

**RULES OF THE 2020 TENNESSEE HIGH SCHOOL  
MOCK TRIAL COMPETITION  
EFFECTIVE JANUARY 1, 2020**

**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. The Mock Trial Committee (“Committee”) may amend these rules with approval from the Mock Trial Long Range Planning Chair. After initial publication, notice of amendments or clarifications 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](http://www.tba.org/info/tennessee-high-school-mock-trial-0).

Certain rules must be enforced at each district competition. Those rules may not be modified at the local/district level. However, in absence of a controlling state rule, local and district competitions may operate differently from the state competition. Each team should consult with its district coordinator as to the procedure for the local competition.

Only the 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. The Committee will resolve all disputes arising under these rules 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 mock trial program’s successful operation.

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 (e.g., 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 Committee MAY release additional material on or before March 6, 2020. Each team earning a berth at the state competition is responsible for acquiring additional material from the mock trial website.**

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## I. RULES OF THE COMPETITION

### A. THE PROBLEM

#### Rule 1. Rules†

These rules govern the Tennessee High School Mock Trial Competition. Local competitions are only bound by rules indicated by †. So long as these rules are enforced, a district may adopt such other rules as may be necessary or convenient to aid its local competition.

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”). The Committee may amend these rules in conjunction with the Tennessee Bar Association Young Lawyers Division Mock Trial Long Range Planning Chair.

While the Mock Trial Chair and Committee are the final arbiters of the rules contained herein, the district coordinator shall be the final arbiter of any rules promulgated locally, provided that the local rules do not conflict with the state rules.

#### Rule 2. The Problem†

The problem is based upon a fact pattern that 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 exhibits 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 that 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); or
3. The extrapolation was fair (objection overruled).

The judge's ruling regarding extrapolations or evidentiary matters is final and not subject to 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. Teams shall avoid gender-specific arguments concerning witnesses or parties.

#### **Rule 6. Voir Dire †**

Voir dire examination of a witness is not permitted.

## B. THE TRIAL

### Rule 7. District Composition†

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

1. Districts with between four and eleven teams, inclusive, actually competing during the district competition will be permitted to qualify one team to the state competition;
2. Districts with between 12 and 23 teams, inclusive, actually competing in the district competition will be permitted to qualify two teams to the state competition; and
3. Districts with 24 or more teams actually competing during the district competition will be permitted to send three teams to the state competition.

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 February 1, 2020 by filing with the Mock Trial Chair (via email to [kgoodner@lewisthomason.com](mailto:kgoodner@lewisthomason.com)) the attached form at Appendix A or through online submission of the form using the online submission form at <https://www.tba.org/node/39648>. 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 case shall a team register with the District Coordinator later than January 31, 2020. Failure by a District Coordinator to certify the list of teams to the Mock Trial Chair by February 1, 2020 may result in punitive action by the Mock Trial Chair, up to and including barring the district from competing at the state competition.**

If a team attempts to register after the deadline as set by the district coordinator (or January 31, 2020, if no deadline has been set by the district coordinator), then eligibility to compete must be approved by the Mock Trial Chair. If a late registration occurs, and the team competes during the district competition, a determination will be made, **at the sole discretion of the Mock Trial Chair**, concerning the number of teams that will qualify to the state competition from the district.

A district certifying fewer than four teams to compete in the district competition, may be required to compete with a neighboring district. If, at any time after January 31, 2020, 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 1, 2020, there is no limitation on the number of teams that a school may field for the district/local competition,

so long as the team composition consistent with Rule 8.<sup>1</sup> 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 function of these competitions.

Teams shall compete in the district in which the school with which the school is affiliated is located. Teams composed solely of homeschooled students (as contemplated by Rule 8(e)) shall compete in the district in which a majority of the team's members reside. However, for homeschool teams affiliated with a local or regional home education association or similar organization, such teams may also participate in the district wherein the association is located. In order to ensure the fair and appropriate function of each district competition, the Mock Trial Committee Chair has exclusive discretion to mandate the district in which a team shall compete.

