit you are going to show a witness to opposing counsel just as you are about to approach the witness with it. When asking the witness about the document, it is best to refer to the page and line number. For example:

“Ms. Jones, I am showing you what has been marked as S-1 for identification. Do you recognize S-1?” (The witness should say “yes” and identify the document. After the witness identifies S-1, ask, “I would like you to read line X of page Y. . . .” When referring to the witness’ own statement, mock trial attorneys may ask the witness if the statement was given under oath, but are not required to do so and may refer to it in summation.

Otherwise, opposing counsel may ask the court: “Can I have the page and line number (counsel is referring to)?” If your witness is impeached by his or her statement, but the words used were taken out of context, not fairly showing what the witness meant, on re-direct you may want to show the statement to your witness and “rehabilitate” him/her. For example, if cross-examination brings out that the witness said “I did not shoot the victim,” in response to police asking if s/he did so, you may ask your witness to add what s/he said after that phrase:

“Witness, you were asked if you said to police, “I did not shoot the victim?” “Yes.” “Do you remember your complete response to police?” “No.” “I am showing you S-1 again, the same line opposing counsel showed you. Do you now remember your *complete* answer to that question?” “Yes.” “What was that full response?” “I did not shoot the victim until he pointed a gun in my face.””

After the exhibits have been agreed upon, the attorneys may ask witnesses about the documents.

For example, if an attorney decides to show a letter (already agreed upon as an exhibit by both sides) to a witness, an attorney may show the letter to him/her, asking: “Mr. Davis, do you recognize this document which is marked Plaintiff’s P-1 for identification?” (The witness should say yes and identify the document.)

At this point the attorney may proceed to ask the witness questions about P-1.

If the attorney wishes to place the document into evidence, say, “Your Honor, I offer this letter for admission into evidence as Plaintiff’s P-1 and ask the court to so admit it.” Moving a document into evidence must occur either at the time the document is identified or at the end of the parties’ case.

Get a ruling from the court on admissibility and hand the document to the judge.

Bringing physical evidence to the trial, e.g., a weapon in the case of a murder trial, is prohibited unless otherwise indicated. It is sufficient to rely upon the documents provided in this workbook for exhibits. Use of props, visual and illustrative aids, other than what is specified in the workbook, is prohibited, under Rule 5:1-1.

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701. Opinion Testimony by Lay Witness

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

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

NOTE: Lay witnesses are any witnesses not admitted as experts in the trial. A lay witness may offer testimony in the form of an opinion based on the common experience of laypersons in the community and of which the witness has firsthand knowledge. Examples include: what things look like; how someone is acting (e.g., drunk, tired, happy); speed, distance, sound, size, weight, degree of darkness, and general weather conditions.

A witness may not testify to any matter of which the witness has no personal knowledge (except for expert witnesses, in exceptions listed below).

For example: If Mrs. Davis was not present at the scene of an intersectional collision between a Ford Explorer and a bus, she could not say, “The bus went through the red light.”

Example of objection to improper request for opinion: “Objection. The witness is not qualified as an expert on this topic and counsel is asking the witness to give an expert opinion.”

Example for lay witnesses: “Objection. Counsel is asking the witness to give an opinion on a topic about which the witness has no personal knowledge.”

Rule 702. Testimony by Experts

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert has reliably applied the principles and methods to the facts of the case.

NOTE: Certain witnesses who have special knowledge or qualifications may be qualified as “experts.” An expert must be qualified by the attorney for the party for which the expert is testifying; this means that before an expert can be asked an expert opinion, the questioning attorney must bring out the expert’s qualifications and experience.

An expert witness may offer testimony in the form of an opinion only if the subject matter is within the expert’s area of expertise.

Rule 703. Bases of Opinion Testimony by Experts

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, this is sufficient grounds for the admissibility of the expert’s opinion in the case at hand.

NOTE: An expert may testify to things that are otherwise not admissible under the rules of evidence, if the expert relied upon that information to come up with his or her opinion. For example, if an expert physician relied upon medical records of treatment, he or she can testify to them.

Rule 704. Opinion on Ultimate Issue

No witness may give an opinion about how the case should be decided. This is called the “ultimate issue” question. An expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged (i.e. purposeful, knowing or recklessness).

Rule 705. Disclosing the Facts or Data Underlying an Expert’s Opinion

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

NOTE: In mock trial, however, we have limited the presentation of an expert’s facts and data to streamline the case. Parties should not use invention on direct examination of their own expert witnesses to enhance their testimony.

ARTICLE VIII. HEARSAY

Rule 801. Definitions

The following definitions apply under this article:

- (a) “Statement” means a person’s oral assertion, written assertion, or nonverbal conduct if the person intended it as an assertion.
- (b) “Declarant” means the person who made the statement.
- (c) Hearsay is a statement attributed to a declarant *who is not a witness in the case* which is offered to prove the truth of the statement. A witness is not permitted on direct examination to quote from the witness statement of another witness.

Example: Mrs. Mills is testifying. Her witness statement contains the following statement: “Mr. Hudson told me he was at the scene of the crime.” This is inadmissible hearsay (if offered to prove that Mr. Hudson was at the scene of the crime) unless Mr. Hudson is also a witness in the case. If Mr. Hudson is a witness in the case, then the statement is not hearsay.

Example: Mrs. Mills is testifying. Mr. Hudson is a witness in the case. His witness statement contains the following statement: “I heard Mrs. Harris threaten my son.” Mrs. Mills may not testify that “Mr. Hudson said that Mrs. Harris threatened his son.” The statement is not contained in the witness statement of Mrs. Mills. Such testimony is inadmissible hearsay and also violates the mock trial rule that prohibits a witness on direct examination from quoting from the witness statement of another witness.

(d) Statements That Are Not Hearsay.

A statement that meets the following conditions is not hearsay:

(1) Party Declarant’s Admission against Interest

A statement may be admissible if it was said by a party in the case and contains evidence that goes against the party’s interest (e.g., in a murder case, the defendant told someone he committed the murder).

(2) **Opposing Party’s Statement**

A statement may be admissible if it is offered against an opposing party and was made by the party.

(3) **Relied upon by Expert**

A statement may be admissible if it was relied upon by an expert witness and forms the basis for the expert’s opinion. See Rule 703, above.

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these Rules.

Example of objection to hearsay: “Objection. Counsel’s question/the witness’ answer is based on hearsay.” (If the witness makes a hearsay statement, the attorney should also say, “and I ask that the jury be directed to disregard the witness’ last statement” or “and I ask that the witness’ last statement be stricken from the record.”)

Rule 803. Exceptions to the Rule against Hearsay

The following exceptions to the hearsay rule are not dependent on whether the declarant is available as a witness or not:

(1) **Present Sense Impression.** A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

(2) **Excited Utterance.** A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

(3) **State of Mind.** A statement of the declarant’s then-existing state of mind (such as motive, intent or plan).

NOTE: Understand that the statement may not be used to prove the truth of the matter asserted, however, if it comes in, it is only to establish the speaker’s “state of mind.”

(6) **Records of regularly conducted activity.** A statement contained in a writing or other record of acts, events, conditions, and made at or near the time of observation by a person with actual knowledge or from information supplied by such a person, if the writing or other record was made in the regular course of business and it was the regular practice of that business to make it, 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 that it is not trustworthy. 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.

Rule 805. Hearsay within Hearsay

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

ARTICLE XII. OTHER OBJECTIONS

Rule 1201. Objections to Openings and Closings

Attorneys may not interrupt or object during the opposition’s opening or closing, but must raise any objections to openings or closings immediately after the opposing attorney concludes. The presiding judge will then rule on the objections and instruct the jury as may be necessary.

Rule 1202. Number of Objections

While there is no limit on the number of objections attorneys may raise, teams should be aware that judges may assess scoring penalties for objections which are frivolous.

Rule 1203. Other Standard Objections

Other standard forms of evidentiary objections allowed in the Mock Trial Competition are as follows. These “other objections” may be altered from year to year depending on the nature of the case.

Example of objection to lack of proper foundation: “Objection. Counsel has not laid a proper foundation for the question (or for admission of an exhibit).”

Example of objection to conclusion of law improperly called for by question: “Objection. Counsel is calling for the witness to make a conclusion of law.”

PART VII

GUIDELINES FOR ATTORNEY TEAM ADVISERS

The rules of evidence governing trial practice have been modified and simplified for the purposes of this mock trial competition (see Part VI of this packet.) Other more complex rules are **not** to be raised during the trial enactment.

Team members cannot contradict the witness statement sheets for the case (see Part X of this packet) nor introduce any evidence that is not included in this packet of materials.

ALL WITNESSES MUST TAKE THE STAND.

The decision of the judge(s) in any mock trial enactment determines which team advances. This decision is to be based on the quality of the students' performance.

The preparation phase of the contest is intended to be a cooperative effort among students, teacher-coach and attorney-adviser. **Remember:** The official representative of a mock trial team is the teacher-coach, **not** students, lawyer-coaches or others. All communications regarding a mock trial team will be made by and through the teacher-coach as official team representative.

When assisting students, attorney-advisers should avoid use of highly complicated legal terminology unless such terminology is pertinent to the comprehension of the case.

Attorneys should not “script” or prepare the cases for the students. As part of the educational goals of the competition, students are expected to read, study and analyze the case. Attorney-coaches may then help students to refine their strategy.

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

- answering questions which students may have concerning general trial practices;
- explaining the reasons for the sequence of events/procedures in a trial;
- listening to the students' approach to the assigned case; and
- discussing general strategies as well as raising key questions regarding the enactment.

A second and subsequent session with students should center on the development of proper questioning techniques by the student attorneys and sound testimony by the witnesses. Here an attorney can **best** serve as constructive observer and critic-teacher, i.e., listening, suggesting, demonstrating to the team.

Courtroom Visit—In order to provide a “real life” look at a trial, attorney-coaches should consider arranging, through the local courthouse, a courtroom visit for their team(s).

PART VIII

GENERAL GUIDELINES TO PRESENTATIONS FOR JUDGES

Under contest rules, student-attorneys are allowed to use notes in presenting their cases; witnesses may **not** use notes in testifying.

Attorneys and witnesses may neither contradict the witness statement sheets for the case nor introduce any evidence that is not included in this packet of materials.

Only **one** opening and closing statement is allowed.

Except for opening the court, general procedural instructions, rulings on objections, etc., it is best to keep judicial involvement/participation to a minimum during the trial enactment.

Each attorney (two for each side) shall conduct the examination of three witnesses. See R.5:3-1.

The Mock Trial Rules of Evidence have been revised. (See Part VI of this workbook). They are to govern proceedings. Other more complex rules are **not** to be raised during the trial enactment.

Witness statements may be used by attorneys to “refresh” a witness’ memory and/or impeach the witness’ testimony in court.

Attorneys have been asked to keep their presentations within the following guidelines: Opening Statements—4 minutes; Closing Statements—8 minutes; Direct Examination—6 minutes/witness; and Cross-Examination—7 minutes/witness. Regarding objections, the clock will stop. One minute will be allowed for re-direct and re-cross respectively. See rule 2:9 on “Time Limits” for details. Judges should **not** deduct points if a team decides not to re-direct or re-cross.

The decision of the judge(s) determines which team advances and which team is eliminated.

In the event of a tie score, the judge(s) shall make a final determination based on overall team performance. Judges may award an additional point to the team with the better overall team performance in order to break a tie. See Part XI for details.

Judges may include in their rating of overall team performance an evaluation of civility and compliance with the Code of Conduct in this workbook as well as compliance with mock trial rules.

If a team fails to adhere to the established guidelines/rules set forth for the competition, a judge may (depending upon the circumstances of the violation) lessen his/her rating of that team.

The student jury will render the verdict. The judge will decide which team wins. The judge should explain that these two decisions are separate. Winning the verdict does not necessarily mean that the team has won the competition.

Better understanding is promoted among students and teachers if the judge(s) in a mock trial takes a few minutes following the enactment to explain his/her decision(s) regarding the teams’ presentation. Judges will provide a qualitative evaluation of each team’s performance. They will not release numerical scores. Judges may also offer their opinions regarding the legal merits of the case after the student jury has rendered a verdict. Judges are also encouraged to meet privately with the attorney-coach, or teacher-coach if the attorney-coach is not present, for at least five minutes after the contest has concluded in order to answer specific questions and to provide additional evaluation of students’ performances.

The judges’ decisions are final.

PART IX MOCK TRIAL VIDEO

Watch championship teams battle for the state title in our instructional video on our website, njsbf.org. You’ll see examples of opening statements, direct and cross-examinations of witnesses and closing arguments, which were excerpted from the final round of the New Jersey State Bar Foundation’s 2018-2019 Vincent J. Apruzzese High School Mock Trial Competition.

PART X

The State of New Jersey v. Charlie Quinn

STATEMENT OF FACTS

On the night of August 17, 2017, the Defendant, Charlie Quinn, was hanging with a group of friends celebrating the end of summer. For many of the friends, it was the last chance to see each other as many were going off to college. Their choice for a hangout, behind the Olden Mills, was a popular place for young people to congregate, much to the chagrin of the owner of the property, Lew Olden. Mr. /Ms. Olden had called the police several times over the course of the summer, complaining about the noise and garbage left by the young kids.

The police were called at 10:55 p.m. The K9 Unit arrived at approximately 11:05 p.m. The police dog, MacGregor, with eight months' experience on the force, was the first to enter the pathway back to the woods.

MacGregor approached 17-year-old Kal Simpson, who arrived at the scene at the same time. Kal, who had been attacked by a dog the previous summer, screamed in horror. The Defendant has recounted that, upon hearing the scream, s/he ran to where the noise came from. Wielding a bottle of beer, the Defendant struck MacGregor over the head. The State further claims that Defendant caused further injuries to MacGregor.

The Defendant was arrested for injuring a law enforcement animal. The Defendant is claiming the defense of duress, in that s/he perceived Kal to be in danger, and felt coerced to use the force s/he used. Three days after the incident, MacGregor died, having suffered a large loss of blood with severe head and body injuries.

