RULES OF THE 2014 TENNESSEE HIGH SCHOOL
MOCK TRIAL COMPETITION
EFFECTIVE NOVEMBER 18, 2013

INTRODUCTION

The Rules of the Tennessee High School Mock Trial Competition consist of the Rules of the Competition, the Rules of Procedure, and the Tennessee High School Mock Trial Competition Rules of Evidence. Notice of any clarification of these rules or case materials will be issued in writing to all participating teams by the Chair or Vice Chair of the Mock Trial Committee, or his or her designee. Any amendments to these rules will be made by the Mock Trial Committee with approval from the Mock Trial Long Range Planning Chair. Notice of clarifications or modifications will be sent via electronic listserv to all local coordinators, coaches, and team sponsors and will be posted on the Tennessee High School Mock Trial Competition webpage, www.tba.org/info/tennessee-high-school-mock-trial-0.

Only the rules specifically denoted as applicable to local and district competitions must be enforced at the district competitions and are not subject to modification at the local level. Local and district competitions may operate differently than the state competition, except to the extent inconsistent with these rules. Each team should, therefore, consult with its district coordinator as to the procedure for the local competition.

Only Tennessee High School Mock Trial Rules of Evidence, included in these materials, are relevant to this particular problem.

These rules have been drafted with the goals of designing a fair competition and encouraging sportsmanship and civility. To this end, all disputes arising under these rules will be resolved in an effort to be consistent with these goals. Sportsmanship, civility, and professionalism are of paramount importance to the committee and are of critical necessity to the successful operation of the mock trial program.

Because of the Committee's deliberate emphasis on the importance of sportsmanship, all teams are responsible for the conduct of persons associated with their teams throughout the mock trial competition. Teams may be penalized for the conduct of persons associated with that team (i.e., guests, coaches, alternates), whether or not the offending persons are actual team members. In recognition of the value the Committee places upon this aspect of the competition, we will once again recognize one team with a Sportsmanship Award at the state competition.

TO ADD COMPLEXITY FOR THE STATE COMPETITION, THE MOCK TRIAL COMMITTEE **MAY** RELEASE ADDITIONAL MATERIAL(S) ON OR BEFORE **MARCH 1, 2014**. IT IS THE RESPONSIBILITY OF THE PREVAILING TEAMS AT THE LOCAL/DISTRICT COMPETITIONS TO ACQUIRE ANY ADDITIONAL ISSUED MATERIALS.

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I. RULES OF THE COMPETITION

A. THE PROBLEM

Rule 1. Rules†

All trials are governed by the Rules of the Tennessee High School Mock Trial Competition. Local competitions are only bound by rules indicated by †. So long as such rules are enforced, a district may adopt such other rules as may be necessary or convenient to aid the local competitions.

Interpretation of these rules lies within the discretion of the Tennessee Bar Association Young Lawyers Division Mock Trial Competition Chair and Committee ("Mock Trial Chair and Committee"). Any amendments to these rules will be made by the Mock Trial Committee with approval from the Tennessee Bar Association Young Lawyers Division Mock Trial Long Range Planning Chair.

For rules that are required to apply to the district competition or rules that the district coordinator has adopted for the purposes of district competition, when those rules refer to the Mock Trial Chair, such reference shall mean the district coordinator for the purposes of the district-level competition. However, nothing about this rule shall be interpreted to remove any discretionary authority from the state Mock Trial Chair or Committee.

Rule 2. The Problem†

The problem will be based upon a fact pattern which may contain any or all of the following: statement of facts, pleadings, indictment, stipulations, witness statements/affidavits, jury charges, exhibits, and other related materials identified by the Committee. Stipulations may not be disputed at trial. Witness statements may not be altered.

Rule 3. Witness Bound by Statements†

Each witness is bound by the facts contained in his/her own witness statement, the statement of facts, if any, and necessary documentation or exhibit pertinent to his/her testimony.

Fair extrapolations are allowed, provided that a reasonable inference may be made from the witness's statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 4

If, in cross-examination, an attorney asks for information not contained in the materials relevant to the witness's testimony, the witness may or may not respond, so long as any response is consistent with the witness's statement or affidavit and does not materially affect the witness's testimony.

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

Rule 4. Unfair Extrapolation†

Under examination, witnesses may make such extrapolations from their witness statements or supporting materials as are necessary to respond to a permitted question, so long as such extrapolation does not have the effect of repudiating or materially altering the witness statement or supporting materials. An extrapolation that does not adhere to these guidelines is an unfair extrapolation. Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial. A fair extrapolation is one that is neutral.

Attorneys shall not ask questions calling for or requesting an unfair extrapolation. Witnesses shall not make an unfair extrapolation.

If a question calls for unfair extrapolation, or if a witness response consists of unfair extrapolation, attorneys may object. Such objection shall make reference to this rule by referencing unfair extrapolation, testimony beyond the scope of the statement of facts, or material outside the mock trial universe.

When an attorney makes an objection under this rule, the judge shall rule in open court and, if necessary, shall make such rulings as may be required to clarify the course of further proceedings.

The judge may rule as follows:

1. No extrapolation has occurred (objection overruled);
2. An unfair extrapolation has occurred (objection sustained);
3. The extrapolation was fair (objection overruled);

The decision of the judge regarding extrapolations or evidentiary matters is final and not subject to further or additional challenge or objection.

Points may be deducted from any individual witness or attorney, or the offending team as a whole if, in the discretion of the scorer, (1) unfair extrapolation was intentionally elicited or utilized, or (2) an unfair extrapolation objection was made frivolously.

Rule 5. Gender of Witnesses†

Any student may portray the role of any witness of either gender, unless specifically noted in the mock trial materials. As such, gender-specific arguments concerning witnesses and/or parties shall be avoided.

Rule 6. Voir Dire †

Voir dire examination of a witness is not permitted except to the extent necessary to lay a foundation for the admission of expert testimony or as may be required by the presiding judge in order

to rule upon an objection.

B. THE TRIAL

Rule 7. District Composition†

Number of Teams Qualifying to the State Competition from District/Local Competitions:

1. Districts with between four (4) and eleven (11) teams, inclusive, actually competing during the district competition will be permitted to qualify one (1) team to the state competition;

2. Districts with between twelve (12) and twenty-three (23) teams, inclusive, actually competing in the district competition will be permitted to quality two (2) teams to the state competition; and

3. Districts with twenty-four (24) or more teams actually competing during the district competition will be permitted to send three (3) teams to the state competition.

4. Districts that increase the number of teams competing by fifty percent (50%) or more from the prior year's competition may be invited to send one (1) additional team to compete in the state competition. The purpose of this rule is to encourage district to cultivate new and additional competitors from schools that have not traditionally had a mock trial program.

Teams shall register with the district coordinator in the manner prescribed by the district coordinator. District Coordinators shall certify the number and identity of the teams expected to compete (i.e., registered) in the district competition no later than January 31, 2014 by filing with the Mock Trial Chair (via email to josh@thedouganfirm.com) the attached form at Appendix A. The certification will be used to make decisions in accordance with Rule 7, including the number of teams "actually competing" in the district competitions. **All teams expected to compete in the district competition shall register with the designated District Coordinator. The deadline may be set by the District Coordinator, but in no cases shall a team register with the District Coordinator later than January 31, 2014.**

If a team attempts to register after the deadline as set by the District Coordinator (or January 31, 2014 if no deadline has been set by the District Coordinator), then eligibility to compete must be approved by the Chair of the Mock Trial Committee. If a late registration occurs, and the team actually competes during the district competition, a determination will be made, **at the sole discretion of the Chair of the Mock Trial Committee**, concerning the number of teams that will qualify to the state competition from the district.