District competitions must be concluded on or before February 29, 2020.<sup>2</sup> Mock Trial District Coordinators are listed at <http://www.tba.org/mocktrial>. Mock Trial Districts are organized as follows:

**District 1**

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

**District 2**

Anderson, Campbell, Claiborne, Cocke, Fentress, Grainger, Jefferson, Scott, Sevier and Union counties

**District 3**

Knox County

**District 4**

Bledsoe, Blount, Bradley, Loudon, McMinn, Meigs, Monroe, Morgan, Polk, Rhea and Roane counties

**District 5**

Hamilton County

**District 6**

Clay, Cumberland, DeKalb, Jackson, Overton, Pickett, Putnam, Van Buren, Warren and White counties

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<sup>1</sup> The purpose of this rule is to encourage the broadest level of participation from interested schools and students.

<sup>2</sup> This rule is necessary to accommodate lodging and board needs for the state competition.

**District 7**

Cannon, Coffee, Franklin, Grundy, Marion, Rutherford and Sequatchie counties

**District 8**

Macon, Smith, Sumner, Trousdale and Wilson counties

**District 9**

Davidson County

**District 10**

Cheatham, Dickson, Houston, Humphreys, Montgomery, Robertson and Stewart counties

**District 11**

Bedford, Giles, Hickman, Lawrence, Lewis, Lincoln, Marshall, Maury, Moore, Perry, Wayne and Williamson counties

**District 12**

Benton, Carroll, Crockett, Dyer, Gibson, Henry, Lake, Obion and Weakley counties

**District 13**

Chester, Decatur, Fayette, Hardeman, Hardin, Haywood, Henderson, Lauderdale, McNairy, Madison and Tipton counties

**District 14**

Shelby County

**Rule 8. Team Composition†**

(a) Teams must have at least six members and may have up to (but no more than) 12 members assigned to roles representing the Prosecution/Plaintiff and Defense/Defendant. Two additional members may serve as alternates. Thus, a team's roster may contain no more than 14 members. An individual may participate on no more than one team during any district competition, and on no more than one team at any state competition. Similarly, an individual may be listed on a team roster at only one district competition during any mock trial season. 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 additional rooms. Neither the Tennessee Bar Association nor the Mock Trial Committee can guarantee the availability of any additional rooms.

The Tennessee High School Mock Trial Competition is open to students who are enrolled in grades 9-12. Students are not required to physically reside in Tennessee, but must attend or be affiliated with a Tennessee educational institution as described in Rules 8 and 9.



A team may have 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 that team member has been replaced.

Team composition at the National Championships is governed by the rules of the national competition, and the Tennessee Bar Association will provide funding to the National Championships at 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. 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 retains a majority of the original members that competed at the district competition. In other words, if a team competing at a district competition was comprised of eight students, then should that team advance to the state competition, then the team competing at the state competition must retain at least five of the students who competed at the district level. Alternates are not counted 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 intended to enhance the ability of new mock trial programs to participate in the district competition.

(e) Home-schooled students may compete on public school teams. 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, 2020 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 Section 49-50-801 of the Tennessee Code;
2. Students registered exclusively with the school superintendent’s office as recognized by statute at Tennessee Code Annotated § 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.

(f) 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.

(g) 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.

(h) The Mock Trial Committee seeks to make the state competition available to and accessible by all qualifying students. To that end, the Committee will do its best to make reasonable accommodations for

any participant with a disability. Of course, such accommodations must preserve the fair and unbiased nature of the competition, as well as the principles set out in these Rules. Participants requesting any such accommodation must notify the Chair or Vice-Chair *in writing* no later than the preliminary coach's meeting. The Chair's decision regarding any accommodation, or the scope thereof, is final.