Joint Exhibits

1. Exhibit A – Photo of MacGregor
2. Exhibit B – Photo of Brewster
3. Exhibit C – Transcript of 911 Call
4. Exhibit D – Olden Mills Property Layout
5. Exhibit E – Excerpt from Metropolitan County K9 Training Evaluation
6. Exhibit F – Metropolitan Township Police Department Officer Incident Report
7. Exhibit G – Necropsy – Summary of Findings
8. Exhibit H - K9 MacGregor and Officer Steph Murray Certifications

Stipulations

1. Except for E, F and G, exhibits are stipulated to be accurate. In particular, Exhibits A and B are substantially similar in appearance to the way MacGregor and Brewster looked on August 17, 2017.
2. Costumes, make-up and props are prohibited.
3. All witness statements and transcript of testimony are deemed to be sworn. If asked, a witness must acknowledge swearing an oath or certifying to the contents of the document on the date indicated therein, and also to signing any statement. Transcript of testimony has been prepared by an official court reporter and is stipulated to be accurate.
4. Witnesses may be male or female.
5. The trial judge shall dispense with the reading of the jury charge, and it shall be stipulated that all jurors are familiar with its contents.
6. The necropsy summary report (Exhibit G) is to be considered the entire and complete report.
7. For the purposes of this mock trial case, a limited glossary of medical terms is provided. The glossary shall be deemed as a stipulation of the parties. Testimony of the experts regarding medical definitions shall be limited to these terms.
8. The interview statement of Charlie Quinn immediately followed Quinn's being informed of, and acknowledging, his/her Miranda rights, including the right to remain silent, and have an attorney present for any statement, and Quinn then deciding to give a statement.
9. It is stipulated that Dr. Carlin George and Dr. Mel Allen are experts in the field of veterinary medicine, diagnosis and treatment, and Dr. Allen is also an expert in pathology, the science of the causes and effects of diseases and injuries.

Prosecution Witnesses

Officer Steph Murray
Lew Olden
Dr. Carlin George

Defense Witnesses

Charlie Quinn
Kal Simpson
Dr. Mel Allen

These materials are produced for educational purposes only. All characters, names, events and circumstances are fictitious. No resemblance or reference to real individuals, events or circumstances is intended or should be inferred.

JURY CHARGE

Before you retire to deliberate and reach your verdict, it is my obligation to instruct you as to the principles of law applicable to this case. You shall consider my instructions in their entirety and not pick out any particular instruction and overemphasize it.

These instructions consist of four parts. The first part deals with the general principles of law that apply to a criminal case. The second part describes the evidence that you may consider in your deliberations. The third part is about the portions of the Metropolitan Criminal Code that you must apply to the facts you find in this case to determine whether the State has proven beyond a reasonable doubt that the defendant violated a specific criminal statute. Finally, the fourth part of the instructions tells you how to go about conducting your deliberations. You must accept and apply this law for this case as I give it to you in this charge. Any ideas you have of what the law is or what the law should be or any statements by the attorneys as to what the law may be, must be disregarded by you, if they are in conflict with my charge.

Now, beginning with the general principles of law that apply to a criminal case, the defendant stands before you on an indictment returned by the grand jury charging him/her with killing an animal who was owned or used by a law enforcement agency.

The indictment is not evidence of the defendant's guilt on the charge. An indictment is a step in the procedure to bring the matter before the court and jury for the jury's ultimate determination as to whether the defendant is guilty or not guilty on the charge stated in it. The defendant has pleaded not guilty to the charge.

The defendant on trial is presumed to be innocent and unless each and every essential element of an offense charged is proved beyond a reasonable doubt, the defendant must be found not guilty of that charge. The burden of proving each element of a charge beyond a reasonable doubt rests upon the State and that burden never shifts to the defendant. The defendant in a criminal case has no obligation or duty to prove his/her innocence or offer any proof relating to his/her innocence. The prosecution must prove its case by more than a mere preponderance of the evidence, yet not necessarily to an absolute certainty.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases, where you were told that it is necessary to prove only that a fact is more likely true than not true. In criminal cases, the State's proof must be more powerful than that. It must be beyond a reasonable doubt.

A reasonable doubt is an honest and reasonable uncertainty in your minds about the guilt of the defendant after you have given full and impartial consideration to all of the evidence. A reasonable doubt may arise from the evidence itself or from a lack of evidence. It is a doubt that a reasonable person hearing the same evidence would have.

Proof beyond a reasonable doubt is proof, for example, that leaves you firmly convinced of the defendant's guilt. In this world, we know very few things with absolute certainty. In criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him/her guilty. If, on the other hand, you are not firmly convinced of defendant's guilt, you must give defendant the benefit of the doubt and find him/her not guilty.

The function of the judge is separate and distinct from the function of the jury. It is my responsibility to determine all questions of law arising during trial and to instruct the jury as to the law which applies in this case. You must accept the law as given to you by me and apply it to the facts as you find them to be. You are to do so in order to reach a fair and impartial verdict.

During the course of the trial, I was required to make certain rulings on the admissibility of the evidence either in or outside of your presence. These rulings involved questions of law. The comments of the attorneys on these matters were not evidence. In ruling, I have decided questions of law and, whatever the ruling may have been in any particular instance, you should understand that it was not an expression or opinion by me on the merits of the case. Neither should my other rulings on any other aspect of the trial be taken as favoring one side or the other. Each matter was decided on its own merits.

I may have sustained objections to some questions asked by counsel which may have contained

statements of certain facts. The mere fact that an attorney asks a question and inserts facts or comments or opinions in that question in no way proves the existence of those facts. You will only consider such facts which in your judgment have been proven by the testimony of witnesses or from exhibits admitted into evidence by the court.

The fact that I may have asked questions of a witness in the case must not influence you in any way in your deliberations. The fact that I asked such questions does not indicate that I hold any opinion one way or the other as to the testimony given by the witness. Any remarks made by me to counsel or by counsel to me or between counsel, are not evidence and should not affect or play any part in your deliberations.

You will have to apply the law as I give it to you regardless of your own personal feelings about it. You are the sole judges of the facts, so you must remain impartial throughout the trial. You must decide the facts of this case solely from the evidence produced in this courtroom and nothing else. It would be unfair and a violation of your oath as jurors to base your decision about the facts of this case upon something that was said to you or discovered by you outside this courtroom. As judges of the facts, you are to determine the credibility of the various witnesses as well as the weight to be attached to their testimony. You and you alone are the sole and exclusive judges of the evidence, of the credibility of the witnesses and the weight to be attached to the testimony of each witness.

Regardless of what counsel said or I may have said recalling the evidence in this case, it is your recollection of the evidence that should guide you as judges of the facts. Arguments, statements, remarks, openings and summations of counsel are not evidence and must not be treated as evidence. Although the attorneys may point out what they think important in this case, you must rely solely upon your understanding and recollection of the evidence that was admitted during the trial. Whether or not the defendant has been proven guilty beyond a reasonable doubt is for you to determine based on all the evidence presented during the trial. Any comments by counsel are not controlling.

It is your sworn duty to arrive at a just conclusion after considering all the evidence which was

presented during the course of the trial.

Now I will move on to the second part of the instructions and discuss the evidence that you may consider in judging the facts of the case. When I use the term “evidence” I mean the testimony you have heard and seen from this witness box, any stipulations and the exhibits that have been admitted into evidence. Any exhibit that has not been admitted into evidence cannot be given to you in the jury room even though it may have been marked for identification. Only those items admitted into evidence can be given to you.

Any testimony that I may have had occasion to strike is not evidence and shall not enter in your final deliberations. It must be disregarded by you. This means that even though you may remember the testimony you are not to use it in your discussions or deliberations. Further, if I gave a limiting instruction as to how to use certain evidence, that evidence must be considered by you for that purpose only. You cannot use it for any other purpose.

As jurors, it is your duty to weigh the evidence calmly and without passion, prejudice or sympathy. Any influence caused by these emotions has the potential to deprive both the State and the defendant(s) of what you promised them - a fair and impartial trial by fair and impartial jurors. Also, speculation, conjecture and other forms of guessing play no role in the performance of your duty.

Evidence may be either direct or circumstantial. Direct evidence means evidence that directly proves a fact, without an inference, and which in itself, if true, conclusively establishes that fact. On the other hand, circumstantial evidence means evidence that proves a fact from which an inference of the existence of another fact may be drawn.

An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts established by the evidence. Whether or not inferences should be drawn is for you to decide using your own common sense, knowledge and everyday experience. Ask yourselves is it probable, logical and reasonable.

It is not necessary that all the facts be proven by direct evidence. They may be proven by direct evidence, circumstantial evidence or by a combination of direct and circumstantial evidence. All are acceptable as a means of proof. In many cases, circumstantial evidence may be more certain, satisfying and persuasive than direct evidence.

However, direct and circumstantial evidence should be scrutinized and evaluated carefully. A verdict of guilty may be based on direct evidence alone, circumstantial evidence alone or a combination of direct evidence and circumstantial evidence provided, of course, that it convinces you of a defendant's guilt beyond a reasonable doubt. The reverse is also true, a defendant may be found not guilty by reason of direct evidence, circumstantial evidence, a combination of the two or a lack of evidence if it raises in your mind a reasonable doubt as to the defendant's guilt.

As the judges of the facts, you are to determine the credibility of the witnesses and, in determining whether a witness is worthy of belief and therefore credible, you may take into consideration:

- the appearance and demeanor of the witness;
- the manner in which s/he may have testified;
- the witness' interest in the outcome of the trial if any;
- his or her means of obtaining knowledge of the facts;
- the witness' power of discernment meaning his or her judgment - understanding;
- his or her ability to reason, observe, recollect and relate;
- the possible bias, if any, in favor of the side for whom the witness testified;
- the extent to which, if at all, each witness is either corroborated or contradicted, supported or discredited by other evidence;
- whether the witness testified with an intent to deceive you;
- the reasonableness or unreasonableness of the testimony the witness has given;
- whether the witness made any inconsistent or contradictory statement;
- and any and all other matters in the evidence which serve to support or discredit his or her testimony.

Through this analysis, as the judges of the facts, you weigh the testimony of each witness and then determine the weight to give to it. Through that process you may accept all of it, a portion

of it or none of it.

Now, I will instruct you on the third part of the instructions on the portions of the Criminal Code that you must apply to the facts you find to determine whether the State has proven beyond a reasonable doubt that the defendant violated a specific criminal statute. The statute read together with the indictment identifies the elements which the State must prove beyond a reasonable doubt to establish the guilt of the defendant on each of the counts in the indictment.

In addition, you will have the opportunity to consider another offense beside that charged specifically in the indictment. This is what we call a lesser offense, which is a crime or offense of a lesser degree that is considered to be included within the charge brought in the indictment.

**KILLING AN ANIMAL USED BY A
LAW ENFORCEMENT AGENCY OR A SEARCH AND RESCUE DOG**
Metropolitan Statutes Annotated – M.S.A. 2C:29-3.1(a)

Count One of this indictment charges the defendant with the crime of killing an animal who was owned or used by a law enforcement agency.

The applicable statute provides, in pertinent part, that:

Any person who purposely kills a dog, horse or other animal owned or used by a law enforcement agency . . . is guilty of a crime.

In order for you to find the defendant guilty, the State must prove the following elements beyond a reasonable doubt:

1. that the defendant purposely killed a dog or other animal;
2. that the dog or other animal was owned or used by a law enforcement agency; and
3. that the defendant knew that the dog, horse or other animal was owned or used by a law enforcement agency.

The first element that the State must prove beyond a reasonable doubt is that the defendant purposely killed a dog, horse or other animal.

A person acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if s/he believes or hopes that they exist. A person acts purposely if s/he acts with design, with a specific intent, with a particular object or purpose, or if s/he means to do what s/he does.

Purpose is a condition of the mind that cannot be seen and that can be determined only by inferences from conduct, words or acts.

The second element that the State must prove beyond a reasonable doubt is that the dog, horse or other animal was owned or used by a law enforcement agency. A law enforcement agency is a department, division, bureau, commission, board or other authority of the State or of any political subdivision thereof which employs law enforcement officers. A law enforcement officer is a person whose public duties include the power to act as an officer for the detection, apprehension, arrest and conviction of offenders against the laws of this State.

The third element that the State must prove beyond a reasonable doubt is that the defendant knew that the dog or other animal that was killed was owned or used by a law enforcement agency.

A person acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if s/he is aware that his/her conduct is of that nature or that such circumstances exist or if s/he is aware of a high probability of their existence. A person acts knowingly with respect to the result of his/her conduct if s/he is aware that it is practically certain that his/her conduct will cause such a result. "Knowing," "with knowledge," or equivalent terms have the same meaning.

Like purpose, knowledge is a condition of the mind that cannot be seen and that can be determined only by inferences from conduct, words or acts. A state of mind is rarely susceptible of direct proof but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that a defendant said that s/he had a certain state of mind when s/he engaged in a particular act. It is within your power to find that such proof has been

furnished beyond a reasonable doubt by inference, which may arise from the nature of defendant's acts and conduct, from all that s/he said and did at the particular time and place, and from all surrounding circumstances.

If you find that the State has proven each element of this offense beyond a reasonable doubt, then you must find the defendant guilty. If, however, you find that the State has failed to prove any element of this offense beyond a reasonable doubt, then you must find the defendant not guilty.

LESSER INCLUDED OFFENSE

The law requires that the Court instruct the jury with respect to possible lesser included offenses, even if they are not contained in the indictment. Just because the Court is instructing you concerning an additional offense does not mean that the Court has any opinion one way or another about whether the defendant committed these, or any, offenses. You should consider this offense along with that one for which the defendant is indicted. However, you are not to render a verdict on these offenses or answer the questions on the verdict sheet unless you find that the State has failed to meet its burden with regard to the offense in the indictment.

NEEDLESSLY KILLING AN ANIMAL (*M.S.A. 4:22-17*)

If you find that the State has failed to meet its burden for Count One, the crime of killing an animal who was owned or used by a law enforcement agency, you shall decide whether defendant is guilty of the offense of needlessly killing a living animal.

In order for you to find the defendant guilty, the State must prove beyond a reasonable doubt that the defendant, acting purposely, needlessly killed a dog or other living animal.

“Purposely” was previously defined for you.

As a general rule, witnesses can testify only as to facts known by them. This rule ordinarily does not permit the opinion of a witness to be received as evidence. However, an exception to this rule

exists in the case of an expert witness who may give his/her opinion as to any matter in which s/he is versed which is material to the case. In legal terminology, an expert witness is a witness who has some special knowledge, skill, experience or training that is not possessed by the ordinary juror and who thus may be able to provide assistance to the jury in understanding the evidence presented and determine the facts in this case.