A district certifying fewer than four teams expected to compete in the district competition, may be required to compete with a neighboring district. If at any time after January 31, 2014 the number of

teams expected to compete in the district competition falls below four teams, the district competition may be folded into the competition of another district. Such rulings shall be made, at the exclusive and sole discretion of the Chair of the Mock Trial Committee. This rule is intended to and shall vest the broadest authority in the Chair of the Mock Trial Committee to make necessary determinations as to when and under what circumstances a district competition may take place.

Unless a district/local competition promulgates a rule to the contrary on or before January 3, 2014 there is no limitation on the number of teams that a school may field for the district/local competition, so long as the teams are consistent with Rule 8.[1] However, for schools with more than one team, only two teams are considered in the calculation of the number of teams competing pursuant to a Rule 7 determination of the number of teams qualifying for the state competition.

On extraordinary occasions, the Mock Trial Committee, by and through the Mock Trial Committee Chair, and with the approval of the Mock Trial Long Range Planning Chair, may make necessary and reasonable modifications to the district competitions, calculated to ensure the fair and effective running of these competitions.

District competitions must be concluded on or before February 23, 2014. [2] Mock Trial District Coordinators are listed at http://www.tba.org/info/tennessee-high-school-mock-trial-0. The Mock Trial Districts are organized as follows:

District 1
Shelby County

District 2
Benton, Carroll, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, McNairy, Madison, Obion, Tipton and Weakley counties

District 3
Bedford, Coffee, Franklin, Giles, Grundy, Lawrence, Lincoln, Maury, Moore and Wayne counties

District 4
Cannon, Hickman, Lewis, Marshall, Perry, Rutherford and Williamson counties

District 5
Davidson County

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[1] The purpose of this rule is to encourage the broadest level of participation from interested schools and students.

[2] This rule is necessary to accommodate lodging and board needs for the state competition.

District 6
Cheatham, Dickson, Houston, Humphreys, Montgomery, Robertson, Stewart and Sumner counties
*IN THE PAST, DISTRICT 6 HAS BEEN DIVIDED INTO A WESTERN AND EASTERN DIVISION, WITH THE TWO DIVISIONS COMPETING IN A RUN-OFF TO DETERMINE THE TEAM ADVANCING TO STATE. HOWEVER, DUE TO THE DECLINE IN PARTICIPATION OF THE WESTERN DISTRICT, PLEASE NOTE THAT ALL TEAMS IN DISTRICT 6 WILL COMPETE IN A SINGLE COMPETITION IN SUMNER COUNTY (EASTERN DIVISION) UNLESS EACH DIVISION OF THE DISTRICT HAS FOUR OR MORE TEAMS REGISTERED BY JANUARY 31, 2014.

District 7
Bradley, Hamilton, McMinn, Marion, Meigs, Monroe, Polk, Rhea and Sequatchie counties

District 8
Bledsoe, Clay, Cumberland, DeKalb, Fentress, Jackson, Macon, Overton, Pickett,
Putnam, Smith, Trousdale, Van Buren, Warren, White and Wilson counties

District 9
Blount, Cocke, Jefferson, Loudon and Sevier counties

District 10
Grainger and Knox counties, <u>see</u> footnote 3

Districts 11 and 12
Carter, Greene, Hamblen, Hancock, Hawkins, Johnson, Sullivan, Unicoi and Washington counties

District 13
Anderson, Campbell, Claiborne, Morgan, Roane, Scott and Union counties[3]

Rule 8. Team Composition†

(a) Teams must have six members and may have up to (but no more than) twelve members assigned to roles representing the Prosecution/Plaintiff and Defense/Defendant sides, in addition to two additional members serving as alternates. This means that a team may have a roster totaling no more than 14 members. For the purpose of providing funding to teams competing in the state competition, the Tennessee Bar Association will provide no more than four hotel rooms for each team, with teams responsible for the costs of any requests for additional rooms.[4] A team may have

[3] IN THE PAST, DISTRICT 13 HAS BEEN A SEPARATE DISTRICT. HOWEVER, DUE TO THE DECLINE IN PARTICIPATION IN DISTRICT 13, PLEASE NOTE THAT ALL TEAMS IN DISTRICT 13 WILL COMPETE IN A SINGLE COMPETITION IN KNOX COUNTY IN 2014. DISTRICT 13 TEAMS WILL COUNT AS "DISTRICT 10" TEAMS FOR PURPOSES OF QUALIFYING TEAMS TO STATE UNDER RULE 7.

[4] Please note that there is no guarantee that additional rooms will be available for booking at the host hotel.

additional alternate members not included in the 14 roster slots identified above ("non-roster alternates"), but those members will not be funded to the state competition and can only compete if they substitute for a team member. Once a team member has been replaced by a non-roster alternate, the team member is ineligible to return to the competition at which s/he has been replaced.

The team composition at the National Championships shall be governed by the rules of the national competition, and the Tennessee Bar Association will provide funding to the National Championships in its discretion. Historically, teams at the National Championships have been comprised of six members and two alternates and only eight student team members have been funded to the National Championships.

(b) Each team shall have a sponsor from its school or organization for the purpose of contacting teams and for transmitting registration materials. Additionally, each team may enlist the assistance of one or more coaches. The coaches should be licensed attorneys or law students.

The Tennessee High School Mock Trial Competition is organized and hosted by members of the Tennessee Bar Association Young Lawyers Division (YLD). As a public service project of the YLD, there is no charge for teams to compete in the mock trial competition. As an "all volunteer" activity, and to preserve the integrity and neutrality of the competition for all teams participating in the competition, coaches may not be compensated by their school or organization for their service. However, it shall not be deemed compensation for a school or organization to reimburse a coach for out-of-pocket expenses or mileage for travel to and from practices and the competition.

The CLE Commission has not approved credit for attorney coaches.

(c) A team may change the individuals comprising the team between district and state competition provided that the team has a majority of its original members competing from the district competition. In other words, if a team at district was comprised of eight students, then the team at state must have at least five of the students who competed on the district-winning team. Alternates do not count for purposes of this rule.

(d) A team may be formed from two schools situated within a district so long as the two schools, if competing individually, would not have the minimum of six students necessary to form a team. For purposes of this rule, no "recruiting" will be tolerated. Also, because schools must be within a district, this rule does not allow "district shopping." This rule is meant to enhance the ability of start-up programs to participate in the district competition.

(e) Home-schooled students may compete on public school teams as may be allowed pursuant to the policies of the local school district. Home-schooled students may also form teams with other home-schooled students under this rule. However, home-schooled teams, like all other teams must compete in the district competition and shall register with the district competition in advance of the January 31, 2014 deadline referenced in Rule 7.

For purposes of determining “two schools” under Rules 7 and 8(d), each of the following affiliations shall be considered as one “school”:

1. Church related schools recognized by statute at Tenn. Code Ann. § 49-50-801;

2. Students registered exclusively with the school superintendent’s office as recognized by statute at Tenn. Code Ann. § 49-6-3050;

3. Tennessee Home Education Association; and

4. Other affiliations not specifically listed in (1)-(3).

Two examples illustrate the operation of Rule 8(e):

(A) For example, a single team can be formed from students affiliated with the Tennessee Home Education Association and students registered with the school superintendent’s office. Another team could be formed from students affiliated with a church related school and students registered with the Tennessee Home Education Association. However, a third team comprised of students from both of those two organizations would not be counted under Rule 7 for purposes of qualifying teams to the state competition.

