



# 2017-2018 Judge & Juror Orientation

The Missouri High School Mock Trial Competition is organized by the Saint Louis Bar Foundation and The Bar Association of Metropolitan St. Louis with cooperation from the Lawyers Association of Kansas City Young Lawyers Section and The Missouri Bar. Grant funding provided by the Missouri Lawyer Trust Account Foundation.



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# Thank you!

Thank you for donating your time to help local high school students learn about our legal system. This program is in its 38th year and reaches over 500 students from more than 40 schools throughout Missouri.

Students have labored for months preparing this year's case and they value your experience and commitment to this learning process.



# Summary of this year's case:

## *Reptile Records, LLC v. Changez, Inc., d/b/a Spiders in Cars*

In 2014, Break-Out Band of the Year, Spiders in Cars, released their hit single “Young Americans” The song remained on the BigSign Top 5 List for over 20 weeks, and is still streamed at almost unprecedented levels on PearShare, generating over \$100,000 a month in income for the band.

In 2015, the jazz world lost one of its brightest stars, and possibly its last hope for survival in an ever-increasing derivative and digital age in music. David “Jazz-Hands” Bowe was diagnosed with an untreatable malignancy, and died peacefully in his sleep at the age of 26. Mr. Bowe’s only surviving parent, Sam Haggar, permitted his/her son’s friends to choose the music for the funeral service. One of David’s closest friends chose to play an instrumental version of the very popular Spiders in Cars song “Young Americans” because, “It reminds me of Davey’s music.”

# Summary of this year's case:

Sure enough, as Sam listened to the friend play a guitar arrangement of the song, he/she recognized the tune to one of David's better known songs "A Song for Sam." After the service, Sam asked the friend the name of the Spiders in Cars song, took that information and went to David's friend at Reptile Records, Pat Smith.

However, Sam had a change of heart and decided against filing suit. Reptile Records was left to pursue the claim on its own.

The students are local counsel left to determine whether "Young Americans" is truly "A true American original," as described by Aging Boulder magazine, or whether it is a pale copy of the jazz genius who died too young.

# Why this guide is helpful

We understand that you may not have read the case or mock trial rules. You may factor that into your evaluation of the students. If you can understand and follow the questioning and arguments, this may show that the students have a clear understanding of the case, law, and presentation.

You may need to consult the rules during the trial.

# Special rules for Mock Trial

- No pre-trial motions (although teams may have minor issues to address – like judges' preferences)
- **Swear all witnesses before opening statements:** “Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?”
- Stipulations are in the case materials and are already part of the record.
- Both sides must present opening statements at beginning of case.
- No objections are allowed during openings or closings.
- Bench conferences shall be done from counsel table to allow evaluators to hear arguments.
- Each side must call three witnesses using three to four attorneys.
- Each attorney may only object for his/her assigned witness.
- Attorneys have the option to re-direct, as long as scope is limited to cross.
- Attorneys have the option to re-cross, as long as scope is limited to re-direct.

# Special rules for Mock Trial, cont'd

- The only motion allowed is motion to strike after a successful objection.
- The rules do allow for a break. We recommend allowing five minutes before the start of closing arguments. Please remind the students and observers that students are not allowed to talk to anyone not involved in the trial – they cannot communicate with parents, coaches or non-participating students.
- **Plaintiff may reserve time for rebuttal prior to the start of his/her initial closing argument. Plaintiff need NOT request or state that it is reserving time for rebuttal.**
- Plaintiff's rebuttal must be within the scope of topics from defense closing.
- Please turn in your ballots to the orientation room as quickly as possible after the trial. Since trials typically conclude late in the evening, please do not hold the students to give comments. Feel free to make yourself available in the hall for comments if the students wish to seek you out *after ballots are turned in*.
- Trials are governed by Missouri High School Mock Trial Local Rules and the Mock Trial Version of Federal Rules of Evidence.

# Special rules for Mock Trial, cont'd

- Attorneys may object to “unfair extrapolation” or “beyond the scope of facts.” However, the preferred way of handling is to impeach on cross examination. See Local Rule 2.3 for specifics.
- Students are not permitted to quote case law during the trial.
- Formal certification of experts is not required – expertise is established by laying proper foundation. See Local Rule 2.2, ¶ 5.
- Witness roles are designed to be gender-neutral.
- In the event of an emergency during a trial, please send an observer to notify the Coordinator(s) immediately.
- **Each trial will have a presiding judge and at least two jurors/evaluators. Please do not start the round before both evaluators are present.**
- **Please note we have new ballots – witnesses are scored separately for direct/re-direct examination and cross/re-cross examination, each worth up to ten points. Do not penalize the witness if the attorney chooses not to re-direct or re-cross.**

# Time Limits (Local Rule 4.5)

5 minutes	Opening statement for each side
30 minutes	Direct examinations for each side
20 minutes	Cross examinations for each side
1 minute	For each re-direct or re-cross per witness (attorney option)
7 minutes	Closing arguments for each side

# For the Presiding Judge

Your role is to preside over the trial and help students to enjoy this educational experience.