In this case, State and defendant called experts Dr. Carlin George and Dr. Mel Allen, respectively. It is stipulated that Dr. George and Dr. Allen are experts in the field of veterinary medicine, diagnosis and treatment, and Dr. Allen is also an expert in pathology. You are not bound by such expert's opinion, but you should consider each opinion and give it the weight to which you deem it is entitled, whether that be great or slight, or you may reject it. In examining each opinion, you may consider the reasons given for it, if any, and you may also consider the qualifications and credibility of the expert.

It is always within the special function of the jury to determine whether the facts on which the answer or testimony of an expert is based actually exist. The value or weight of the opinion of the expert is dependent upon, and is no stronger than, the facts on which it is based. In other words, the probative value of the opinion will depend upon whether from all of the evidence in the case, you find that those facts are true. You may, in fact, determine from the evidence in the case that the facts that form the basis of the opinion are true, are not true, or are true in part only, and, in light of such findings, you should decide what affect such determination has upon the weight to be given to the opinion of the expert. Your acceptance or rejection of the expert opinion will depend, therefore, to some extent on your findings as to the truth of the facts relied upon.

The ultimate determination of whether or not the State has proven defendant's guilt beyond a reasonable doubt is to be made only by the jury.

Evidence, including a witness' statement or testimony prior to the trial, showing that at a prior time a witness has said something which is inconsistent with the witness' testimony at the trial may be considered by you for the purpose of judging the witness' credibility. It may also be

considered by you as substantive evidence, that is, as proof of the truth of what is stated in the prior contradictory statement.

If evidence has been presented showing that at a prior time a witness has said something or has failed to say something which is inconsistent with the witness' testimony at the trial, then this evidence may be considered by you as substantive evidence or proof of the truth of the prior contradictory statement or omitted statement.

However, before deciding whether the prior inconsistent or omitted statement reflects the truth, in all fairness you will want to consider all of the circumstances under which the statement or failure to disclose occurred. You may consider the extent of the inconsistency or omission and the importance or lack of importance of the inconsistency or omission on the overall testimony of the witness as bearing on his or her credibility. You may consider such factors as where and when the prior statement or omission occurred and the reasons, if any, therefore.

The extent to which such inconsistencies or omissions reflect the truth is for you to determine. Consider their materiality and relationship to his/her entire testimony and all the evidence in the case, when, where and the circumstances under which they were said or omitted and whether the reasons s/he gave you therefor appear to be to you believable and logical. In short, consider all that I have told you before about prior inconsistent statements or omissions.

You will, of course, consider other evidence and inferences from other evidence including statements of other witnesses or acts of the witness and others, disclosing other motives that the witness may have had to testify as s/he did, that is, reasons other than which s/he gave to us.

Perhaps a hypothetical example will help you to understand what constitutes a prior contradictory statement and, more importantly, how it may be used by you. Assume at the trial the witness testifies: "The car was red." In cross-examination of that witness, or at some other point in the trial, it is shown that at an earlier time, the witness testified or said: "The car was blue." You may consider the prior contradictory statement that "The car was blue" as a factor in deciding whether or not you believe that statement made at trial that "The car was red." You

may also consider the earlier statement that "The car was blue" as proof of the fact or evidence that the car was blue.

There is for your consideration in this case oral statements allegedly made by the defendant, as recounted by State's witness Lew Olden.

It is your function to determine whether or not the statement was actually made by the defendant, and, if made, whether the statement or any portion of it is credible.

In considering whether or not an oral statement was actually made by the defendant, and, if made, whether it is credible, you should receive, weigh and consider this evidence with caution based on the generally recognized risk of misunderstanding by the hearer, or the ability of the hearer to recall accurately the words used by the defendant. The specific words used and the ability to remember them are important to the correct understanding of any oral communication because the presence, or absence, or change of a single word may substantially change the true meaning of even the shortest sentence.

You should, therefore, receive, weigh and consider such evidence with caution. In considering whether or not the statement is credible, you should take into consideration the circumstances and facts as to how the statement was made, as well as all other evidence in this case relating to this issue.

If, after consideration of all these factors, you determine that the statement was not actually made, or that the statement is not credible, then you must disregard the statement completely.

If you find that the statement was made and that part or all of the statement is credible, you may give what weight you think appropriate to the portion of the statement you find to be truthful and credible.

The parties have agreed to certain facts. The jury should treat these facts as undisputed, i.e., the parties agree that these facts are true. As with all evidence, undisputed facts can be accepted or

rejected by the jury in reaching a verdict.

DURESS

In defense of the charge and of the lesser included offense, the defendant contends s/he is not guilty because at the time of the offense s/he acted under duress. In other words, s/he was coerced to commit the offense due to the use of, or a threat to use, unlawful force against him/her or another person.

Our law provides:

It is an affirmative defense that an actor engaged in the conduct charged to constitute an offense because s/he was coerced to do so by the use of, or a threat to use, unlawful force against his/her person or the person of another, which a person of reasonable firmness in his/her situation would have been unable to resist.

Before conduct, which would otherwise be criminal, can be excused on the ground that such conduct was a direct result of force or threats of force upon the defendant or another, the evidence must indicate that the following conditions existed at the time:

- (1) There was use of, or threatened use of, unlawful force against the person of the defendant or another; and
- (2) The force, or threatened force, would be of such a type that a person of reasonable firmness in a similar situation would have been unable to resist.

This defense of duress is unavailable to the defendant if you find that s/he recklessly placed him/herself in a situation in which it was probable that s/he would be subjected to duress.

A person acts recklessly with respect to a material element of an offense when s/he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his/her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him/her, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

"Unlawful force" means force including confinement, which is employed without the consent of the person against whom it is directed.

In determining whether the defense of duress has been established, you should consider:

- (1) The factor of immediacy (that is, the force or threats posed a danger of present, imminent and impending harm to the defendant or to another) as well as the gravity of the harm or threatened harm;
- (2) The seriousness of the crime committed;
- (3) The identity of the person endangered (In other words, was it the defendant or another person who was allegedly endangered? Here, defendant asserts s/he acted in defense of another, Kal Simpson);
- (4) The possibilities for escape or resistance and the opportunity for seeking official assistance, if realistic. Remember, the standard utilized here is that which a person of reasonable firmness in the defendant's situation would have been unable to resist.

The State has the burden to prove beyond a reasonable doubt each element of the offense of the charge and, if considered, the lesser-included charge. The State also has the burden to disprove, beyond a reasonable doubt, the defense of duress.

If you find the State has proven beyond a reasonable doubt each element of the offense charged and that the State has disproved beyond a reasonable doubt the defense of duress, you must find the defendant guilty.

If, however, you determine that the State has failed to prove beyond a reasonable doubt one or more of the elements of killing an animal used by a law enforcement agency, or the lesser offense of needlessly killing an animal, or has failed to disprove the defense of duress, you must find the defendant not guilty.

There is nothing different in the way a jury is to consider the proof in a criminal case from that in

which all reasonable persons treat any questions depending upon evidence presented to them. You are expected to use your own good common sense; consider the evidence for only those purposes for which it has been admitted and give it a reasonable and fair construction in the light of your knowledge of how people behave. It is the quality of the evidence, not simply the number of witnesses that control.

As I said before, any exhibit that has not been marked into evidence cannot be given to you in the jury room even though it may have been marked for identification. Only those items marked in evidence can be given to you.

You are to apply the law as I have instructed you to the facts as you find them to be, for the purpose of arriving at a fair and correct verdict. The verdict must represent the considered judgment of each juror and must be unanimous as to each charge. This means all of you must agree if the defendant is guilty or not guilty on each charge.

It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change your opinion if convinced it is erroneous but do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict. You are not partisans. You are judges--judges of the facts.

You may return on each crime charged a verdict of either not guilty or guilty. Your verdict, whatever it may be as to each crime charged, must be unanimous. Each of the members of the deliberating jury must agree as to the verdict.

To assist you in reporting a verdict I have prepared a verdict sheet for you. You will have this with you in the jury room. This verdict form is not evidence. This form is only to be used to report your verdict.

1 **Statement of Officer Steph Murray**

2 My name is Steph Murray, and I am an officer with the Metropolitan Township Police
3 Department's K9 Unit, having joined the Department back in 2009. I have been with the K9
4 Unit for the past six years. Before transferring to the K9 Unit, I worked in Homicide, as well as
5 the Anti-Drug Task Force. I left Homicide to go to K9 School. My police buddies thought I was
6 crazy, giving up what could have been a fast track to promotion. Part of my responsibilities as a
7 member of the Anti-Drug Task Force was to travel to schools to give talks and one-on-one
8 discussion with students who are at-risk for falling under the spell of drugs and alcohol. It was a
9 demanding job, and one that I often brought home with me through bouts of depression, but gave
10 me the foundation that I needed to pursue my dream: working with the police K9 Unit.

11 Ever since I was young, I've had a passion for dogs. In fact, I can't remember ever NOT having
12 a dog in my family. I was the youngest in my family by 10 years, and since my brothers and
13 sisters were all older and out of the house, my parents thought it would be good for me to have a
14 companion. I went everywhere with my first dog, Casey. He was a German Shepard. He was a
15 star at obedience school, with me as a handler. I still have a picture of me as a six-year-old
16 winning awards with Casey. He was taller than I was. The things I learned at that time, I still
17 use to this day. When I joined the force, I knew that I wanted to work with dogs. It took me a
18 few years to take and pass all of the training, but in early 2011, I transferred to the K9 Unit and
19 was paired with Reece, a Belgian Malinois. Reece was an experienced police dog, and I was her
20 second handler.

21 Reece was retired in early 2015, due to her getting to the retirement age of eight. She was
22 adopted by her previous handler, Jason Stowman. Over the course of 2015, I was responsible for
23 training and preparing MacGregor to go out into the field. MacGregor was chosen from a litter
24 of six German Shepherds that were born in late 2014. Since he was considered a "green dog,"
25 MacGregor was not an easy dog to train. We usually like these types of dogs since we are able
26 to train from puppyhood without having to rid them of undesired habits. Well, MacGregor did
27 have a habit of cowering to loud noises. We had to make a decision in the summer of 2015, right
28 around July 4th, as to whether continue training him. I pushed for him to continue with the
29 program. He was certified as a Metropolitan County K9 on January 1, 2017.

30
31 MacGregor, like Reece before him, was a double threat, being a dual-purpose dog, as are many
32 K9s. That is, he was trained to apprehend suspects, as well as to locate narcotics.

33 There are two primary methods for canines to be trained to apprehend suspects. These are the
34 "find and bite" and the less popular "bark and hold." The "bark and hold" method trains dogs to
35 locate the subject and bark to hold the suspect in place. The dog will only bite if the suspect
36 makes a move to attack or flee. A big reason that Metro does not teach canines to "bark and
37 hold" is because an armed suspect is still able to shoot or stab. With the "find and bite" technique
38 that MacGregor followed, upon my order, I would direct MacGregor to bite and hold on to a
39 suspect, who I signaled to. If the suspect was out of sight, I would give a warning, if I could
40 safely do so, specifically, "Come out. I have a police dog. If you do not come out, the dog will

41 find you, and he will bite you.” If the suspect then refused to come out, then MacGregor, upon
42 my command, would go into the hidden area, whether it was thick woods or a house, and find,
43 bite and hold the suspect.

44 I swear that MacGregor saved my life once, when he apprehended one of Metro’s “Most
45 Wanted” fugitives, going into an abandoned house, finding the guy, and holding on to his leg
46 with clamped jaws. Fellow officers and I then came in, guns drawn. Wouldn’t you know that the
47 guy had a loaded gun on the ground, not 10 feet away!

48 MacGregor was also trained to find four kinds of illicit drugs, namely marijuana,
49 methamphetamine, cocaine and opiates like heroin. Upon my command, which, of course, was
50 very different from the “find and bite” command, MacGregor would happily go up to a car or a
51 piece of luggage and sniff. With vehicles, he would go around it counterclockwise, nose always
52 facing the vehicle to detect any target scent. I had used him dozens of times in real life (as well
53 as countless times in training). If MacGregor smelled one of the four drugs, then he would
54 “indicate,” and his signal for indicating would be to whimper and scratch the vehicle.

55 It is true that MacGregor only found drugs nearly 60 percent of the time. I chalk that up to a drug
56 smell lingering, after the drug is gone, particularly smoked marijuana. Still, sometimes, even
57 when no drugs were found, a gun or stolen items were found instead, so we still were getting
58 solid arrests and convictions for crimes. MacGregor’s only reward was that he would get to
59 briefly play tug-of-war with his favorite pull toy after every time he would seek drugs, whether
60 or not he indicated that drugs were there.

61 There was a lawsuit against MacGregor, me and the Department. Kelly Outland was
62 apprehended after running away from a store she’d just shoplifted from. Well, she had bite
63 wounds to the calf, thigh and buttocks. The bites had broken the skin, but required only a few
64 stitches to mend. The reason for multiple bites, from what I could tell, was that Outland
65 struggled, not surrendering peacefully, and MacGregor would lose his grip, and have to bit and
66 hold several times, until the last bite, to the thigh, held. While Outland sued, claiming that
67 MacGregor had been improperly trained and handled, leading to her injuries, that lawsuit was
68 dismissed, as Outland died of a heroin overdose soon thereafter.

69 MacGregor works by voice commands. The voice command for drugs is to take him off leash
70 and say “find.” The voice command for “find and bite” attack would be to say “get ‘em!” once or
71 more. Most important was the “call back” command, however. That would be to stop MacGregor
72 after the attack command, so that he would immediately stop chasing after or looking for the
73 subject, or stop biting the suspect, and immediately turn around and return to me.

74 Many people asked what I did with MacGregor when I was off duty. He came home with me,
75 and was a part of my family. He slept in his own kennel, though he would often sneak into the
76 bed of my son. I had to tell my son that MacGregor was a part of our family, but wasn’t the
77 typical family dog. He didn’t go on family outings with us. I did take him to schools and other
78 events to make sure that kids got to know MacGregor. It was important to me that young people,
79 and adults as well, saw MacGregor as a protector of the community. The last school I brought
80 him to, Met High, was my alma mater. This was the last week of the 2017 school year.