(B) As another example, two teams comprised entirely of students affiliated with non-secular related schools compete. A third team comprised entirely of students affiliated with the Tennessee Home Education Association competes. A fourth team formed from students affiliated with the Tennessee Home Education Association and students registered with the school superintendent’s office competes. All four teams would be counted under Rule 7 for purposes of qualifying team(s) to the state competition.

(g) Students enrolled in the Tennessee Virtual Learning Academy or other “virtual” public or private school options wishing to form a team will be allowed. However, the determination as to how many “schools” are represented will be made at the exclusive discretion of the Mock Trial Chair.

(h) From time to time, questions of a team’s compliance with the Mock Trial Rules of Competition and qualification to compete arise without adequate time for the district coordinator to make an informed decision concerning eligibility to compete. If a question arises concerning qualification of a team within the 24 hours immediately preceding the start of the district competition or after the competition is underway, the district coordinator shall make a written record of the concern or complaint, shall notify all relevant parties, and the team shall be allowed to compete through completion with the understanding that the team may later be disqualified. The purpose of this rule is to maintain the competition schedule while allowing the district coordinator to investigate the facts, and, where necessary, contact the Mock Trial Chair or his/her designee concerning an interpretation of the rules prior to disqualification of a team.

Rule 9. Team Presentation

A team must present both Prosecution/Plaintiff and Defense/Defendant sides of the case using six team members for each side. Each side shall consist of three lawyers and three witnesses. At their option, teams may designate one member as the Defendant and allow the Defendant to sit at counsel's table. In civil cases, teams may designate one person to sit at counsel table and serve as Plaintiff. Designated Plaintiffs and Defendants may sit at counsel table only so long as space permits.

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

Only in the case of an emergency occurring within two hours of a competition round or during a round of competition may a team participate with fewer than six members. In such a case, a team may continue in the competition by making substitutions to achieve a two attorney/three witness composition, or a team may utilize alternates, provided such alternates are listed on the team roster submitted prior to the competition. It is the responsibility of a team to notify the Mock Trial Chair or a member of the Committee if an emergency arises.

Final determination of emergency, forfeiture, reduction of points, or advancement, will be made by the Mock Trial Chair.

Rule 10. Team Duties†

Each team must call three witnesses and only three witnesses, even if there are four or more potential witnesses in the problem. Witnesses must be called only by their own team and examined by both sides. Witnesses may not be recalled by either side.

Each of the three attorneys must conduct one direct examination and one cross examination, regardless of how many potential witnesses are presented in the case materials, such that no attorney may conduct more than one cross examination. One attorney shall present the opening statement and another will present the closing argument.

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

The attorney who will examine a particular witness on direct examination is the only person who may make the objections to the opposing attorney's questions of that witness's cross examination, and the attorney who will cross examine a witness will be the only one permitted to make objections during the direct examination of that witness.

Rule 11. Witness Oath or Affirmation†

The following is the only oath or affirmation that may be administered to witnesses:

"Do you promise and/or affirm that the testimony you are about to give will faithfully and

truthfully conform to the facts and rules of the mock trial competition?"

This oath or affirmation may occur in one of two ways. Either the judge will indicate all witnesses are assumed to be sworn, or the above oath will be conducted by (a) the judge or (b) the official bailiff provided by the Mock Trial Committee.

Rule 12. Trial Sequence and Time Limits†

The trial sequence and time limits are as follows:

1. Opening Statement (5 minutes per side)
2. Direct and Optional Redirect Examinations (20 minutes per side)
3. Cross and Optional Re-cross Examinations (14 minutes per side)
4. Closing Argument (5 minutes per side)

The Prosecution/Plaintiff will give the closing argument first; the Prosecution/Plaintiff may reserve up to one minute of closing time for rebuttal. Rebuttal is limited to the scope of the Defense's closing argument. The argument of facts outside the scope of the defense's closing argument is grounds for a deduction from the prosecution's final score.

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

Rule 13. Timekeeping†

Time limits, as outlined in Rule 12, are mandatory. Each team is permitted to have its own timekeeper, who may use timekeeping aids (i.e. stopwatch and time cards) and who will be permitted to sit in, or next to, the jury box, but should be behind and out of the way of the scorers in the jury box. The team's timekeeper must be an alternate or a non-roster alternate, as those terms are defined in these rules. An official timekeeper will be assigned to each trial, and such official timekeeper customarily serves as bailiff. In the sole discretion of the Mock Trial Committee Chair or Vice Chair, a team timekeeper may be excluded from the jury box, in cases where space necessitates another placement or for any reason that the Chair or Vice Chair may deem appropriate.

It is the responsibility of a team to object if its adversary exceeds the time limits. The team timekeeper may not interrupt or disrupt the trial proceedings.

Time does not stop for introduction of exhibits.

Time for objections, bench conferences or jury-out hearings, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements.

Rule 14. Time Extensions and Scoring†

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

Rule 15. Prohibited Motions

Only motions specifically provided for in the case materials are allowed.

A motion for a recess may be used only in the event of an emergency. To the greatest extent possible, team members are to remain in place. Should a recess be called, teams are not to communicate with any observers, coaches, or instructors regarding the trial.

Rule 16. Sequestration†

Witnesses may not be sequestered during the trial.

Rule 17. Bench Conferences†

In order to lend authenticity to the simulation of a jury proceeding, bench conferences or jury-out hearings may be requested by attorneys and granted at the discretion of the presiding judge. However, the substance of such conferences shall take place in open court so that the scorers can adequately monitor the proceedings. In other words, the "jury" remains in the court during the jury-out hearings. The scoring jurors shall score the totality of a witness's or advocate's presentation, which includes the way in which advocates deal with procedural and evidentiary matters that arise during the course of the trial.

Rule 18. Supplemental Material; Illustrative Aids †

Teams may refer only to materials included in the trial packet or specifically authorized by a stipulation. No illustrative aids of any kind may be used, unless provided in the case packet. Pointers, markers, etc. are not "illustrative aids." Unless specifically permitted in the case material stipulations, teams shall not enlarge materials; however, copies may be made for publication to the jury, subject to the permission of the presiding judge. Teams may not issue exhibit notebooks to the judge or scoring jurors.

The only documents which the teams may present to the judge or scoring jurors are the individual exhibits as they are introduced into evidence and the team roster forms.

Rule 18. Attire/Individual Attributes†

There are no restrictions upon witness or attorney attire. Thus, while excessive costuming should be avoided, dressing "in character" is permissible. However, teams should bear in mind that

most courtrooms require professional attire of attorneys and restrict casual attire for witnesses and other persons. Accordingly, the scorers have the discretion to deduct points for attorney or witness attire that detracts from rather than enhances the team's presentation.

Teams may NOT refer to the individual attributes of any of its own or of opposing team members (e.g., height, weight, hair color, gender, or race) as a basis for impeachment, credibility, or for any other reason. This does not mean that the character's individual attributes (as portrayed in the problem) may not be referred to, if such is germane to the case.