### **Rule 9. Team Presentation**

During the course of a competition, 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. The defendant (and plaintiff, as the case may be) may sit at counsel's table. Likewise, a team presenting the prosecution's case in a criminal matter may allow one of its witnesses, who it designates as the State's representative, to sit at counsel's table, so long as the case materials designate the representative as an employee or agent of the State. If the defendant is not serving as a witness, teams may choose to designate one team member as the defendant and allow the defendant to sit at counsel's table. Similarly, in civil cases where the plaintiff is not testifying, teams may designate one person to sit at counsel table and serve as plaintiff. However, plaintiffs and defendants may sit at counsel's tables 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 a team's responsibility to notify the Mock Trial Chair or a member of the Committee if such 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 problem materials contain four or more potential witnesses. If the problem designates certain witnesses as being witnesses for a particular party, the parties are bound by those designations. Witnesses may be called only by their own team and examined by both sides. Witnesses may not be recalled by either side.

During a round, each of the three attorneys per team 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 during the round. The same attorney may not present both the opening statement and closing argument.

Each team must present an opening statement at the beginning of the trial, and each team must

present a closing argument. The same attorney may not present a team's opening statement and closing argument during the same round.

Only the attorney responsible for a particular witness's direct examination may object during that witness's cross examination. Likewise, only the attorney responsible for a witness's cross examination may object 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 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 presumed to be sworn, or the above oath will be administered 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 (25 minutes per side)
3. Cross and Optional Re-cross Examinations (20 minutes per side)
4. Closing Argument (5 minutes per side)

The prosecution/plaintiff team will give its 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.

Teams 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†**

The time limits set forth 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 is permitted to sit as near to the jury box as competition logistics will allow in the sole discretion of the Mock Trial Chair, her designee, or for district competitions, the district coordinator, or his or her designee. The team timekeeper 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.

It is a team's responsibility 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 spent during objections, bench conferences, "jury-out" hearings,<sup>3</sup> and administration of the oath is not 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, each scorer may determine individually whether to reduce a team's score in the appropriate score sheet 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.

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<sup>3</sup> See Rule 17.

No illustrative aids of any kind may be used, unless provided in the case packet. Pointers, markers, etc. are not “illustrative aids.” Teams may not issue exhibit notebooks to the judge or scoring jurors.

The only documents that 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 19. 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, scorers have the discretion to deduct points due to 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 described in the case materials) may not be referred to, if they are germane to the case.

#### **Rule 20. Trial Communication**

No person shall talk to, signal, communicate with, or coach a trial participant during a trial at either the local or state competition. This rule remains in force during any recess time which may occur during a round. Team members may communicate among themselves during the trial; however, no disruptive communication is allowed.

To ensure compliance with this rule, participants may not bring to counsel table or the witness box any electronic devices, including, but not limited to, mobile phones, tablet devices, or similar technology. However, nothing in this rule shall prevent competitors from introducing electronic media into evidence as may be provided by the case materials.

Non-team members, alternate team members, teachers, and coaches must remain outside the bar and 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, coaches, teacher-sponsors, and any other persons associated with a mock trial team shall not view other teams in competition (i.e., “scouting”) as long as their team remains in the competition. For this reason, the presiding judge or bailiff should instruct spectators that they are expected to remain seated during the entire trial. Additionally, only the scorers, the official timekeeper, the bailiff, and designated team timekeepers shall sit in the jury box, absent permission from the presiding judge due to spectator seating limitations. *Team coaches are expressly prohibited from sitting in the jury box.*

## **Rule 22. Video Recording and Photography†**

Any team may decline to participate 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 declining to participate in Media Coverage must notify *in writing* the district coordinator or Mock Trial Committee Chair, as appropriate, in advance of the competition. Failure to give advance notice constitutes a waiver 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 a grant to the Tennessee Bar Association or its designees of the right 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, upon request, make available to the opposing team a copy of the video, at the opposing team’s expense.