81 As far as to what happened here, it all started with me back in the spring of 2017. It was the
82 second week of May. I was with my spouse and two young kids at the Olden Mills for a family
83 party. The Olden Mills is one of the few places in Metropolitan Township where you could hold
84 a party all the way from a wedding down to a simple work gathering. I was there for my niece's
85 birthday party. Our department hadn't issued us body worn cameras yet, so neither this incident
86 nor that fateful night, when my partner was killed, were recorded on video. I would not have
87 been wearing one at this time, anyway, being off duty.
88

89 When I got there, through a window, I couldn't help but notice that the owner, Lew Olden, was
90 really getting into it with one of his/her employees. I had met Lew before, since way back when,
91 I had a dream of being in the army. Lew gave me some guidance, and while I didn't take it, I did
92 appreciate the times that s/he spent with me. Lew did seem to be happy to see that I had turned
93 out alright, and joined the force.

94 My spouse nudged me to go see what the fuss was all about. Since I was off duty, and didn't at
95 first see or hear anything illegal going on, I was reluctant to get involved. That was until I saw
96 the Defendant, whom I had never seen before, get into Lew's face and poke him/her. It looked
97 like it was right at the top of the chest, right below the neckline.

98 I went over to intervene. Lew, after taking a second after the shock of being assaulted, and then
99 realizing who I was, frantically waved over to me. S/he told me that the Defendant had verbally
100 attacked him/her, then asked what I had seen. My first step was to separate the two. I did this by
101 placing the Defendant into the main office, then brought Lew back outside. I was told that the
102 Defendant had been just been fired from his/her job as server. I asked what had prompted the
103 firing. Lew told me that the Defendant and a bunch of other kids had been using the wooded
104 property as a place to hang out and drink beer. Lew had recognized the Defendant's car leaving
105 the property the night before, and when the Defendant was confronted, s/he owned up to it. S/he
106 then began to berate and threaten Lew. This is what I had witnessed just a few minutes before.

107 I placed the Defendant under arrest, and took him/her in for questioning. The Defendant
108 lawyered up and refused to answer any questions outright. I know that the Defendant was told
109 that s/he could not leave the state until it was all sorted out. If I'm not mistaken, this whole mess
110 was still in the process of being figured out when the incident occurred on August 17th.

111 Getting to that night, I was actually about to go off duty at 23:00 hours p.m. I had been out at a
112 local "Metropolitan Township Day" function almost all day and night with MacGregor. It was a
113 really nice event, with games and rides for the kids. And all kinds of food. People really got a
114 kick out of seeing MacGregor. He would stand out in his police vest. As with every
115 demonstration, MacGregor would be confronted with a "bad guy," someone dressed up in black
116 and white striped prison pants and shirt, with a thick leather cuff protecting the entire right
117 forearm. Upon my yelled command, "Get 'em," MacGregor would sprint after the bad guy, latch
118 on to the padded forearm with his jaws, and take him down, staying latched on to that arm. If he
119 lost his grip, he'd latch on a second time, to keep the target held down. Then, giving the
120 command, "Come," MacGregor would detach himself and come running back to me.
121

122 It was the first day back on the job for MacGregor and me. We had been in a small fender
123 bender on the way home from my shift two weeks before. Neither of us was injured, but Chief
124 Nico Hightower thought it best to give both of us a few days off. I didn't really witness any
125 major changes to MacGregor, maybe some random lethargy and stamina issues, but anything I
126 did notice I chalked up to simple bruises and soreness.

127 It wasn't easy having to tell people that MacGregor wasn't supposed to be petted. MacGregor
128 was on duty, and was a working dog. We did do some demonstrations, showed off all of the
129 commands that MacGregor knew, and did a search-and-rescue exhibition. MacGregor seemed
130 fine throughout most of the day, though his endurance was not as strong. I gave him a few extra
131 breaks, and some extra water.

132 As I was headed back to the station, I got a call about possible underage drinking in the woods
133 behind Olden Mills. I normally wouldn't have been the one to respond, but since I was close to
134 the scene, I was the first to arrive. I got there at about 23:05.

135 As I exited the vehicle, MacGregor joined me in the parking lot. We heard noise in the woods,
136 not far from where the parking lot was located. MacGregor and I proceeded down a path,
137 headed towards where the noise was coming from. As I think of it, this was the first real
138 exertion since the accident for MacGregor. As we got closer to the noise, I noticed a young
139 wo/man, later identified as Kal Simpson, walking towards the clearing, I identified myself as a
140 police officer and asked him/her to stand still. Just then, all heck broke loose. Kids began to run
141 in all kinds of directions. I took my eyes off MacGregor to assess the scene and the amount of
142 kids running away. I wanted to call it in to the station. I heard barking, but it seemed to be
143 coming from the property's house.

144 Going for my radio, my hand slipped, and I mistakenly let go of the leash. MacGregor went
145 bounding on ahead of me, as I was fumbling for my radio.

146 As I grabbed my radio, I heard a loud scream, followed by breaking glass, what sounded like two
147 to three thuds, then MacGregor's "yelp." I turned towards MacGregor and saw him on the
148 ground. I made eye contact with the Defendant, and told him/her to stay where s/he was. The
149 Defendant ran towards the housing development beyond the woods.

150 I ran to MacGregor, who was lying on his left side against a rock, then called in to report that we
151 had an officer down. I did not run after the kids, since it would have meant that MacGregor
152 would have been left alone. I did see another kid, lying on the ground. I never left MacGregor's
153 side. And, to me, he never left my side. At that time, Lew arrived at the scene to provide
154 assistance. Lew told me that s/he witnessed the attack as well. I carried MacGregor to my patrol
155 car, and brought him to the Metropolitan Veterinary Emergency Room. Other police handled the
156 crime scene. No bottle was ever recovered, even though I informed them of how Quinn had
157 wielded a bottle as a weapon.
158

159 The Defendant was caught within a few minutes as s/he was driving out of the development.
160 Luckily, from what I was told, the Defendant had not been drinking. S/he was immediately
161 charged with causing injuries to a law enforcement officer, as well as a slew of other offenses.

162 That night, MacGregor was put into a medically induced coma due to his injuries. He was a
163 fighter, but due to the loss of blood, and the severity of the internal injuries, he died on August
164 20th. The charges against the Defendant were then amended to reflect MacGregor's death.
165 MacGregor was given a proper burial with an honor guard, 21-gun salute, and the playing of
166 "taps." I have struggled in the aftermath of all of this. So have my children.

167 Let me make this clear. MacGregor was never more than 15 feet away from me that evening. I
168 never heard him bark, and I would have recognized his bark. He never attacked Kal Simpson.
169 MacGregor was clearly wearing his K9 vest. I had identified myself as a police officer. To me,
170 and I have told anyone who would listen, the Defendant killed MacGregor without provocation.

171

172 Dated: September 14, 2017

Officer Steph Murray

173

Officer Steph Murray

Statement of Lew Olden

1
2 My name is Lew Olden. I grew up in Metropolitan Township, and went to school in
3 Metropolitan. Even though I spent so much time outside of Metropolitan, I've always thought of
4 it as my home.

5 After graduating from Metropolitan High School in 1983, I left to go into the army. I never
6 thought of it as a career move. I just needed some structure. At least that's what my father
7 always said. I guess the only thing I never wanted to do was to take over the family business,
8 Olden Mills. I had always been doing work at the place, but it just got to be too much for me. It
9 started out as a family restaurant, with a few tables and small kitchen. My father decided to
10 expand it in the mid-80s. He added a whole new building, with room for any size function. I
11 always hated working the parties...walking around filling people's coffee cups. They used to get
12 so mad if their coffee wasn't always full. I am still traumatized. Never drink the stuff.

13 I was in the army for just shy of 32 years. I didn't want to retire. I was forced out because of my
14 glaucoma. It is hereditary. My father always had issues with his eyes. My mom even. It's
15 called open-angle glaucoma. My drainage canals in my eyes were clogged. It builds up all the
16 pressure in my eyes. I have to admit that I went years without getting an eye exam. I always
17 knew that it might come back to bite me, but I just couldn't face the truth. I started to lose my
18 peripheral vision at about 45 years old. I still had great straight-on vision, but wouldn't let on
19 about not seeing perfectly.

20 When the army forced me to get an eye exam as I neared 50, I knew that it was time to retire. I
21 didn't want the army to find out how bad my vision was, so the week before the exam, I filled
22 out the paperwork. I retired on my 50th birthday, May 10, 2015.

23 I had received a call from my mother a few weeks before. She told me that my father couldn't
24 run the business anymore. They were thinking of selling the property. Now, I had come back a
25 lot since I went into the army. I don't want to say that I grew an appreciation for the business,
26 but I started to understand my father a little bit better. I had gone over the books some during the
27 last few years. I started to see that the business was not maximizing the potential of the small
28 party gatherings. He always went after the big weddings, and while that was great, it left some
29 open gaps in the calendar. I convinced him to think smaller. Grab the bar mitzvahs, bridal
30 showers, baby showers, graduation parties. With those, we could always maintain a better hold
31 of overhead, and maintain a proper staff. My dad was always hiring these high school kids. And
32 from 30 years or so of dealing with these types of kids, I knew that there was always going to be
33 a problem.

34 With nothing better to do, and with the need to be around home to recuperate from the many
35 surgeries that lay ahead, I decided to move home. My parents, almost immediately, saw this as
36 an opportunity to retire to Florida. So there you have it: I came full circle and took over the
37 family business in the fall of 2016. My sister and brother were of no help. In fact, they both live
38 in Florida near my parents. Now it's me all alone. At least I had my dog, Brewster. She's a
39 Belgian Malinois. I've had her since she was eight weeks old, six years ago. Brewster's mother
40 was rescued from a kill shelter in the South. She's a good guard dog. People loved her on the

41 base. She's a little anxious around strangers, so I keep her in the house with me. That's separate
42 from the event space, maybe 200 yards away from the Olden Mills.

43 Which takes us to August 17, 2017. It had actually begun a few weeks earlier. In mid-May,
44 maybe the 13th or 14th, I was awakened by Brewster, who was barking frantically. Now, she is a
45 good guard dog, and barks a lot. This seemed different though. I ran out the back door, just in
46 time to see three to four cars pulling out of the delivery and employee parking lot driveway.
47 They were flying out of there. We had catered a PTA event that evening, but this seemed to be
48 way too late for anyone to still be around.

49 When I got a chance to see the cars, I noticed that one looked familiar. It was the red Mazda
50 Miata of Charlie Quinn, one of my servers. Brewster wouldn't stop barking, so I went out into
51 the woods behind the house. Maybe 50-60 yards into the woods, a few kids were drinking
52 around a few rocks. Honestly, my first thought was back to my high school days and how I used
53 to hang out with my friends in the same place. I snapped out of it and realized just how much I'd
54 get hit by a lawsuit if something went wrong. I went chasing after them but they all ran. I
55 suspect they went towards the housing development on the other side of my property.

56 This really angered me. Charlie Quinn was one of my high school snots. I was always telling
57 him/her to get off the phone. S/he was constantly on the phone during an event. I had a rule and
58 Quinn was always flaunting that rule. So I already couldn't stand him/her.

59 I confronted Quinn the next morning. I shouldn't have done it right before an event. I knew it
60 would cause a scene, and it wasn't good business to air dirty laundry in public. I was just so
61 upset. As soon as the Miata parked, I went after Quinn in the parking lot. I told Quinn that I saw
62 his/her car leaving my property the night before. I told Quinn that he/she was fired. The snot
63 didn't even deny it. S/he just flew into a rage. Started screaming about how I'm a horrible boss
64 and don't understand kids today. When I told him/her that s/he had two minutes to leave the
65 property, Quinn came right up to me and poked me right below the throat. I was taken aback.
66 The little punk put his/her hands on me. Now with my training, I could have done some real
67 damage to Quinn, so I was relieved that an off-duty cop came over. I didn't see Officer Murray
68 until that moment.

69 I stayed outside so that Quinn could be brought to the office. I told Officer Murray what had
70 happened. Needless to say, I did want to press charges. But my main thought was that I wanted
71 to make sure that Quinn never stepped foot on the property again. I signed an agreement with
72 the Metropolitan County Prosecutor's Office that the charges would be dropped if Charlie never
73 came onto the property. We were in the middle of all of this when the night of August 17th rolled
74 around.

75 That night started out like any other. We had a small cocktail hour celebration for a local
76 company. I knew a few of the people from back in high school, so I joined them at the bar for a
77 drink or two. By 9:30 p.m. the hall was broken down and all of the employees had gone home. I
78 went home to let Brewster out, then went back to my office to get some last-minute details sorted
79 out for the next day.

80 It was about 10:45 or so when I heard Brewster barking hysterically. I went outside, grabbed the
81 dog, and brought her into the office with me. She didn't calm down much, so I went back
82 outside to investigate. As I began to walk back to the wooded area, I saw a few cars parked in
83 the rear of the employee parking lot. The Miata was one of them. I didn't want to confront
84 Quinn, so I called the cops from my cell phone. I walked back to my office, picked up Brewster,
85 and brought her to my house. The whole way back, she was barking, wanting to go after the
86 kids. To be honest, so did I.

87 By the time I came back outside, I saw the cop car parking in the main parking lot. I went out to
88 see which officer it was. I could hear the officer identify himself/herself. I didn't see the K9
89 right away. It was dark, and the officer wasn't taking the correct path to get back to the kids. I
90 walked faster so that I could catch up, but by the time that I did, most of the kids were running.

91 Out of the corner of my eye, I saw a kid emerging heading towards the first clearing, the same as
92 the officer. I ran after the kid, caught up to him/her 30-40 feet inside the woods. I now saw the
93 dog. I recognized the K9 from the local events, and the newspaper articles. The officer, who I
94 can now say was Officer Murray, was about 15 feet away from the kid, but looking in the other
95 direction. Quinn came out of nowhere. I don't know how s/he got there. I can't remember if the
96 K9 barked...and actually I could still hear Brewster in the house barking.

97 I heard the kid scream, then I saw Quinn smash a bottle over the dog's head. It was with his/her
98 left hand. S/he was grabbing for the other kid with his/her right hand. Personally, I didn't
99 believe that the kid was in any danger. I don't understand why Quinn had to do that, since s/he
100 wasn't in any danger as well. I immediately rushed towards the clearing, but had to run around a
101 bunch of bushes to get there. As I ran, I tried to keep an eye on Charlie Quinn. I heard the dog
102 yelp, and to me, it looked as if Charlie was kicking the dog.