Rule 20. Trial Communication

Instructors, alternates, and observers shall not talk to, signal, communicate with, or coach their teams during trial at either the local or state competition. This rule remains in force during any recess time which may occur during the course of a round. Team members may, among themselves, communicate during the trial; however, no disruptive communication is allowed.

To ensure compliance with this rule, student competitors may not bring to counsel table or the witness box any electronic devices, including, but not limited to, mobile phones, tablet devices, or other such technology that the Mock Trial Committee and its Chair are not savvy enough to have yet picked up on. However, nothing in this rule shall prevent competitors from introducing electronic media into evidence as provided by the Mock Trial Problem.

Non-team members, alternate team members, teachers, and coaches must remain outside the bar in the spectator section of the courtroom. Only team members participating in a round may sit inside the bar.

Rule 21. Viewing a Trial; Prohibition on "Scouting"

Team members, alternates, attorney/coaches, teacher-sponsors, and any other persons associated with a mock trial team are not permitted to view other teams in competition (i.e., "scouting") as long as their team remains in the competition.

Rule 22. Videotaping/Photography†

Any team has the option to refuse participation in video or audio recording, still photography, or media coverage (referred to collectively as "Media Coverage"), except during the state championship round. However, any team choosing to refuse participation Media Coverage should give prior notification to the district coordinator or Mock Trial Committee Chair, as appropriate. Failure to give advance notice constitutes a wavier by each member of the team and its coaches, sponsors, and affiliates of any right to object to Media Coverage. Media Coverage will be allowed of the state championship round, and any team's participation in the competition shall be construed as a release by that team. Such release includes the right, by the TBA or its designees to record the championship round in whole or in part to broadcast any such recording in any known or unknown media, and to duplicate and make that recording available to the general public. If a team makes a recording of a

round, it shall make available to the opposing team a copy of the video, at the opposing team's expense.

District competitions may make other or additional rules relating to media, recording, and photography, and teams may use any recordings for their own educational purposes, provided, however, that **nothing herein shall authorize teams to distribute copies of such recording via any means.** Teams are reminded that the problem materials are copyrighted. Violation of this rule can subject a team to discipline up to and including exclusion from the mock trial program.

Rule 23. Decisions†

All decisions of the scoring panel are final. No member of a team, sponsor, or coach may question any member of the scoring panel or presiding judge as to individual or team scores, "best attorney" or "best witness" ballot, or sportsmanship nomination.

Nothing in this rule shall serve to prohibit critique by the scoring panel following the trial, or otherwise abridge Rule 45. Moreover, this rule does not prohibit interaction by team members or faculty or attorney coaches and sponsors as to the performance of an individual or team. Rather, this rule merely prohibits inquiry into the numerical scores assigned to each individual and/or team.

Rule 24. Composition of Panel

The scoring panel shall consist of at least three individuals. Each person rendering a score is sometimes referred to as a "scorer," "panelist," or "juror." The composition of the panel and the role of the presiding judge will be at the discretion of the Mock Trial Chair and Committee as follows:

1. One presiding judge and two jurors (all three complete score sheets);
2. One presiding judge and three jurors (only jurors complete score sheets); or
3. One presiding judge, one juror and one bailiff (all three complete score sheets).

Rule 25. Score Sheets/Ballots

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

Rule 26. Completion of Score Sheets

Score sheets are to be completed in four steps:

1. Speaker Points - Each panelist assigns a number of speaker points (1-10) for each section of the trial.

2. Team Points - Each panelist assigns a point total for overall legal performance and strategy to each team, with a maximum of ten points that can be awarded. Additionally, each panelist shall assign a point total of up to five points for overall performance impact.

3. Penalty Points – Each panelist has the sole discretion to deduct up to five points from a team's total for each of the following categories: testimony outside the "mock trial universe," unsportsmanlike conduct (inclusive of abusive objections), and inappropriate or distracting courtroom attire.

4. Final Point Total - Each panelist adds the points boxes to achieve a final point total for each team. NO TIE IS ALLOWED IN THE FINAL POINT TOTAL BOX. The team with the highest number of points in the Final Point Total box is awarded the ballot from that panelist.

Rule 27. Score Sheet Availability†

Score sheets will not be made available to any person or team at any time during or after the state competition. Following the completion of the competition, rankings will be posted on the Tennessee Bar Association's Young Lawyers Division website. Additionally, upon request, each team's coach and/or team sponsor will be provided with a summary sheet showing, for each round of the competition, the following information:

1. Team Rankings, separated by win/loss brackets

2. Total Ballots won by each team

3. Total Points awarded to each team

The above data will be provided for informational purposes only. **At the conclusion of the state competition, all scores and rankings shall be FINAL and may not be challenged.** The Mock Trial Committee encourages local competitions to make summaries of score sheets and/or comment sheets available to the teams following the conclusion of the local competition. If any local competition wishes to provide the above data, the Mock Trial Committee will provide the local mock trial coordinator with the necessary software to create the summary sheets and will assist with this process.

Rule 28. Team Advancement

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

1. Win/Loss Record
2. Total Number of Ballots
3. Total Number of Points

Rule 29. Power Matching; Seeding

For the first round, opponents are determined via random selection. A power-match system will determine opponents for all other rounds. The two schools emerging with the strongest record from the four rounds will advance to the final round. The first-place team will be determined by ballots from the championship round only.

Power matching will provide that:

1. Pairings for the first round will be at random;

2. Brackets will be determined by win / loss record. Sorting within brackets will be determined in the following order: (1) win / loss record; (2) ballots; (3) points; then (4) point spread. The team with the highest number of ballots in the bracket will be matched with the team with the lowest number of ballots in the bracket; the next highest with the next lowest, and so on until all teams are paired;

3. If there is an odd number of teams in a bracket, the team at the top of the next lower bracket will be moved into the bracket containing the odd number of teams.

4. The ultimate goal with power matching will be to maintain bracket integrity. However, the Mock Trial Chair shall have the complete discretion to make any changes necessary to allow each team to have alternated between Prosecution/Plaintiff and Defense/Defendant at least once during the competition, to avoid pairing two teams from the same school or district against each other and, to avoid pairing teams that have competed against each other in a prior round.

The Mock Trial Chair is vested with plenary and sole discretion regarding implementing power-matching or the power-matching process.

Rule 30. Merit Decisions†

Presiding judges and panelists are not required to make a ruling on the legal merits of the trial

but ***are encouraged to do so***. Presiding judges and panelists shall not inform the students of score sheet results.

Rule 31. Effect of Bye; Default

A "bye" becomes necessary when the tournament has an odd number of teams. For the purpose of advancement and seeding, when a team draws a bye, it wins by default and will be given a win and the number of ballots and points equal to the average of all winning teams' ballots and points for that same round. The Mock Trial Chair may, if time and space allow, arrange for a "bye round" to allow teams to compete against in order to earn a score that will be used in lieu of the average score for the winning team.

II. RULES OF PROCEDURE

A. Before the Trial

Rule 32. Team Roster

Copies of the Team Roster Form must be completed and submitted to the Mock Trial Chair no later than 72 hours prior to the competition. Additionally, each Team Roster Form shall be duplicated by each team prior to arrival at the competition site, such that each team has at least six copies of each Team Roster for each round of the competition. Before beginning a trial, the teams must exchange copies of the team roster form. Five copies of the team roster form shall be given to the bailiff prior to the commencement of the round for distribution to the bailiff, jurors, and judge.