District competitions may implement 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†**

The scoring panel’s decisions are final. No team member, sponsor, or coach may question any member of the scoring panel or the presiding judge as to individual or team scores, “best attorney” or “best witness” ballots, or sportsmanship nominations.

Nothing in this rule prohibits critique by the scoring panel following the trial, or otherwise abridges 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 team.

## **Rule 24. Composition of Scoring Panel**

The scoring panel shall consist of at least three individuals. Each person rendering a score may be referred to as a “scorer,” “panelist,” or “juror.” The panel’s composition 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).

The Committee seeks to implement option (2) when the number of volunteers permits, and encourages

district coordinators to do the same when possible.

### **Rule 25. Score Sheets/Ballots**

The term “ballot” refers to the decision made by a scorer as to which team made the better presentation in the round, as evidenced by that team receiving the higher numerical score from that scorer. The term “score sheet” refers to the form on which attorney/witness and team points are recorded. Scorers complete score sheets individually. Scorers are not bound by the rulings of the presiding judge. The team that earns the higher number of points on a scorer’s score sheet wins that ballot. The team that receives the majority of a round’s three ballots wins that round. Ballot votes determine a team’s win/loss record for power-matching and ranking purposes. While the scoring panel may deliberate on any special awards (e.g., Outstanding Attorney, Team Sportsmanship), 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 scorer assigns a number of attorney/witness points (1-10) for each section of the trial.
2. Team Points – Each scorer 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 scorer may assign a point total of up to five points for overall performance impact.
3. Penalty Points – Each scorer may deduct up to five points from a team 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 scorer adds the points boxes to determine a final point total for each team. Ties are not allowed in the final point total. The team with the highest number of points in the Final Point Total box wins that scorer’s ballot.

### **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 competition’s conclusion, rankings will be posted on the Tennessee Bar Association’s Young Lawyers Division website. Additionally, upon request, each team’s coach and 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

These data are 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 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 matching system assists in determining opponents for all other rounds. The two schools emerging with the strongest record from the four preliminary rounds advance to the final round. The winner of the championship round is determined by ballots from the championship round only.

Under the power matching system:

1. First-round pairings will be at random.
2. Brackets will be determined by win/loss record. Ranking within brackets is determined in the following order: (1) win/loss record; (2) ballots won; (3) points; (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 the number of teams in a bracket is odd, 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 goals of power matching are to maintain bracket integrity and to ensure that the two best teams at the competition are determined. 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 scorers 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; Scoresheet**

(a) Teams must submit copies of the completed Team Roster to the Mock Trial Chair no later than 72 hours before the competition begins. Additionally, each team must duplicate its Team Roster before arrival at the competition site, such that each team has at least two copies of each Team Roster for each round of the competition. Immediately before each round begins, teams should provide one copy of the Team Roster to the opposing team, and one copy to the bailiff.

(b) Before each round, the team playing the role of the prosecution or plaintiff should obtain four copies of the official scoresheet, and write by hand in the appropriate slot the names of the students from their team who will participate in that round. The team will then provide these scoresheets to the team playing the role of the defense, who likewise will enter the names of its participants on the scoresheets. The defense team will give all four copies of the completed scoresheets to the bailiff, who will distribute them to the scorers and presiding judge as appropriate.

#### **Rule 33. Stipulations†**

The prosecution/plaintiff attorney assigned to deliver the opening statement should offer any stipulations into evidence before offering the opening statement. A copy of such stipulations may be submitted to the presiding 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†**

Stipulations and jury instructions should 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 as appropriate.

## **Rule 36. Standing During Trial†**

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

## **Rule 37. Objection During Opening Statements and Closing Arguments†**

No objections may be raised during opening statements or closing arguments except as provided for in Rule 13.

If a team believes an objection would have been necessary during the opposing team's opening statement or closing argument, a student may, following the closing arguments, stand to be recognized by the judge and 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 except at the presiding judge's discretion.