103 Officer Murray got to the dog before I did. I helped lift the dog off of a rock and bring the dog to
104 the patrol car. I had a sheet of thick plywood that made for a jury-rigged stretcher, and slid it
105 under MacGregor's body. He was bleeding from the head. I don't remember if the dog was ever
106 conscious. I do know that he whimpered every time Officer Murray touched his side. I saw
107 Officer Murray pull away and I waited for the other cops to get there. I directed some of the
108 officers to where the kids had run, over near the housing development.

109 I want Quinn to get nailed for this. There was no reason for her/him to hit the dog. The death of
110 MacGregor is heartbreaking. I'm sure that Quinn hated my dog, and probably meant to kill
111 Brewster instead. Either way, I saw a deliberate action.

112 Dated: October 2, 2017

Lew Olden

113

Lew Olden

1 **Statement of Dr. Carlin George, DVM**

2 My name is Dr. Carlin George. I have been the Chief of Staff at Metropolitan Mercy Veterinary
3 Hospital since August 1, 2017. I assumed the position after an extensive search was undertaken
4 by hospital administrators, led by Dr. Jennifer Starky. Dr. Starky and I had gone to undergrad at
5 Metropolitan University together, and have been friends for more than a decade. I know that
6 many saw this promotion as a form of nepotism. I strongly disagree. I am not sure why anyone
7 would assume that Dr. Starky, and myself, would ever put the hospital in a compromised
8 position. We both have our reputations at stake.

9 I do also know that Dr. Mel Allen and I were the finalists for the position. I had been a colleague
10 of Dr. Allen's for four years. S/he is (or was) my mentor. I know that s/he is upset about being,
11 in his/her mind, "passed over." I don't consider it that way. For all of his/her positives, and
12 there are plenty, Dr. Allen does have some characteristics that do bring concern. S/he can fly off
13 the handle. S/he doesn't always go by the book...so much so that we call him/her Dr. House
14 from that old show.

15 I had only been in the position for a day or two when I was approached by Chief Nico Hightower
16 of the Metropolitan Township Police Department. A member of his force, Officer Steph Murray,
17 was involved in a minor traffic incident. Officer Murray's K9, MacGregor, was in the patrol car.
18 This was not the first time that I had met MacGregor or Officer Murray. As a favor to a
19 colleague, I took part in the K9 Officer Training Evaluation as an assistant to Dr. Allen. In
20 addition to being a respected member of the staff at the hospital, Dr. Allen is also a licensed
21 behaviorist, and is responsible for the evaluation of all K9s in the county. I hope that Dr. Allen
22 sees fit to remain in that position. Dr. Allen had given his/her approval for MacGregor to
23 become a member of the force at the beginning of 2017. I also know that Dr. Allen expressed
24 concern about MacGregor, but I didn't share those concerns.

25 I observed MacGregor for about 10 minutes at the hospital. MacGregor did not seem to be in
26 any distress. I observed no symptoms of any internal injuries. His gums were of right color, his
27 heartbeat was stable, and his body temperature was normal. Additionally, his stool sample
28 showed no signs of issues. Running my hands over his body, he showed only minor signs of
29 bruising. Because of these characteristics, or more simply lack of others, I did not order X-rays.
30 I recommended two weeks of reduced duties, and advised Officer Murray to alert me if
31 MacGregor showed any signs of depression or distress over those two weeks. I never received
32 any notifications from Officer Murray or the Metropolitan Township Police Department during
33 that time.

34 Two weeks later, MacGregor was brought to Met Mercy after he had been attacked by a local
35 youth. I was at a family wedding in Ohio, so I was not able to directly assist in his care. I was
36 kept in the loop, and through apps on my tablet, was conferenced in with staff at the hospital. I
37 returned early on the morning of August 20th and, unfortunately, by that time MacGregor was
38 unable to be saved. He passed the next day.

39 I was tasked with performing the necropsy on MacGregor. I performed the necropsy in the
40 evening hours of August 21, 2017 at Met Mercy. This was the first necropsy that I conducted as

41 Chief of Staff, though I have assisted, almost all with Dr. Allen, on dozens while at Met Mercy.
42 I am sure that Dr. Allen felt that it was his/her responsibility to do the necropsy, and I am also
43 sure that s/he is angry that I took charge.

44 There are two clear conclusions from the Necropsy.

45 First, MacGregor died from the head wound, and subsequent damage done to the brain. The
46 severity of the injuries did not allow him to recover. I can say with certainty that MacGregor
47 was not going to recover, no matter the care given. I can only conclude that the blow given to
48 the head was of a violent nature.

49 Secondly, it is my opinion, that MacGregor suffered secondary injuries to his left rib cage
50 consistent with repeated trauma. As shown in the necropsy summary given, MacGregor had
51 severe damage done to his ribs, with complete breaks of three ribs. Now, I did notice during the
52 necropsy that MacGregor had calluses on a few of the rib bones approximately in the location of
53 the breaks. These could have been connected to the car accident, however, I believe that the
54 complete fractures of the ribs came from repeated and traumatic blows, consistent with kicking
55 or punching. Additionally, MacGregor's left mandibular bone was fractured. This was a new
56 injury, showing no early fibrovascular granulation tissue. Upon death the healing process stops,
57 of course, and this new injury accordingly showed no signs of healing. This injury is also
58 consistent with a violent, blunt force trauma.

59
60 I can speak to my summary of findings connected to the necropsy. It is only a summary, and
61 only deals with the factors that I believe connect to MacGregor's death. His death has impacted
62 us all. The unnecessary death of an animal, especially one that is so respected and valuable to
63 the community, hurts even more.

64

65 Dated: November 20, 2017

Dr. Carlin George

66

Dr. Carlin George

67 **Addendum**

68 I have read Dr. Allen's statement. It only further shows that Dr. Allen has a personal vendetta
69 against me. My care for MacGregor was professional and appropriate. Any injuries suffered by
70 MacGregor prior to August 17, 2017 did not have any impact on his death. The necropsy was
71 my first, however, that does not take away from the fact that I am trained and licensed to perform
72 them. All steps were taken properly and all necessary specimens were collected for testing. Dr.
73 Allen is vindictive and self-centered. While his/her contributions to Met Mercy were many, it's
74 time for Dr. Allen to step away from the hospital.

75

76 Dated: January 2, 2018

Dr. Carlin George

77

Dr. Carlin George

Dr. Carlin George, DVM
27 High Street
Metropolitan Township, NJ

Experience

2017-Present

Chief of Staff Metropolitan Mercy Veterinary Hospital, Metropolitan Township, NJ

2013-2017

Veterinary Surgeon Metropolitan Mercy Veterinary Hospital, Metropolitan, NJ

2010-2013

Veterinarian

2010-2011 D.M. Hasselhoff Animal Hospital, Gladstone, CO

Education

East Lake University

2006-2010

Doctorate of Veterinary Medicine
Upper Lake University, Upper Lake, CO

2002-2006

B.S. Veterinary Science
Metropolitan University, Metropolitan, NJ

Professional Affiliations

American Society of Animal Science	American Association of Swine Veterinarians
American Society of State Boards	American Veterinary Legal Association
Mid-Atlantic Veterinary Society	Colorado Veterinary Science Association
New Jersey Veterinary Association	New Jersey Young Veterinarians
New Jersey Veterinary Administrators	Veterinary Council of East Region

1 **Interview of Charlie Quinn**

2
3 Conducted by Detective Colin Price at Metropolitan Township Police Department

4 Transcript Provided by Jaime Perry, Metropolitan Township Court Reporter

5 August 18, 2017 12:32 a.m.

6
7 **Mr. /Ms. Quinn, Charlie, do you know why we are talking to you tonight?**

8 I guess.

9 **And you recognize that you are answering these questions willingly?**

10 Ok. I don't need my lawyer for this.

11 **And you know that you don't have to answer these questions. You are answering these**
12 **questions voluntarily. You have been read your Miranda rights.**

13 I just want to go home. Do my parents know yet?

14 **You are eighteen years of age, correct?**

15 Yes.

16 **We found you running from the scene.**

17 Of course I was running. I wasn't gonna wait around to have you guys harass me more. Why
18 don't I see any of the others in here?

19 **We are going to talk to everyone.**

20 You bringing in Lew? I want to tell him/her that it didn't have to come to this.

21 **What do you mean?**

22 That dog didn't have to get hit. S/he should have kept that dog inside.

23 **So you do admit to it?**

24 Of course I hit the dog. Brewster was attacking my friend.

25 **So let me get this straight. You believe that the dog was about to attack your friend?**

26 Yes. Why else would I do it?

27 **You said "Brewster." Who is Brewster?**

28 Brewster was the dog I hit. Lew's dog.

29 **Mr. /Ms. Quinn, the dog that you hit...you believe it to be Brewster?**

30 Yes, it was. I've seen the dog a thousand times before. Lew keeps it on the property. I always
31 thought that the dog was trouble.

32 **Mr. /Ms. Quinn, the dog that you hit was MacGregor, a K9 police dog that was responding**
33 **with Officer Murray of the Metropolitan Township Police Department.**

34 I swear I didn't know. What does that mean? Am I in trouble?

35 **I want to go through the whole story, from beginning to end.**

36 My dad told me that if I was ever in trouble again that I didn't really have to talk to you guys.
37 He knows you guys are always trying to railroad me. He knows how you guys operate.

38 **What do you mean we "railroad" you?**

39 I'm not talking to you guys about that. I saw how I was treated before.

40 **Are you talking about what happened earlier this summer?**

41 You know that's what I'm talking about. Yeah.

42 **Let's talk about it then.**

43 I can speak freely? This is being written down?

44 **We are being recorded.**

45 Well, I'm not happy with how you sided with Lew. S/he's nuts. You never even cared about my
46 side of the story.

47 **What is your side? What happened?**

48 Well, Lew accused me of trashing his/her place. S/he called me all kinds of names, then got in
49 my face.

50 **Did you trash Olden Mills? Weren't you there drinking in the woods?**

51 Not on that day. And even if I was, which I wasn't, how does s/he have the nerve to get in my
52 face?

53 **You said this twice now. You put your hands on him/her, though. Didn't you?**

54 Of course I did. But s/he came right up to my face, screaming how I was fired, how I owed
55 him/her money for the damage to his/her property. I had no idea what s/he was talking about. I
56 mean, don't I have the right to defend myself?

57 **You hit him/her.**

58 No. I pushed her out of my space. You know, that is all gonna come out. How s/he's nuts. How
59 s/he treats his/her employees. Things were so much better when the old man ran the place.

60 **Mr. /Ms. Olden says that your car was there the night before you were fired.**

61 OK. So what? Doesn't mean I was there. My friend borrowed it.

62 **What friend?**

63 Kal.

64 **Kal who?**

65 Kal Simpson.

66 **OK, why didn't you just explain that to Mr. /Ms. Olden?**

67 I tried but s/he wasn't having any of it.

68 **So you were fired?**

69 Yeah. I was told to get my things and be off the property within five minutes.

70 **Why didn't you just leave?**

71 I tried to leave. This is when s/he got all up in my face.

72 **And you were approached by Officer Steph Murray at this time?**

73 I guess.

74 **Had you ever seen Officer Murray before?**

75 At Olden Mills?

76 **Anywhere.**

77 Maybe. S/he looked familiar. Wait a minute. Yeah, s/he came to Metropolitan High sometime
78 last school year, showed off a dog. Not that I paid much attention.

79 **Does that mean you've seen MacGregor before?**

80 I saw some dog with Murray. I couldn't tell you more than that.

81 **Let's talk about the night of August 17, 2017. Who was with you in the woods behind
82 Olden Mills?**

83 I can't remember everyone. This was the last time that we were getting together before people
84 left for college and the military.

85 **You know, the more names you can give us, the better it would be for you.**

86 I'm not a snitch. But, you already caught Ronnie, Bobby, Rickie and Mike. They were there.
87 They were in the car with me when you stopped me.

88 **What were your plans?**

89 What do you mean?

90 **For schooling?**

91 I didn't really have plans like everyone else. I'm not much for being a student. Plus, with the
92 charges from the incident before, I couldn't really get on with my life with it hanging over me.

93 **You know you weren't supposed to be on the property, right?**

94 I know. I just wanted to be with my friends.

95 **Were you drinking?**

96 No. I was the designated driver. Kinda doing my civic duty. That's the kind of person I am.
97 I'm not this person that you've made me out to be.

98 **I just want to know what happened that brought you to hitting MacGregor. Did you drive
99 your car?**

100 Yes. Probably shouldn't have.

101 **Why not?**

102 It was only supposed to be me and Bobby. Ronnie, Rickie, and Mike jumped in. Kinda tight in
103 a Miata.

104 **Where did you park?**

105 Ok. I know what you're thinking. It was a mistake to park in the employee parking lot. People
106 are always parking in that lot. It sits way back, and you really can't see it from the dining hall or
107 the house on the property.

108 **Didn't you think that Mr. /Ms. Olden could see it and recognize it?**

109 Yeah. That's why I had a friend move it.

110 **What do you mean?**

111 I texted my friend to see where they were.

112 **Is this Kal Simpson?**

113 Yes. Bobby was with Kal. I told Bobby where the keys were. He jumped in the car and was
114 moving it from the employee lot to the housing development.

115 **When did Kal show up?**

116 It was probably 10:40 or so.

117 **What were you doing at this point?**

118 That's when I heard the dog barking. I went to see if Kal was having trouble.

119 **What dog?**

120 It had to be Brewster. It sounded like she was inside the house.

121 **What does it matter that the dog was barking?**

122 Well, whenever we've had trouble in the woods, it's because of that dog.

123 **Does Brewster bark a lot?**

124 I don't know. But I always told Lew that Brewster was a pain. I mean, the dog never barked
125 when there were 200 people on the property for a wedding, but gosh-forbid a few kids were in
126 the back woods. I hated that dog. It hated me, too. I've seen its teeth. Mean dog.

127 **Why did you believe that Kal would be in trouble?**

128 Kal hates dogs. Especially with what happened last summer.

129 **What happened?**

130 We were at a friend's house in the backyard. A neighbor's dog got out.

131 **What did the dog do?**

132 The dog ran from his yard. Made a beeline right for Kal. Took a big bite out of his/her leg and
133 arm.

134 **What did you do?**

135 I grabbed a stick and kept hitting the dog. Kicked him a few times in the ribs. He finally let go
136 of Kal.

137 **Was Kal left with any injuries?**

138 Psychologically, yes. Physically, yes. Kal gets really scared around dogs. S/he was also self-
139 conscious about the scars, but they all healed within a few months anyway.