Rule 33. Stipulations†

When the Court asks the Prosecution/Plaintiff if it is ready to proceed with opening statements, the attorney assigned the opening statement should offer any stipulations into evidence. A copy of such stipulations should be submitted to the judge. Where facts included in a stipulation are known to a witness as specified within the stipulation, the witness may testify about that fact on direct or cross examination.

Rule 34. The Record†

The stipulations and jury instructions will not be read into the record.

B. Beginning the Trial

Rule 35. Jury Trial†

The case will be tried to a jury, which consists of the panelists (provided that such persons are not required to be elsewhere in the courtroom by virtue of their other duties, e.g., presiding judge and bailiff) along with such other persons as may, in the discretion of the mock trial chair or district

coordinator, be designated as jury members; arguments are to be made to the judge and the jury.

Rule 36. Standing During Trial†

Unless excused by the judge, attorneys will stand while giving opening and closing statements, during direct and cross examinations, and for all objections. Attorneys shall be granted authority to move freely about the courtroom during the trial, subsequent to an appropriate request to the presiding judge.

Rule 37. Objection During Opening Statement and Closing Argument†

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

If a team believes an objection would have been necessary during the opposing team's closing, a student may, following the closing arguments, stand to be recognized by the judge and may say, "If I had been permitted to object during closing arguments, I would have objected to the opposing team's statement that ___." The judge will not rule on this "objection." Judges and scoring jurors will weigh the "objection" individually. No rebuttal by opposing team will be heard.

C. Presenting Evidence

Rule 38. Argumentative Questions†

An attorney shall not ask argumentative questions. However, the Court may, in its discretion, allow limited use of argumentative questions on cross-examination.

Rule 39. Lack of Proper Predicate/Foundation†

Teams should not presume that materials provided in the Mock Trial packet are admissible. Moreover, admissibility for all exhibits requires the proper evidentiary foundation. Attorneys shall lay a proper foundation prior to moving the admission of evidence.

Rule 40. Non-Responsive Witness†

An attorney may object to a witness providing a non-responsive answer.

Rule 41. Procedure for Introduction of Exhibits†

As an example, the following steps effectively introduce evidence:

1. All evidence will be pre-marked as exhibits.

2. Ask for permission to approach the bench. Show the judge the marked exhibit: "Your honor, may I approach the bench to show you what has been marked as

Exhibit No. ___?"

3. Show the exhibit to opposing counsel.

4. Ask for permission to approach the witness. Give the exhibit to the witness.

5. "I now hand you what has been marked as Exhibit No. ____ for identification."

6. Ask the witness to identify the exhibit: "Would you identify it please?"

7. Witness answers with identification only.

8. Offer the exhibit into evidence: "Your Honor, we offer Exhibit No. ___ into evidence at this time. The authenticity of this exhibit has been stipulated."

9. Court: "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)

10. Opposing Counsel: "No, your Honor", or "Yes, your Honor." If the response is "yes", the objection will be stated on the record. Court: "Is there any response to the objection?

11. Court: "Exhibit No. ___ is / is not admitted."

Rule 42. Use of Notes†

Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial. Attorneys may consult with each other at counsel table verbally or through the use of notes.

Rule 43. Redirect; Re-cross†

Redirect and Recross examinations are permitted, provided they conform to the restrictions of the Tennessee Mock Trial Rules of Evidence.

D. Closing Arguments

Rule 44. Scope of Closing Arguments

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

E. Critique

Rule 45. Critique

Upon the election of the scoring panel and presiding judge, fifteen minutes may be allotted for a critique of the teams' performances, such time limit to be strictly enforced by the timekeeper/bailiff. Critique should take place after scores have been totaled and submitted.

F. Pledge of Participation

Rule 46. Pledge of Participation Required for Those Students Competing in the State Competition

Each year the student competitors excel in the presentation and advocacy of the Mock Trial problem. We are pleased that recent years have produced teams that prove to be highly competitive on the national level. We have strong competitors and believe that we can and will make a strong showing each year at the National Competition. In an effort to solidify the commitment of each team that competes at the Tennessee State High School Mock Trial Competition to attend the National High School Mock Trial Competition, the Tennessee Bar Association Young Lawyers Division requires the following:

(a) Each student competitor who intends to compete in the State Competition must sign and date the attached Pledge of Participation attached as Appendix B; AND

(b) A parent/guardian of each student under 18 must sign and date the Pledge of Participation.

The above requirements must be met in order for a student to participate in the Tennessee State High School Mock Trial Competition. For each competitor, the pledge shall be submitted to the Mock Trial Committee no later than 2 p.m. on the first day of competition.

III. TENNESSEE HIGH SCHOOL MOCK TRIAL COMPETITION RULES OF EVIDENCE†

In American trials complex rules are used to govern the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the evidence will probably be allowed by the judge. The burden is on the mock trial team to know the Federal Rules of Evidence (Mock Trial Version) and to be able to use them to protect their client and fairly limit the actions of opposing counsel and their witnesses.

For purposes of mock trial competition, the Rules of Evidence have been modified or simplified. They are based on the Federal Rules of Evidence and its numbering system, but competitors should not assume that they track the Federal Rules identically. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate. The Mock Trial Rules of Competition and these Federal Rules of Evidence (Mock Trial Version) govern the Tennessee High School Mock Trial Competition.

Rules of Evidence – Tennessee High School Mock Trial Version

ARTICLE I. GENERAL PROVISIONS

Rule 101 Scope
These rules of evidence govern proceedings in the Tennessee High School Mock Trial Competition unless otherwise noted in the mock trial rules.

Rule 102 Purpose and Construction
These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

Rule 103 Rulings on Evidence

(a) Effect of erroneous ruling. — Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and
(1) Objection. — In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or
(2) Offer of proof. — In case the ruling is one excluding evidence, the substance of the evidence was

made known to the court by offer or was apparent from the context within which questions were asked. Once the court makes a definitive ruling on the record admitting or excluding evidence, either at or before trial, a party need not renew an objection or offer of proof to preserve a claim of error for appeal.

(b) Record of offer and ruling. — The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form.

(c) Hearing of jury. — In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.[5]

(d) Plain error. — Nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the court.

Rule 104 Preliminary Questions

(a) Questions of admissibility generally. — Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subdivision (b). In making its determination it is not bound by the rules of evidence except those with respect to privileges.

(b) Relevancy conditioned on fact. — When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) Hearing of jury. — Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require, or when an accused is a witness and so requests.

(d) Testimony by accused. — The accused does not, by testifying upon a preliminary matter, become subject to cross-examination as to other issues in the case.

(e) Weight and credibility. — This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

Rule 105 Limited Admissibility

When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for another purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

ARTICLE II. JUDICIAL NOTICE

Rule 201 Judicial Notice of Adjudicative Facts

(a) Scope of rule. — This rule governs only judicial notice of adjudicative facts.

(b) Kinds of facts. — A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

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[5] This rule is intended to encourage authenticity of courtroom proceedings. It does not supplant Rule 17 requiring proceedings to be conducted in front of the scoring jurors.

(c) When discretionary.—A court may take judicial notice, whether requested or not.
(d) When mandatory. — A court shall take judicial notice if requested by a party and supplied with the necessary information.
(e) Opportunity to be heard. — A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.
(f) Time of taking notice. — Judicial notice may be taken at any stage of the proceeding.
(g) Instructing jury. — In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS

Rule 301 Presumptions in General in Civil Actions and Proceedings
In all civil actions and proceedings not otherwise provided for by Act of Congress or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of non-persuasion, which remains throughout the trial upon the party on whom it was originally cast.