Students have teacher advisors and attorney coaches who are guiding them.

# Do...

- Introduce yourself and encourage jurors/evaluators to do the same
- Rule on objections (based upon mock trial rules)
- Keep the trial moving
- Let the students argue objections back and forth a few times (but not too long)
- Make sure students stick to the time limits
- Pick a winner based upon the best performance (not verdict) by placing “P” or “D” in presiding judge box on the ballot

# Don't...

- Do not speak for the students – let them show you what they know
- Do not put yourself in the role of attorney – no questions to witnesses
- Do not “instruct” the students – remember they have coaches for that
- Do not consult with evaluators on scoring
- Do not announce a winner or a verdict

# For the Evaluators

Your role is to numerically score the presentation based upon the performance of the students.

This is NOT an evaluation based upon the verdict.

# Do...

- Sit in the jury box (preferably in first two rows)
- Introduce yourself when prompted by the Presiding Judge
- Evaluate students fairly and consistently using the criteria you will be provided
- Score as the trial goes on – it will be easier for you
- Utilize your training and knowledge in evaluating the students – you do not have to agree with judge's rulings
- Feel free to write comments on the provided sheets

# Don't...

- Do not participate in the trial – you should appear as a silent juror
- Do not make comments or rule on objections
- Do not consult with other evaluators or judge for scoring
- Do not give scores that result in a tie – scores must be adjusted to show which team gave the better performance (not verdict)
- Do not announce a winner or verdict

# Evaluation Criteria

## Opening Statement

- Clear and concise presentation of issues and appropriate use of case materials
- Tell a story
- Utilize time effectively
- Persuasive without being argumentative

# Evaluation Criteria

## **Direct/Re-direct examination**

- Attorneys ask questions requiring straightforward answers bringing out key information for his/her side of case
- Attorney effectively responds to objections
- Attorney produces exhibits, when appropriate, and enters into evidence properly
- Attorney makes proper and effective objections to cross-examination

# Evaluation Criteria

## **Cross/Re-cross examination**

- Attorney makes proper and effective objections to direct examination
- Attorney asks mostly leading questions bringing out key information for his/her side of case
- Attorney exposes contradictions in testimony and weakens other side of case

# Evaluation Criteria

## **Witnesses**

- Witness is believable in characterizations and presents convincing testimony
- Witness is well prepared for direct examination
- Witness responds well to cross examination questions without getting argumentative
- Witness testifies consistent with statement

# Evaluation Criteria

## **Closing Argument**

- Clear and concise presentation of issues and appropriate use of case materials
- Attorney incorporates examples from this trial
- Attorney summarizes key issues in trial
- Attorney explains how the facts presented fit into his/her side of case

# Scoring Guidelines

These Guidelines are provided to assist you. You are not required to use them, so long as you use a consistent criteria for all students in your trial.

Scoring is done on a 1—10 scale (10 is highest).

Whole numbers only. No fractions, please.

# Scoring Guidelines

**1—5: Far below average – unacceptable performance  
(rarely used)**

- Disorganized
- Inadequate preparation
- Poor presentation
- Inadequate legal knowledge or understanding of role
- Weak voice
- Little eye contact
- Disruptive or disrespectful

# Scoring Guidelines

## **6—7: Average – meets required standards**

- Organized
- Acceptable, but uninspired presentation
- Demonstrated basic legal knowledge
- Adequate voice but not persuasive
- Some eye contact
- Needs more spontaneity and reaction to events of trial

# Scoring Guidelines

## **8—9: Above average – good, solid performance**

- Well-organized and prepared
- Demonstrated good understanding of case and legal procedure
- Demonstrated clear legal knowledge and understood role in case
- Showed some spontaneous reaction to events of trial
- Mostly believable performance
- Easily audible voice and good eye contact

# Scoring Guidelines

## **10: Excellent – exceptional performance**

- Excellent preparation and well organized
- Superior ability to think on his/her feet
- Demonstrated outstanding understanding of case and legal procedure
- Resourceful, original and innovative approaches
- Portrayal was extraordinary and realistic
- Clear understanding of rules and procedures
- Strong voice and eye contact
- Has you comparing him/her to real-life attorneys

**END**

Thank you again for volunteering your time  
in support of the  
Missouri High School  
Mock Trial Competition.