140 **Have you seen Kal react to seeing a dog since?**

141 You mean, other than the night here?

142 **Yes.**

143 I guess. Any time that s/he sees a dog, Kal gets nervous. His/her family had to give away their
144 own dog. S/he gets hysterical.

145 **When did you first see Kal on the night of August 17th?**

146 Like I said before, I was walking up to see if Kal was having trouble. As I was approaching the
147 first clearing, I saw Kal. Actually, I am not sure if I saw Kal first, or if I heard Kal first.

148 **What do you mean?**

149 Well, I remember still hearing the dog barking.

150 **Same dog?**

151 I assumed.

152 **Did Kal see you?**

153 I've got no clue. As I got closer to Kal, I noticed the dog. I still heard the barking, too.

154 **Was the dog barking now?**

155 I can't remember. I might have heard the dog bark right before I got to the clearing.

156 **What was Kal doing at this point?**

157 Kal was backing up toward a tree. I heard him/her scream for the dog to get away. Kal
158 screamed.

159 **What did you do?**

160 Well, I had a beer bottle in my hand.

161 **Where did you get the beer bottle?**

162 I can't remember.

163 **What did you do with the bottle?**

164 With all of the commotion, the dog never saw me. I swung the bottle at the dog's head.

165 **At what angle did you approach the dog?**

166 I came up from behind. Instincts were kicking in.

167 **Did you see Officer Steph Murray?**

168 No.

169 **Did you hear Officer Murray identify himself/herself?**

170 I can't remember. There was a lot of commotion. My friends were running away.

171 **When did you realize that the dog you hit was a K9 officer?**

172 You know I didn't know that the dog was a K9. I thought it was Brewster.

173 **He had on his K9 vest.**

174 But I didn't see it. It was dark and, like I said, I came up from behind.

175 **Why did you hit the dog over the head with the bottle?**

176 I thought Kal was in trouble. S/he was screaming for help. I saved Kal's life before, and I
177 instinctively did the same thing here.

178 **You acted in the same manner as before?**

179 Yes, exactly.

180 **And you did the same actions as before?**

181 Yes, I just said that.

182 **Did MacGregor attack you?**

183 No.

184 **Did MacGregor come after you?**

185 No, why are you asking that?

186 **What happened to MacGregor after you hit him?**

187 I saw the dog fall. There was a big rock next to the tree. He kinda fell onto it.

188 **Where were you in relation to MacGregor at this point?**

189 I guess still behind him.

190 **What did you do next?**

191 I ran.

192 **Why didn't you respond to Officer Murray when s/he told you to stop?**

193 I can't tell you if I ever heard or saw Officer Murray.

194 **Why did you run?**

195 I wanted to get out of there. I was violating my orders to not be on the property.

196 **Where did you run?**

197 Towards the housing development.

198 **How did you get into your car?**

199 As I got to the street, I saw Bobby with my car. He was screaming for me to get into the car.

200 **Your friends had all run away as well?**

201 I guess.

202 **How did your friends know what was going on?**

203 I have no clue. By the time I got to the car, we all hauled out of there.

204 **We caught up to you at the development entrance. Why did you run from the car there?**

205 I didn't exactly run. I got out of the car when Bobby stopped for the cops.

206

207 **Addendum to Interview**

208 After speaking to my parents, I wanted to tell you how this whole ordeal is affecting my life. I

209 didn't have to talk to you guys that night. I didn't try to lawyer up. I thought that you guys

210 would protect me once you saw that I was only protecting my friend.

211 You know I'm getting death threats and all kinds of hate mail. You know what people are
212 calling me?

213 Dog killer. It was spray painted on my car. I stopped looking at my social media accounts.
214 People are so cruel. I just want people to know that I didn't mean to kill a dog. The dog from
215 last year didn't die. I didn't try to kill this dog. I was only trying to protect my friend.

216 Dated: September 5, 2017

Charlie Quinn

217

Charlie Quinn

Statement of Kal Simpson

1

2 My name is Kal Simpson. I am 19 years old. I live with my parents and younger brother in
3 Metropolitan Township, New Jersey. I know what I am supposed to write about is the night of
4 August 17, 2017. I know that's what is most important. But there is so much more to the story.
5 I believe my friend Charlie Quinn is a hero. A certifiable hero. I know a lot has come out after
6 the fact. That the dog was a K9 dog. That Charlie is in trouble. But I find that to be all wrong.
7 Charlie Quinn, I believe, saved my life that night.

8 **A life ahead**

9 **So much to look forward to**

10 **Shattered by a dog**

11 I'm sorry, but when I feel stressed I talk (and write) in haikus. It's a little exercise that I came up
12 with after dealing with what's happened to me. No doctors really told me to do it, though I've
13 seen plenty. I just like to do it. I think it has something to do with the fact that what happened to
14 me was on my 17th birthday. You see, I'm a really smart kid. Graduated valedictorian from
15 Metropolitan High in 2018. Got accepted to every school that I applied to. Was all set to go to
16 my Ivy League dream school. And you know what's amazing about all of this? My life changed
17 even before my senior year. So I was going through college applications even after I got bit.

18 We were at my friend Johnny's house. He's sometimes a part of our group of friends, but not
19 always. It was a party for his cousin Ralph, but we were also celebrating my birthday as well. It
20 was so much fun. It was a beautiful day, one of those days in August when there's not humidity.
21 Not many of those types of days, so it was really special. Then it turned into the worst day of my
22 life.

23 There was a dog that was locked up in a yard three doors down from Johnny's house. I never
24 really had a problem with dogs before. In fact, I used to have a dog named Sally. A Westie.
25 Anyway, this dog was acting up pretty bad. Not sure if he didn't like the music we were playing,
26 or was being teased. Anyway, Johnny's dad went down to the house to ask the owner to bring
27 the dog inside. The owner started to scream at us to keep the noise down. Things died down for
28 a couple minutes.

29 Charlie Quinn came to the party right about then. We talked for a few minutes, and I introduced
30 him/her to a few of Johnny's friends and family. I was more of a friend with Johnny than
31 Charlie was. But that's the kind of friend that Charlie is...s/he has no problem helping people
32 out that s/he cares for. I know people were always talking about how we were friends. Me being
33 the valedictorian and Charlie always struggling with school and getting in trouble. But we were
34 friends for as long as I remember, and it was just a good friendship. Still is.

35 Just as the party was dying down and people were leaving, I heard the neighbor screaming again.
36 I turned to see what all of the trouble was. As I turned, I saw the dog running right at me. He
37 had jumped the fence. I tried to put my arms up to defend myself, but it was too late. The dog
38 bit into my leg. I punched the dog in the head, and it released its grip. But instead of running

39 away, it jumped up at my face. I remember the pain as it grabbed hold of my arm. I couldn't
40 defend myself. It felt like an eternity. The next thing I remember is Charlie's face, how calm
41 s/he was. S/he had grabbed a stick and was hitting the dog. After the dog let go, Charlie kicked
42 the dog a few times. No one was sure if the dog was going to attack again. I got rushed into the
43 house so I could be safe and get the wounds tended to. I had two open wounds, one to my left
44 thigh, and one on my right arm. I got rushed to the hospital. A lot of people were saying,
45 because of the civil lawsuit, that I had hit the jackpot. Seriously, people? This was the worst day
46 of my life. I only had one positive come out of it...my friendship with Charlie got stronger.

47 **I didn't want to turn**

48 **I had nowhere else to go**

49 **I hid it from all**

50 The scars healed for the most part. But I still have nightmares, and the feelings all come back to
51 me every time I see a dog. No matter how big. I break down at the sight of a dog. Amazing,
52 sounds don't bother me. It's not like I hear a dog bark and I go crazy. It's really only when I see
53 a dog. Probably because I didn't hear the dog before she bit me. Every therapist that I've gone
54 to, and I've been to plenty, have all been unable to figure that one out. There are times when
55 think I'm smarter than them all.

56 For the sake of honesty, since it has all come out by now, I developed a pretty strong dependence
57 on alcohol. I wasn't a drinker before. I mean I saw it when I hung with my friends, especially
58 around Charlie's family and other friends, but I don't think I ever took a sip until after the
59 incident. But it got me pretty quick. By the end of my senior year, I was out of control. No one
60 ever suspected anything...at least I don't think. Charlie might have. S/he became really
61 protective. Maybe a little overboard. S/he always called me. Texted me all the time. I chalked
62 it up to a friend just being a really good friend.

63 My grades never suffered. I still got into the colleges. I still won awards. I made Homecoming
64 Court. Prom Court. Little did people know.

65 **Once before s/he saved**

66 **Now from a dog in the dark**

67 **Run into the night**

68 I wasn't supposed to be there that night. I told Charlie that I would text him/her if I was going to
69 show up. Our friend Bobby was having a fight with his girlfriend Whitney. I met up with him at
70 the Metropolitan Mall. We grabbed a bite to eat, then headed over to the "Metropolitan
71 Township Day" carnival. I was able to say hello to a lot of people. I kinda knew everyone in
72 town, it seemed. There were all kinds of booths and activities. For some reason, I was able to
73 relax. If there was a night that I didn't need a drink, this was it. I still had a quick one in my car,
74 but I didn't really feel the effects of it. We left at around 10:30 p.m.

75 I guess Bobby texted Charlie to let him/her know that we were coming to the woods behind
76 Olden Mills. As we were pulling in, Bobby told me that he had to move Charlie's car. Charlie
77 always kept his/her keys on the front driver tire. Bobby pulled out of the lot. I sat in my car for
78 a few minutes to settle any nerves that I had. I had a few sips. I got out of the car, and headed
79 for the path. I heard a car door open, then slam shut. I came from the main lot. This was a place
80 of business, so I didn't think anything of it. I also distinctly remember hearing a dog barking. I
81 don't think I was bothered, though I can't say for sure.

82 As I headed for the first clearing, I was startled by the sight of a dog coming straight for me. My
83 first reaction was to back away and raise my arms to cover my face. I screamed. There seemed
84 to be a lot of things going on at once. I heard my friends all running. I heard a dog barking. But
85 my main focus was on this dog right in front of me, coming right to me. I screamed a second
86 time.

87 I only saw one person. I couldn't pick out who it was. I closed my eyes, expecting the worst. I
88 heard a bottle smash. I heard a thud, maybe a second. Then I heard the dog yelping. I jumped
89 onto the ground and covered myself with my hands. Again, there seemed to be a lot of noises
90 and people were running in different directions. The next thing I remember is the police officer,
91 Officer Murray, coming towards me. I don't think I ever talked to him/her though.

92 I was brought to the police station. I told them what happened. Charlie was brought in as well.
93 They didn't let me speak to him/her.

94 **Now what do I do?**

95 **When it's fallen to pieces**

96 **Do I pick them up?**

97 I tried to go away to school after this. I lasted a semester. I finally confided in my parents that I
98 had a problem. The school was able to put my record on hold. I can go back. Maybe I will. I
99 don't know what the future holds for me. What I do know is that Charlie Quinn saved my life.
100 Not once. Twice. When people ask how we can be friends, I just think about how life would be
101 different if we WEREN'T friends.

102 Dated: December 7, 2017

Kal Simpson

103

Kal Simpson

1 **Statement of Dr. Mel Allen, VMD**

2 My name is Dr. Mel Allen. I am a licensed veterinarian, and have been practicing since 1976 in
3 the State of New Jersey. I have a position at Metropolitan Mercy Veterinary Hospital, while also
4 maintaining a limited private practice as well. I received my undergraduate degree in Biology at
5 Metropolitan University. I earned my Veterinariae Medicinae Doctoris (VMD) from the
6 University of Pennsylvania in 1975. I am a member, and past president, of the American Society
7 of Veterinarian Professionals as well as numerous other professional affiliations. I was recently
8 recognized as the longest serving veterinarian in Metropolitan County. I have training in most
9 fields of veterinary medicine, but specialize in pathology. Since my spouse passed away in the
10 summer of 2016, I have begun to slow down, with the goal of retiring by summer, 2020. I just
11 can't take the New Jersey summers anymore. I have bought a wonderful cottage in Hope,
12 Maine, right along Hobbs Pond. It was our dream home, and I hope to spend many years living
13 in retirement there. Ironically, I was making settlement on my new home and enjoying a
14 month's vacation, starting July 30, 2017.

15 For the past 35 years, I have also been the Coordinating Veterinarian for the Metropolitan
16 County K9 Officers Association. I am responsible for training, evaluating, and certifying both
17 the dogs and their handlers. I also give periodic workshops to satisfy standards for continued
18 hands-on training. I have personally seen over 35 K9 Police Officers (i.e. 35 K9 dogs, who are
19 considered police officers in their own right, and 35 police officer handlers) graduate from the
20 training academy, and have given final clearance for every single one of these fine service dog
21 tandems. I have maintained a relationship with each of these dogs, as well as their handlers. I
22 take this vocation seriously, and have been cited as the leading source for K9 Officer Training in
23 the State of New Jersey.

24 Ok, I believe it's time to start laying things about this case on the line. I know that some people
25 believe that I have one foot out the door. This can't be any further from the truth. I am not about
26 to risk decades of hard work and integrity. I also know that people at the hospital are talking
27 about me being sore over not being named Chief of Staff at Met Mercy. It did sting, since I had
28 believed that it would be the last notch on my belt, however, as I've said, I plan on retiring
29 anyway. Maybe I would have been Chief of Staff for a few years, acting as a bridge to the next
30 one...I can say that I did not have faith in anyone from Met Mercy being able to fill the role.
31 That includes Dr. George. S/he was not ready, and I fear that the board did a grave disservice to
32 the hospital. Instead of being the bridge, I might have to burn some with what I have to say here.

33 On so many levels, the Metropolitan Township Police Department, as well as the Metropolitan
34 Mercy Veterinary Hospital, were at fault with what happened in the summer of 2017. I find that
35 there are three distinct intervals, each with multiple instances of improper behavior and decisions
36 that ultimately led to MacGregor's death. I will try to detail these instances as clearly as
37 possible.

38 **MacGregor**

39 MacGregor was a difficult dog to train. I want to stop short of saying that MacGregor should not
40 have been a licensed K9. Obviously, I did certify MacGregor in early 2017. However, there

41 were circumstances that I believe needed to be addressed before I could authorize MacGregor's
42 full certification. I recommended that MacGregor be given a full reevaluation by the end of
43 2017. This was because MacGregor's score, as shown on his evaluation, was the lowest
44 cumulative score given in my 25 years. Yes, the dog's scores all met minimum requirements.
45 However, I felt that MacGregor lacked many of the natural instincts of a K9. On the other hand,
46 I found no issues with MacGregor's handler. I found Officer Murray to be a great handler, but
47 unfortunately saddled with a difficult dog.