Rule 302 Applicability of State Law in Civil Actions and Proceedings
In civil actions and proceedings, the effect of a presumption respecting a fact which is an element of a claim or defense as to which State law supplies the rule of decision is determined in accordance with State law.

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 401 Definition of "Relevant Evidence"
"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Rule 402 Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible
All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules prescribed by the Supreme Court pursuant to statutory authority. Evidence which is not relevant is not admissible.

Rule 403 Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time
Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

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

(a) Character evidence generally. — Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

(1) Character of accused. — In a criminal case, evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the same, or if evidence of a trait of character of the alleged victim of the crime is offered by an accused and admitted under Rule 404(a)(2), evidence of the same trait of character of the accused offered by the prosecution;

(2) Character of alleged victim. — In a criminal case, and subject to the limitations imposed by Rule 412, evidence of a pertinent trait of character of the alleged victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the alleged victim offered by the prosecution in a homicide case to rebut evidence that the alleged victim was the first aggressor;

(3) Character of witness. — Evidence of the character of a witness, as provided in rules 607, 608, and 609.

(b) Other crimes, wrongs, or acts. — Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.

Rule 405 Methods of Proving Character

(a) Reputation or opinion. — In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct.

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

Rule 406 Habit; Routine Practice

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

Rule 407 Subsequent Remedial Measures

When, after an injury or harm allegedly caused by an event, measures are taken that, if taken previously, would have made the injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove negligence, culpable conduct, a defect in a product, a defect in a product's design, or a need for a warning or instruction. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

Rule 408 Compromise and Offers to Compromise

(a) Prohibited uses. Evidence of the following is not admissible on behalf of any party, when offered to prove liability for, invalidity of, or amount of a claim that was disputed as to validity or amount, or to impeach through a prior inconsistent statement or contradiction:

(1) furnishing or offering or promising to furnish or accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise the claim, and

(2) conduct or statements made in compromise negotiations regarding the claim, except when offered in a criminal case and the negotiations related to a claim by a public office or agency in the exercise of regulatory, investigative, or enforcement authority.

(b) Permitted uses. This rule does not require exclusion if the evidence is offered for purposes not prohibited by subdivision (a). Examples of permissible purposes include proving a witness's bias or prejudice; negating a contention of undue delay; and proving an effort to obstruct a criminal investigation or prosecution.

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

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

(1) a plea of guilty which was later withdrawn;

(2) a plea of nolo contendere;

(3) any statement made in the course of any proceedings under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the foregoing pleas; or

(4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn.

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

ARTICLE V. PRIVILEGES

Rule 501 General Rule [Privileges]

Except as otherwise required by the Constitution of the United States or provided by Act of Congress or in rules prescribed by the Supreme Court pursuant to statutory authority, the privilege of a witness, person, government, State, or political subdivision thereof shall be governed by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience. However, in civil actions and proceedings, with respect to an element of a claim or defense as to which State law supplies the rule of decision, the privilege of a witness, person, government, State, or political subdivision thereof shall be determined in accordance with State law.

Rule 502 Attorney-Client Privilege and Work Product; Limitations on Waiver

The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.

(a) Disclosure Made in a Federal Proceeding or to a Federal Office or Agency; Scope of a Waiver-

When the disclosure is made in a Federal proceeding or to a Federal office or agency and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information in a Federal or State proceeding only if
(1) the waiver is intentional;
(2) the disclosed and undisclosed communications or information concern the same subject matter; and
(3) they ought in fairness to be considered together.
(b) Inadvertent Disclosure- When made in a Federal proceeding or to a Federal office or agency, the disclosure does not operate as a waiver in a Federal or State proceeding if:
(1) the disclosure is inadvertent;
(2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and
(3) the holder promptly took reasonable steps to rectify the error, including (if applicable) following Federal Rule of Civil Procedure 26(b)(5)(B).
(c) Disclosure Made in a State Proceeding- When the disclosure is made in a State proceeding and is not the subject of a State-court order concerning waiver, the disclosure does not operate as a waiver in a Federal proceeding if the disclosure:
(1) would not be a waiver under this rule if it had been made in a Federal proceeding; or
(2) is not a waiver under the law of the State where the disclosure occurred.
(d) Controlling Effect of a Court Order- A Federal court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court--in which event the disclosure is also not a waiver in any other Federal or State proceeding.
(e) Controlling Effect of a Party Agreement- An agreement on the effect of disclosure in a Federal proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.
(f) Controlling Effect of This Rule- Notwithstanding Rules 101 and 1101, this rule applies to State proceedings and to Federal court-annexed and Federal court-mandated arbitration proceedings, in the circumstances set out in the rule. And notwithstanding Rule 501, this rule applies even if State law provides the rule of decision.
(g) Definitions- In this rule:
(1) “attorney-client privilege” means the protection that applicable law provides for confidential attorney-client communications; and
(2) “work-product protection” means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.”

ARTICLE VI. WITNESSES

Rule 601 General Rule of Competency
Every person is competent to be a witness except as otherwise provided in these rules. However, in civil actions and proceedings, with respect to an element of a claim or defense as to which State law supplies the rule of decision, the competency of a witness shall be determined in accordance with State law.

Rule 602 Lack of Personal Knowledge
A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but

need not, consist of the witness' own testimony. This rule is subject to the provisions of rule 703, relating to opinion testimony by expert witnesses.

Rule 603 Oath or Affirmation

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

Rule 604 Interpreters

An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation to make a true translation.

Rule 605 Competency of Judge as Witness

The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.

Rule 606 Competency of Juror as Witness

(a) At the trial. — A member of the jury may not testify as a witness before that jury in the trial of the case in which the juror is sitting. If the juror is called so to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.

(b) Inquiry into validity of verdict or indictment. Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon that or any other juror's mind or emotions as influencing the juror to assent to or dissent from the verdict or indictment or concerning the juror's mental processes in connection therewith. But a juror may testify about (1) whether extraneous prejudicial information was improperly brought to the jury's attention, (2) whether any outside influence was improperly brought to bear upon any juror, or (3) whether there was a mistake in entering the verdict onto the verdict form. A juror's affidavit or evidence of any statement by the juror may not be received on a matter about which the juror would be precluded from testifying be received for these purposes.

Rule 607 Who May Impeach

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

Rule 608 Evidence of Character and Conduct of Witness

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

(b) Specific instances of conduct. — Specific instances of the conduct of a witness, for the purpose of at Federal Rules of Evidence tacking or supporting the witness' character for truthfulness, other than conviction of crime as provided in rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be 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. The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination when examined with respect to matters that relate only to character for truthfulness.

Rule 609 Impeachment by Evidence of Conviction of Crime

(a) General rule. — For the purpose of attacking the character for truthfulness of a witness.

(1) evidence that a witness other than an accused has been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused; and

(2) evidence that any witness has been convicted of a crime that readily can be determined to have been a crime of dishonesty or false statement shall be admitted regardless of the punishment.