48 MacGregor struggled with the training. "Green Dogs" usually are easier to train. There is
49 typically no trauma associated with these dogs. However, I found issues with MacGregor's
50 ability to maintain concentration and focus when put into situations that K9s in the field might
51 face. Looking at his evaluation, his scores all show minimum competency (I don't mind saying
52 "weakness") when given the same variables as the evening of August 17, 2017. Loud noises,
53 uneven terrain, another dog barking all put MacGregor in a difficult situation. Couple this with
54 the contributing factors (the accident, and injuries suffered that will be detailed in the next
55 section), I feel that Officer Murray should not have brought MacGregor into the woods that
56 evening.

57 I'd be remiss if I also didn't mention the fact that we do not train K9s to respond to possible
58 underage drinking in a dark location. Any location for that matter.

59 **The Accident**

60 MacGregor should not have been even on the force that evening. After reviewing the accident
61 report, reading the statement of Dr. George (concerning MacGregor's condition after the
62 accident), and the clinical abstract section of the necropsy summary, it is my belief that
63 MacGregor was hurt far worse than previously believed.

64 There are two factors that this connects to. First, I believe that the rib injuries suffered by
65 MacGregor in the accident were consistent with the injuries described on the clinical abstract.
66 Furthermore, I don't believe that Charlie Quinn delivered any further blows to MacGregor other
67 than the fatal head blow, which Charlie admits to. I will cover much more of this in the next
68 section.

69 Secondly, the injuries suffered by MacGregor in the accident, in my opinion, coupled with his
70 tendencies already discussed, placed MacGregor, Officer Murray, and those present that evening,
71 in a dangerous situation. I should have been consulted immediately after the accident, and the
72 excuse that I was in Maine at the time does not hold water. I can easily be patched into the
73 conversation. If I were, I have no doubt that I would not have allowed MacGregor to serve
74 without further physical and behavioral evaluation.

75 **MacGregor's Care under Dr. Carlin George**

76 I am going to cut straight to the chase here. Dr. George did not properly diagnose, treat, and
77 most shockingly, conduct an adequate post-mortem that would be expected of a Chief of Staff of
78 a respected animal hospital.

79 Here are just some of my findings:

- 80 1. Dr. Carlin George did not properly treat MacGregor on August 1, 2017.
- 81 a. Multiple diagnostic radiology exams should have been conducted immediately
- 82 after the accident. I find this to be a rookie mistake.
- 83 b. MacGregor suffered extensive injuries in the automobile accident as shown by the
- 84 following:
- 85 i. Bony roundings, or calcification, present on 6th, 7th, and 8th Left Ribs
- 86 indicating previous incomplete fractures w/o displacement.
- 87 ii. MacGregor's behavior (lethargy, stamina) show that MacGregor had
- 88 trouble breathing, which indicate rib fractures.
- 89 c. These rib fractures made MacGregor susceptible to more serious injuries. Minor
- 90 contact with injury site, such as with the rock, could lead to further fractures.
- 91 2. Dr. Carlin George did not properly treat MacGregor between August 17 and August 21,
- 92 2017.
- 93 a. S/he was not present at the early critical period of care.
- 94 b. Absent my consultation and the Chief of Staff presence, MacGregor should have
- 95 been transferred to a Level II VECCS Critical Care Facility.
- 96 c. MacGregor's depressed skull fracture should have been lifted as early as possible.
- 97 This would have relieved pressure on the brain, reducing swelling.
- 98 3. Dr. Carlin George did not properly conduct a post-mortem on August 20, 2017.
- 99 a. The most glaring issue is the lack of tissue samples. Many of the samples that
- 100 would be collected for histopathologic evaluation are absent in the necropsy
- 101 summary. It can't be certain that they were collected at all.
- 102 b. Dr. Carlin George is not trained in pathology.

103

104 MacGregor was put in a difficult situation. One that he should not have been put in.

105 Furthermore, Dr. George failed him.

106

107 Dated: December 14, 2017

Dr. Mel Allen

108

Dr. Mel Allen

**Mel Allen, VMD
55345 Cooper Road
Hope, MA 04843**

Education

Chestertown University of Animal Science, Chestertown, MD 1983

B.A. Technology in K9 Training

University of Pennsylvania School of Veterinary Medicine, Philadelphia, PA 1976

Veterinariae Medicinae Doctoris (VMD)

Metropolitan University, Metropolitan City, NJ 1972

B.A. Biology

Professional Experience

Metropolitan Mercy Veterinary Hospital 1983-2018

Veterinary Surgeon, Staff Pathologist

Metropolitan Township Family Vet 2000-2018

Lead Veterinarian

New Jersey K9 Training 1984-2018

Metropolitan Coordinating Veterinarian, Lead Trainer

Metropolitan Mercy Veterinary Hospital 1976-1983

Veterinarian

Professional Organizations

Metropolitan County K9 Officers Association

Exhibit A
MacGregor (Male)



Provided by Officer Steph Murray

Date of Photograph: July 1, 2017

Size of MacGregor: 25 inches

77 lbs.

Exhibit B
Brewster (Female)



Provided by Lew Olden

Date of Photograph: June 23, 2017

Size of Brewster: 24 inches

59 lbs.

Exhibit C

Transcript of 911 Call

August 17, 2017

10:48 p.m.

Metropolitan County 911 Dispatch

MCD: 911, what's the emergency?

Caller: I got a bunch of kids drinking on my property. They're at it again. Olden Mills in Metropolitan Township. Right on Kings Lane.

MCD: I have your location. Do you know how many are on the property?

Caller: No. But there's a bunch. This is like the fifth time I've had to call you guys.

(Dog barking)

MCD: You say we've sent officers before.

Caller: I didn't say that. I said I've called before. Down, Brewster.

MCD: Who is Brewster?

Caller: My dog. We got another problem.

MCD: What's the problem?

Caller: I recognize one of the cars in the lot. This kid's not supposed to be on my property.

MCD: What's the name?

Caller: Mine or theirs?

MCD: Theirs.

Caller: Charlie Quinn. The snot hit me a few months ago. Down, Brewster. Not supposed to be on the property.

MCD: I will send a message over to the Metro Township Police.

Caller: I'm gonna go out there.

MCD: I wouldn't do that. Let the polic...

End of call

Exhibit D

**Olden Mills
Property Layout**

- A: Olden Mills Event Space
- B: Main Parking Lot
- C: Residence of Lew Olden
- D: Employee Parking Lot
- E: Secondary Clearing (Location of Incident)
- F: Main Clearing (Location of Party)
- G: King's Woods Housing Development
- H: Path used by Officer Murray
- I: Path used by Kal Simpson

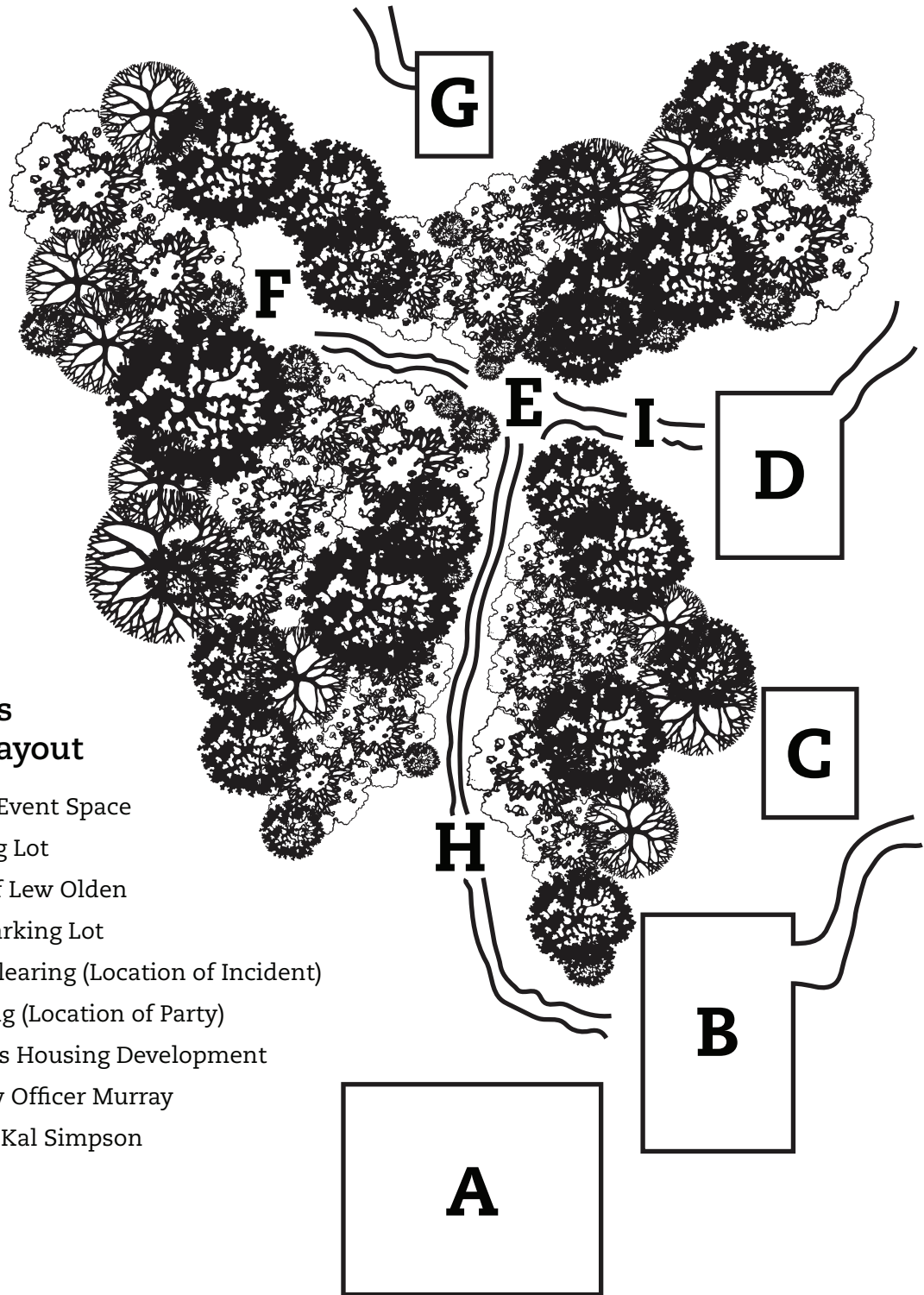


Diagram provided by Lew Olden

Exhibit E

Metropolitan County K9 Training Evaluation

(Excerpt)

TEMPERAMENT AND GENETIC DRIVES	Score	Comments
Courage/Confidence		75% of Available Points Needed for Certification
1. Unsure Footing	78/100	Slight hesitation. Waited for assurance from handler.
2. Tightly Enclosed Spaces	76/100	Visible limited discomfort. Waited for assurance from handler.
3. Moving Vehicles	85/100	Confident. No issues.
4. Loud noises	70/100	Limited covering with continued noise. Waited for assurance from handler.
5. Other Live Animals and Odors	76/100	Distracted. Handler commands need to be stronger.
Score/Recommendations	77%	Continued Support for K9 and handler. Attendance at monthly workshop training. Reevaluation to be done by January 1, 2018.

K9: MacGregor

Handler: Officer Steph Murray

Date: January 1, 2017

Signed: *Officer Steph Murray (Handler) Dr. Mel Allen (County Coordinator)*

Exhibit F

Metropolitan Township Police Department

Officer Incident Report

Date: August 1, 2017

Location of Incident: Corner of Logan Avenue and Ridge Road

Officer Involved: Officer Steph Murray, K9 MacGregor

Description of Incident

Minor traffic accident. Patrol Car #62 rear-ended by distracted driver traveling approximately 15 mph. Driver cited. Driver uninjured and refused medical treatment. Officer Murray complained of stiff neck. K9 MacGregor observed as sore.

Medical Treatment

Officer Murray saw Primary Care Doctor. PCD recommended limited duty for 3 days.

K9 MacGregor seen by Dr. Carlin George, DVM. Recommended 2 week limited duty.

Exhibit G

VETERINARY NECROPSY SUMMARY REPORT CHECKLIST AND GUIDELINES						
SECTION I - ADMINISTRATIVE DATA						
PART A - CONTRIBUTOR'S DATA						
1. CONTRIBUTOR/PROSECTOR Dr. George Carlin, DVM				2. DATE OF REPORT 08.21.2017		
3. NAME AND ADDRESS OF REPORTING UNIT Metropolitan Mercy Animal Hospital 27 High Street Metropolitan City, NJ				4. GEOGRAPHIC LOCATION (Country) United States		
5. TELEPHONE NUMBER (888) 555-2362		6. FAX NUMBER (888) 555-2366		7. E-MAIL cgeorge@metropolitanmercyah.tv		
PART B - ANIMAL IDENTIFICATION AND RELATED DATA						
8. ANIMAL I.D. (Name) MacGregor		9. SPECIES Dog			10. BREED German Shepherd	
11. DATE OF BIRTH 12.22.2014	12. AGE 3	13. SEX M	14. NEUTERED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		15. WEIGHT 77 lbs.	16. COLOR Tan/Black
17. EUTHANIZED (Specify method and agent used.) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO						
18. CAUSE OF DEATH (Medical reason for death or decision to euthanize.) Blunt Force Trauma						
19. NAME AND ADDRESS OF UNIT ACCOUNTABLE FOR ANIMAL Metropolitan Township Police Department 1567 Blue Jay Way Metropolitan Township, NJ						
20. CONTRIBUTOR'S NECROPSY NUMBER 8675309		21. DATE OF DEATH (YYYYMMDD) 08.20.2017		22. TIME BETWEEN DEATH AND NECROPSY 6 hours		
23. PRIORITY REQUIRED <input type="checkbox"/> ROUTINE <input checked="" type="checkbox"/> RUSH		24. MATERIALS FORWARDED All Relevant				
SECTION II - CLINICAL AND PATHOLOGICAL DATA						

(Continued on next page)

25. CLINICAL ABSTRACT

Depressed skull fracture of the left parietal bone. Cerebral edema.

Herniation of the cerebellum.