(b) Time limit. — Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

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

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

(e) Pendency of appeal. — The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

Rule 610 Religious Beliefs or Opinions

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

Rule 611 Mode and Order of Interrogation and Presentation

(a) Control by court. — The court shall exercise reasonable control over the mode and order of

interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.
(b) Scope of cross-examination. — A witness may be cross-examined on any matter relevant to any issue in the case, including credibility.
(c) Leading questions. — Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

Rule 612 Writing Used To Refresh Memory
Except as otherwise provided in criminal proceedings by section 3500 of title 18, United States Code, if a witness uses a writing to refresh memory for the purpose of testifying, either —
(1) while testifying, or
(2) before testifying, if the court in its discretion determines it is necessary in the interests of justice, an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness. If it is claimed that the writing contains matters not related to the subject matter of the testimony the court shall examine the writing in camera, excise any portions not so related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal. If a writing is not produced or delivered pursuant to order under this rule, the court shall make any order justice requires, except that in criminal cases when the prosecution elects not to comply, the order shall be one striking the testimony or, if the court in its discretion determines that the interests of justice so require, declaring a mistrial.

Rule 613 Prior Statements of Witnesses
(a) Examining witness concerning prior statement. — In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.
(b) Extrinsic evidence of prior inconsistent statement of witness. — Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate the witness thereon, or the interests of justice otherwise require. This provision does not apply to admissions of a party-opponent as defined in rule 801(d)(2).

Rule 614 Calling and Interrogation of Witnesses by Court
(a) Calling by court. — The court may not call witnesses.
(b) Interrogation by court. — The court may interrogate witnesses, whether called by itself or by a party.
(c) Objections. — Objections to the calling of witnesses by the court or to interrogation by it may be made at the time or at the next available opportunity when the jury is not present.

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701 Opinion Testimony by Lay Witnesses
If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Rule 702 Testimony by Experts
If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Rule 703 Bases of Opinion Testimony by Experts
The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence in order for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference unless the court determines that their probative value in assisting the jury to evaluate the expert's opinion substantially outweighs their prejudicial effect.

Rule 704 Opinion on Ultimate Issue
(a) Except as provided in subdivision (b), testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.
(b) No expert witness testifying with respect to the mental state or condition of a defendant in a criminal case may state an opinion or inference as to whether the defendant did or did not have the mental state or condition constituting an element of the crime charged or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.

Rule 705 Disclosure of Facts or Data Underlying Expert Opinion
The expert may testify in terms of opinion or inference and give reasons therefor without first testifying to the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

ARTICLE VIII. HEARSAY

Rule 801 Definitions [Hearsay]
The following definitions apply under this article:
(a) Statement. — A "statement" is (1) an oral or written assertion or (2) nonverbal conduct of a person,

if it is intended by the person as an assertion.
(b) Declarant. — A “declarant” is a person who makes a statement.
(c) Hearsay. — ”Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.
(d) Statements which are not hearsay. — A statement is not hearsay if —
(1) Prior statement by witness. — The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (A) inconsistent with the declarant’s testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant’s testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or
(2) Admission by party-opponent. — The statement is offered against a party and is (A) the party’s own statement, in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party’s agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a coconspirator of a party during the course and in furtherance of the conspiracy. The contents of the statement shall be considered but are not alone sufficient to establish the declarant’s authority under subdivision (C), the agency or employment relationship and scope thereof under subdivision (D), or the existence of the conspiracy and the participation therein of the declarant and the party against whom the statement is offered under subdivision (E).

Rule 802 Hearsay Rule
Hearsay is not admissible except as provided by these rules or by other rules prescribed by the Supreme Court pursuant to statutory authority or by Act of Congress.

Rule 803 Hearsay Exceptions; Availability of Declarant Immaterial
The following are not excluded by the hearsay rule, even though the declarant is available as a witness:
(1) Present sense impression. — A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.
(2) Excited utterance. — A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
(3) Then existing mental, emotional, or physical condition. — A statement of the declarant’s then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant’s will.
(4) Statements for purposes of medical diagnosis or treatment. — Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.
(5) Recorded recollection. — A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the

witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) Records of regularly conducted activity. — A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record or data compilation, all as shown by the testimony of the custodian or other qualified witness, or by certification that complies with Rule 902(11), Rule 902(12), or a statute permitting certification, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) Absence of entry in records kept in accordance with the provisions of paragraph (6). — Evidence that a matter is not included in the memoranda reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Public records and reports. — Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (C) in civil actions and proceedings and against the Government in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

(9) Records of vital statistics. — Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.

(10) Absence of public record or entry. — To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(11) Records of religious organizations. — Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) Marriage, baptismal, and similar certificates. — Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) Family records. — Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) Records of documents affecting an interest in property. — The record of a document purporting

to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.

(15) Statements in documents affecting an interest in property. — A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) Statements in ancient documents. — Statements in a document in existence twenty years or more the authenticity of which is established.

(17) Market reports, commercial publications. — Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) Learned treatises. — To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

(19) Reputation concerning personal or family history. — Reputation among members of a person's family by blood, adoption, or marriage, or among a person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history.

(20) Reputation concerning boundaries or general history. — Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or State or nation in which located.

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

(22) Judgment of previous conviction. — Evidence of a final judgment, entered after a trial or upon a plea. If guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

(23) Judgment as to personal, family, or general history, or boundaries. — Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

Rule 804 Hearsay Exceptions; Declarant Unavailable

(a) Definition of unavailability. — "Unavailability as a witness" includes situations in which the declarant—

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

(2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or
(3) testifies to a lack of memory of the subject matter of the declarant's statement; or
(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or
(5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means. A declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.
(b) Hearsay exceptions. — The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:
(1) Former testimony. — Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.
(2) Statement under belief of impending death. — In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be impending death.
(3) Statement against interest. — A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.
(4) Statement of personal or family history. — (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.
(5) Forfeiture by wrongdoing. — A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

Rule 805 Hearsay Within Hearsay

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms with an exception to the hearsay rule provided in these rules.

Rule 806 Attacking and Supporting Credibility of Declarant

When a hearsay statement, or a statement defined in Rule 801(d)(2)(C), (D), or (E), has been admitted

in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant at any time, inconsistent with the declarant's hearsay statement, is not subject to any requirement that the declarant may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine the declarant on the statement as if under cross-examination.

Rule 807 Residual Exception
A statement not specifically covered by Rule 803 or 804 but having equivalent circumstantial guarantees of trustworthiness, is not excluded by the hearsay rule, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant.

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION[6]

Rule 901 Requirement of Authentication or Identification
(a) General provision. — The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.
(b) Illustrations. — By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:
(1) Testimony of witness with knowledge. — Testimony that a matter is what it is claimed to be.
(2) Nonexpert opinion on handwriting. — Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not acquired for purposes of the litigation.
(3) Comparison by trier or expert witness. — Comparison by the trier of fact or by expert witnesses with specimens which have been authenticated.
(4) Distinctive characteristics and the like. — Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances.
(5) Voice identification. — Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.
(6) Telephone conversations. — Telephone conversations, by evidence that a call was made to the number assigned at the time by the telephone company to a particular person or business, if (A) in the case of a person, circumstances, including self-identification, show the person answering to be the one called, or (B) in the case of a business, the call was made to a place of business and the conversation

[6] Nothing herein shall affect any required stipulation regarding the authenticity of exhibits.

related to business reasonably transacted over the telephone.
(7) Public records or reports. — Evidence that a writing authorized by law to be recorded or filed and in fact recorded or filed in a public office, or a purported public record, report, statement, or data compilation, in any form, is from the public office where items of this nature are kept.
(8) Ancient documents or data compilation. — Evidence that a document or data compilation, in any form, (A) is in such condition as to create no suspicion concerning its authenticity, (B) was in a place where it, if authentic, would likely be, and (C) has been in existence 20 years or more at the time it is offered.
(9) Process or system. — Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate result.
(10) Methods provided by statute or rule. — Any method of authentication or identification provided by Act of Congress or by other rules prescribed by the Supreme Court pursuant to statutory authority.

Rule 902 Self-authentication
Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:
(1) Domestic public documents under seal. — A document bearing a seal purporting to be that of the United States, or of any State, district, Commonwealth, territory, or insular possession thereof, or the Panama Canal Zone, or the Trust Territory of the Pacific Islands, or of a political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution.
(2) Domestic public documents not under seal. — A document purporting to bear the signature in the official capacity of an officer or employee of any entity included in paragraph (1) hereof, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.
(3) Foreign public documents. — A document purporting to be executed or attested in an official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature and official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of an embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.
(4) Certified copies of public records. — A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with paragraph (1), (2), or (3) of this rule or complying with any Act of Congress or rule prescribed by the Supreme Court pursuant to statutory authority.
(5) Official publications. — Books, pamphlets, or other publications purporting to be issued by public

authority.
(6) Newspapers and periodicals. — Printed materials purporting to be newspapers or periodicals.
(7) Trade inscriptions and the like. — Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.
(8) Acknowledged documents. — Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments.
(9) Commercial paper and related documents. — Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law.
(10) Presumptions under Acts of Congress. — Any signature, document, or other matter declared by Act of Congress to be presumptively or prima facie genuine or authentic.
(11) Certified domestic records of regularly conducted activity. — The original or a duplicate of a domestic record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a written declaration of its custodian or other qualified person, in a manner complying with any Act of Congress or rule prescribed by the Supreme Court pursuant to statutory authority, certifying that the record (A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
(B) was kept in the course of the regularly conducted activity; and
(C) was made by the regularly conducted activity as a regular practice.
A party intending to offer a record into evidence under this paragraph must provide written notice of that intention to all adverse parties, and must make the record and declaration available for inspection sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge them.
(12) Certified foreign records of regularly conducted activity. — In a civil case, the original or a duplicate of a foreign record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a written declaration by its custodian or other qualified person certifying that the record —
(A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
(B) was kept in the course of the regularly conducted activity; and
(C) was made by the regularly conducted activity as a regular practice.
The declaration must be signed in a manner that, if falsely made, would subject the maker to criminal penalty under the laws of the country where the declaration is signed. A party intending to offer a record into evidence under this paragraph must provide written notice of that intention to all adverse parties, and must make the record and declaration available for inspection sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge them.

Rule 903 Subscribing Witness' Testimony Unnecessary
The testimony of a subscribing witness is not necessary to authenticate a writing unless required by the laws of the jurisdiction whose laws govern the validity of the writing.

ARTICLE X. CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS[7]

Rule 1001 Definitions [Writings]
For purposes of this article the following definitions are applicable:
(1) Writings and recordings. — ”Writings” and “recordings” consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.
(2) Photographs. — ”Photographs” include still photographs, X-ray films, video tapes, and motion pictures.
(3) Original. — An “original” of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An “original” of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an “original”.
(4) Duplicate. — A “duplicate” is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduces the original.

Rule 1002 Requirement of Original
To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules or by Act of Congress.

Rule 1003 Admissibility of Duplicates
A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original.

Rule 1004 Admissibility of Other Evidence of Contents
The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if —
(1) Originals lost or destroyed. — All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith; or
(2) Original not obtainable. — No original can be obtained by any available judicial process or procedure; or
(3) Original in possession of opponent. — At a time when an original was under the control of the party against whom offered, that party was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the hearing, and that party does not produce the original at the hearing; or
(4) Collateral matters. — The writing, recording, or photograph is not closely related to a controlling issue.

[7] Nothing herein shall affect any required stipulation regarding the authenticity of exhibits.

Rule 1005 Public Records
The contents of an official record, or of a document authorized to be recorded or filed and actually recorded or filed, including data compilations in any form, if otherwise admissible, may be proved by copy, certified as correct in accordance with rule 902 or testified to be correct by a witness who has compared it with the original. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, then other evidence of the contents may be given.

Rule 1006 Summaries
The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at reasonable time and place.

Rule 1007 Testimony or Written Admission of Party
Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by that party's written admission, without accounting for the nonproduction of the original.

Rule 1008 Functions of Court and Jury
When the admissibility of other evidence of contents of writings, recordings, or photographs under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is ordinarily for the court to determine in accordance with the provisions of rule 104. However, when an issue is raised (a) whether the asserted writing ever existed, or (b) whether another writing, recording, or photograph produced at the trial is the original, or (c) whether other evidence of contents correctly reflects the contents, the issue is for the trier of fact to determine as in the case of other issues of fact.

ARTICLE XI. MISCELLANEOUS RULES

Rule 1101 Applicability of Rules
(a) Courts and judges. — These rules apply to the Tennessee High School Mock Trial Tournament.
(c) Rule of privilege. — The rule with respect to privileges applies at all stages of all actions, cases, and proceedings.

DISTRICT COORDINATOR'S CERTIFICATION OF SCHOOLS REGISTERED FOR DISTRICT COMPETITION
APPENDIX A to the Rules of the Tennessee High School Mock Trial Competition

The following schools have registered that they will be competing:

1. Team Name: ____
2. Team Name: ____
3. Team Name: ____
4. Team Name: ____
5. Team Name: ____
6. Team Name: ____
7. Team Name: ____
8. Team Name: ____
9. Team Name: ____
10. Team Name: ____
11. Team Name: ____
12. Team Name: ____
13. Team Name: ____
14. Team Name: ____
15. Team Name: ____

Our district competition will be held on the following date(s): ________________________________

My contact number for the day of our district competition: ________________________________

Our competition will be held at the following location: ________________________________

District coordinator name ____

District # __________________ Date form completed ____

PLEASE E-MAIL THIS FORM TO JOSHUA DOUGAN at josh@thedouganfirm.com
on or before January 31, 2014 at 5:00 p.m.

2014 NATIONAL MOCK TRIAL PLEDGE OF PARTICIPATION
APPENDIX B to the Rules of the Tennessee High School Mock Trial Competition

TEAM NAME ______________________________

ADVISOR/TEAM COACH ______________________________

ADVISOR'S/COACH'S SIGNATURE ______________________________

I pledge that if my team wins the Tennessee State High School Mock Trial Competition, I will represent Tennessee at the National Mock Trial Competition in Madison, Wis., May 8-10, 2014. I understand that participation in the state competition is contingent on signing this pledge. The form is due back to the TBA by 2 p.m. on Friday, March 14. Multiple copies may be submitted to expedite the gathering of signatures.

Student Name	Student Signature	Parent/Guardian Signature	*Competed At Local Competition
1			Yes No (circle one)
2			Yes No
3			Yes No
4			Yes No
5			Yes No
6			Yes No
7			Yes No
8			Yes No
9			Yes No
10			Yes No
11			Yes No
12			Yes No

*Per Rule 8(c), a team may change members between the district and state competitions provided that the team retains a majority of the original members from the district competition. For example, if a team at district was comprised of eight (8) students, then the team at state must have at least five (5) of the original members, while up to three (3) may be replaced with different individuals. Alternates do not count for purposes of this rule.