Nondisplaced fracture of the left mandibular bone.

Complete fractures of the left (L) 6th, 7th, and 8th ribs. Incomplete fractures of the left (L) 5th and right (R) 8th ribs.

Hemothorax (blood in pleural surface).

Multiple lacerations along ventral and lateral thorax and abdomen. Petechial and ecchymotic hemorrhage visual along ventral and lateral thorax and abdomen. Sparse areas of alopecia.

Ecchymosis of the left lateral and dorsal aspect of the cerebral cortex with secondary edematous swelling of the surrounding tissue.

Exhibit H

K9 MacGregor and Officer Steph Murray Certifications

K9 Patrol School – Greater Metro Police Department K9 Academy – 2011, with Reece; 2016 with MacGregor (with MacGregor started, but did not complete, Academy in late 2015)

K9 Narcotics School – Greater Metro Police Department K9 Academy – 2016 with MacGregor

Greater Metro K9 In-Service Recertification – Patrol – 2012-2014 annually, with Reece, and 2017 with MacGregor

Monthly K9 Training Metropolitan Township Police Department from July, 2017 to present

Greater Metro K9 In-Service Recertification – Patrol/Narcotics – Annually, 2017 to present

USA Patrol Canine Association (USAPCA) National Scent Detection Certification (Narcotics) – December, 2016 to present

LIMITED GLOSSARY OF MEDICAL TERMS

(See stipulation #7)

Histopathologic: microscopic examination of tissue.

Edema: a condition characterized by an excess of watery fluid collecting in the cavities or tissues of the body.

Hemothorax: a collection of blood in the space between the chest wall and the lung.

Petechial: a small red or purple spot caused by bleeding into the skin.

Ecchymosis: the escape of blood into the tissues from ruptured blood vessels.

Alopecia: the partial or complete absence of hair from areas of the body where it normally grows; baldness.

Fibrovascular Granulation: tissue that appears on skin surface that signals healing.

PART XI

EXPLANATION OF PERFORMANCE RATINGS USED ON MOCK TRIAL COMPETITION SCORESHEETS

Please consider the criteria listed below when evaluating student performances. Participants will be rated in the categories listed in the score sheet on a scale of **5-10**. **Fractional points are NOT to be awarded.**

Please use the following guide when awarding points:

5-6: Average (exhibiting only a few of criteria listed below)

7-8: Very Good (exhibiting many of the criteria listed below)

9-10: Excellent (exhibiting virtually all of the criteria listed below)

The judge(s) will score student performance in each category, not the legal merits of the case. Each category on the score sheet must be evaluated separately. Note that one team must be awarded more total points than the other. **There are no ties. The tiebreaker category is overall team performance. In the event of a tie score, the judge(s) shall make a final determination based on overall team performance. While this category must be rated like all other categories, judges may award an additional point to the team with the better overall team performance in order to break a tie.** This category is designed to measure whether the team stayed within established time limits, followed mock trial rules and procedures, and demonstrated excellent teamwork. See Part VIII for more information.

Also please note that all post-trial evaluations by the judge(s) will be qualitative. Numerical scores will not be released. The purpose is to re-emphasize the educational goals of the competition.

EVALUATIVE CRITERIA

Attorneys

Opening/Closing Statements:

- Establishes theory of the case (opening)/continues theory of case (closing).
- Clearly provides overview of team's case and position in a persuasive fashion.
- Addresses strengths of own case, and weaknesses of opponent's case.
- Demonstrates a thorough understanding of the issues.
- Exhibits mastery of case and materials.
- Applies applicable law effectively.
- Refers to key witnesses.
- Is articulate and professional in presentation, with minimal use of notes.
- Discusses burden of proof.
- States relief requested.
- Displays appropriate decorum to judges, opposing team and teammates.
- Demonstrates spontaneity, summarizes evidence and incorporates examples from actual trial (closing).

Direct Examination:

- Effective in phrasing straightforward questions and eliciting information.
- Exhibits mastery of case and materials.
- Observes rules of competition at all times.
- Demonstrates understanding of mock trial procedures and rules of evidence.
- Uses case theory appropriately and effectively.

- Avoids leading and narrative questions.
- Responds effectively to opponent's objections.
- Demonstrates proper use of objections in cross-examination.
- Makes effective use of time.
- Interacts well with witnesses.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

Cross Examination:

- Skillfully utilizes leading questions.
- Does not ask "one too many" questions, i.e. cross examines witnesses judiciously.
- Does not invite invention.
- Effectively able to rephrase questions.
- Exhibits mastery of case and materials.
- Observes rules of competition at all times.
- Demonstrates understanding of mock trial procedures and rules of evidence.
- Responds effectively to opponent's objections.
- Demonstrates proper use of objections in direct examination.
- Effectively exposes contradictions or weaknesses of other side's case.
- Interacts well with witnesses. Confidently manages difficult witnesses.
- Able to proceed without reading from prepared script.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

Witnesses

Direct Examination:

- Dress and demeanor are appropriate for witness being portrayed. (Costumes are not allowed. See case stipulations.)
- Demonstrates extensive knowledge of the facts and theory of team's case.
- Observes rules of competition at all times.
- Convincingly and credibly portrays character throughout testimony, without relying on notes. (See R.5:4-7.)
- Shows emotion appropriate to the role.
- Effectively responds to questions without inventing material facts.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

Cross Examination:

- Convincingly and credibly portrays character throughout testimony, without relying on notes. (See R.5:4-7.)
- Able to field questions with confidence and poise.
- Observes rules of competition at all times.
- Does not become flustered or uncertain when responding to unanticipated or leading questions.
- Able to avoid impeachment.
- Employs invention but only appropriately.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

IMPORTANT NOTICE

Teams must enter the names of the students and roles they are playing **on the score sheet** and submit same to the judge during the pre-trial conference. Prepare one sheet for the prosecution/plaintiff and one for the defense. Permission is granted to enlarge the score sheet on a photocopier if necessary in order to include this information. **Please type or print clearly.**

2019-2020 VINCENT J. APRUZZESE MOCK TRIAL COMPETITION Score Sheet

Prosecution/Plaintiff: _____ Defendant: _____
(Team Code) (Team Code)

Date: _____ **Competition Level:** _____ **Round:** _____

On a scale of **5 to 10** rate the Prosecution/Plaintiff and Defendant in the categories below.

DO NOT USE FRACTIONS.

	PROSECUTION/PLAINTIFF		DEFENDANT		
	Name	Score	Name	Score	
Opening Statements					
Prosecution/Plaintiff's First Witness					
Witness Performance – Direct Examination:					
Witness Performance – Cross Examination:					
Attorney – Direct Examination:					
Attorney – Cross Examination:					
Prosecution/Plaintiff's Second Witness					
Witness Performance – Direct Examination:					
Witness Performance – Cross Examination:					
Attorney – Direct Examination:					
Attorney – Cross Examination:					
Prosecution/Plaintiff's Third Witness					
Witness Performance – Direct Examination:					
Witness Performance – Cross Examination:					
Attorney – Direct Examination:					
Attorney – Cross Examination:					
Column Subtotals:					

(Continued on next page.)

2019-2020 VINCENT J. APRUZZESE MOCK TRIAL COMPETITION Score Sheet

Prosecution/Plaintiff: _____ Defendant: _____
(Team Code) (Team Code)

Date: _____ **Competition Level:** _____ **Round:** _____

On a scale of **5 to 10** rate the Prosecution/Plaintiff and Defendant in the categories below.

DO NOT USE FRACTIONS.

	PROSECUTION/PLAINTIFF		DEFENDANT	
	Name	Score	Name	Score
Defense's First Witness				
Witness Performance – Direct Examination:				
Witness Performance – Cross Examination:				
Attorney – Direct Examination:				
Attorney – Cross Examination:				
Defense's Second Witness				
Witness Performance – Direct Examination:				
Witness Performance – Cross Examination:				
Attorney – Direct Examination:				
Attorney – Cross Examination:				
Defense's Third Witness				
Witness Performance – Direct Examination:				
Witness Performance – Cross Examination:				
Attorney – Direct Examination:				
Attorney – Cross Examination:				
Closing Arguments				
Overall Team Performance*				
Column Subtotals:				
Subtotals from preceding page				
Column Totals				

Please advise county or state coordinator of scores before critique.

Judge(s) Signature(s)

***This category MUST be graded with all the other categories, and can also be used as a tiebreaker.**



WINNER (P or D)

NJSBF HIGH SCHOOL MOCK TRIAL POLICY REGARDING A COMBINED TEAM

The intent of the New Jersey State Bar Foundation (NJSBF) High School Mock Trial policy regarding a combined team is to encourage schools, which would otherwise be unable to compete because of an inability to field a full team, to request permission to combine their students with those of another school. In order to form a combined or cooperative mock trial team under the above circumstances, the boards of education or governing bodies of both schools must submit a joint request to the Mock Trial Committee of the New Jersey State Bar Foundation. Teams that combine without such permission will be disqualified.

The intent of the cooperative mock trial program is to afford greater opportunity to students to participate in mock trial only when the enrollment of their high school would not allow either the initiation of such a program or its continuance. Only schools that qualify under the specific enrollment requirements will be permitted to apply to form a combined team with any other equally qualified school. No cooperative mock trial team should be undertaken to enhance the competitive advantage of a member school or for the purpose of “venue shopping.”

The following guidelines were adopted by the New Jersey State Bar Foundation’s Mock Trial Committee and will be utilized to implement cooperative mock trial teams in order to afford the opportunity for as many students as possible to participate in the NJSBF Vincent J. Apruzzese Mock Trial Competition. Factors considered in granting approval of a combined team include, but are not limited to, the following:

- The boards of education or governing bodies of both schools approve the request to form a combined team.
- The host school accepts the responsibilities and obligations that go along with that designation. The combined team will compete in the county in which the host school is located. (See #7 of application form regarding designation of the host school.)
- The total student population of each school involved is under 200 students per class year (800 for a 4-year high school and 600 for a 3-year high school).
- A pattern of declining enrollment in mock trial, i.e., insufficient number of team members in or from the previous year to field a team.
- The schools involved have made a good faith effort to recruit students for mock trial without success.
- The boards of education or governing bodies of both schools certify that they are not applying to form a combined team for the purpose of strengthening their current teams.
- The boards of education or governing bodies of both schools certify that, without a combined team, the schools involved would not be able to participate in the competition.

The Mock Trial Committee will review requests on a case-by-case basis and will advise applicants of its decision in writing. The application form and guidelines for a cooperative mock trial team can be downloaded from the NJSBF website, www.njsbf.org. The completed application is to be submitted to:

Sheila Boro
Director of Mock Trial Programs
New Jersey State Bar Foundation
One Constitution Square
New Brunswick, NJ 08901-1520

The application must be approved by both boards of education or other governing bodies, signed by both school principals and submitted to the State Bar Foundation’s Mock Trial Committee with the approval of their County Mock Trial Coordinator(s). The application form will be reviewed by the Mock Trial Committee and its decision will be final. Schools must make an application **prior** to their enrollment in NJSBF’s Vincent J. Apruzzese Mock Trial Competition and, if approved, must enroll in mock trial as one single team and remain as a single team throughout the competition school year. Approval is only for the school year in which it is given.

**NJSBF VINCENT J. APRUZZESE MOCK TRIAL COMPETITION
COMBINED TEAM APPLICATION**

Combined Team Application for School Year: _____

Cooperating Schools

School #1 (Sponsoring/Host)

Address _____

Principal Name & Email _____

Enrollment _____

School #2

Address _____

Principal Name & Email _____

Enrollment _____

Combined enrollment: (no. of pupils) _____

1. Mock trial is open to all students in both schools in grades 9 through 12. Both schools represent that they have made a good faith effort to recruit students for a mock trial team without success and that one or both schools has been unable to obtain enough student participation to field a team for the school year for which a cooperative team approval is sought. Both schools certify that they are not applying to form a combined team for the purpose of strengthening their current teams.

Please attach a sheet outlining the circumstances in both schools which have led to this cooperative team application specifically setting forth why, without a combined team, the schools involved would not be able to participate in the competition.

2. Approved (public schools): Both Boards of Education Yes _____ No _____ Date _____

3. Approved (non-public schools): Superintendent(s)/ School Governing Bodies Yes _____ No _____ Date _____

4. County Coordinator approval:

_____, Coordinator, _____ Approved: Yes _____ No _____ Date _____
(signature) (County)

County Coordinator approval:

_____, Coordinator, _____ Approved: Yes _____ No _____ Date _____
(signature) (County)

5. Public Schools Agreement: _____ agrees to act as the Sponsoring/Host school.
(name of school)

Non-Public Schools Agreement: _____ agrees to act as the Sponsoring/ Host school.
(name of school)

6. The participating schools shall agree on the legal, financial, staff and personnel responsibilities of each school, including but not limited to, such considerations as transportation, release time, rules, and supervisory services.

7. The Sponsoring/Host School for the combined mock trial team shall be the larger of the two schools based on enrollment of grades 9-12. The combined mock trial team shall function as any other extracurricular activity in that school and will compete in the NJSBF Mock Trial Program in the county in which the host school is located.

8. A participating school shall not withdraw from a Cooperative Program until the completion of the involved Mock Trial Competition season.

9. The Sponsoring/Host School will be considered the home site, and as such will be entitled to all county and state awards.

10. The student participants shall be subject to NJSBF's Vincent J. Apruzzese Mock Trial Competition eligibility rules as well as the eligibility rules of both schools; where rules are at variance, the more stringent rules will be in effect.

11. The decision of the NJSBF State Mock Trial Committee will be final, with NO appeals.

I hereby attest to the accuracy of all facts contained herein. I have also read and agree to abide by all qualifications set forth in the application.

_____, Principal _____, School #1

_____, Principal _____, School #2

This agreement shall terminate at the end of the school year for which cooperation is sought. Renewal must be accompanied by a new application.

New Jersey State Bar Foundation Approval: Yes___ No___

_____, Executive Director, NJSBF

_____, Chair, NJSBF Mock Trial Committee

Please return original to the NJSBF after making a copy for your files:

Sheila Boro
Director of Mock Trial Programs
New Jersey State Bar Foundation
One Constitution Square
New Brunswick, NJ 08901-1520



New Jersey State Bar Foundation
New Jersey Law Center
One Constitution Square
New Brunswick, NJ 08901-1520
1-800-FREE LAW
www.njsbf.org