### **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 problem materials are admissible at trial. Moreover, admissibility for all exhibits requires the proper evidentiary foundation. Attorneys shall lay a proper foundation before moving to admit evidence.

#### **Rule 40. Non-Responsive Witness†**

An attorney may object to a witness's answer if it is non-responsive.

#### **Rule 41. Procedure for Introducing 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 while presenting the case. Witnesses may NOT use notes while testifying. Attorneys may consult with each other at counsel table verbally or through the use of notes.

#### **Rule 43. Re-direct and Re-cross†**

Re-direct and re-cross examinations are permitted in conformity with 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**

After scores have been totaled and submitted, scorers and the presiding judge may offer a critique of the teams' performance. While constructive criticism is encouraged, comments ought not be overly critical. **Comments must not reveal or suggest numerical scores or prevailing teams in any way.**

**F. Pledge of Participation**

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

The Tennessee High School Mock Trial Program consistently produces teams that prove to be highly competitive on the national level. Indeed, Tennessee's teams often make a strong showing 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, each team's participation at the state competition is contingent on 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.

These 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 2:00 p.m. on the first day of the state competition.

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

In American trials, complex rules 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 Tennessee 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 the mock trial competition, the Rules of Evidence have been modified or simplified. They are based on the Tennessee Rules of Evidence and its numbering system. 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 Tennessee Rules of Evidence (Mock Trial Version) govern the Tennessee High School Mock Trial Competition.

#### ARTICLE I. GENERAL PROVISIONS

##### **Rule 101: Scope**

These rules shall govern evidence rulings in the Tennessee High School Mock Trial Competition.

##### **Rule 102: Purpose and Construction**

These rules shall be construed to secure the just, speedy, and inexpensive determination of proceedings.

##### **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 and the specific evidentiary basis supporting admission were made known to the court by offer or were apparent from the context. 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. It shall permit the making of an offer in question and answer form. If an issue arises concerning the privileged nature of a communication, the trial court may require the communication be reduced to writing for in camera review. If ruled not privileged, the communication can be divulged in open court and will become part of the record for appellate review. If ruled privileged, the trial court shall seal the writing reviewed in camera and attach it to the record for appellate review.

**(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.

**(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 the court is not bound by the rules of evidence except those with respect to privileges.

**(b) Relevance Conditioned on Fact.** When the relevance of evidence depends on the fulfillment of a condition of fact, the court shall admit it upon the introduction of evidence sufficient to support a finding of the fulfillment of the condition. In the court's discretion, evidence may be admitted subject to subsequent 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 of 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.

**Rule 106: Writings or recorded statements — Completeness.**

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may

require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

## **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.

**(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 is taken.

**(f) Time of Taking Notice** - Judicial notice may be taken at any stage of the proceeding.

**(g) Instructing the 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.

### **Rule 202: Judicial notice of law.**

The court shall take judicial notice of (1) the common law, (2) the constitutions and statutes of the United States and of every state, territory, and other jurisdiction of the United States, (3) all rules adopted by the United States Supreme Court or by the Tennessee Supreme Court, (4) any rule or regulation of which a statute of the United States or Tennessee mandates judicial notice, and (5) the mock trial rules

## **ARTICLE IV. RELEVANCE**

***(n.b.: Article III is Reserved and Not Applicable to the Mock Trial Materials)***

### **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 provided by the Constitution of the United States, the Constitution of Tennessee, these rules, or other rules or laws of general application in the courts of



Tennessee. 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 trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except that 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 with the character trait. It may, however, be admissible for other purposes. The conditions which must be satisfied before allowing such evidence are:

- (1) The court upon request must hold a hearing outside the jury's presence;
- (2) The court must determine that a material issue exists other than conduct conforming with a character trait and must upon request state on the record the material issue, the ruling, and the reasons for admitting the evidence;
- (3) The court must find proof of the other crime, wrong, or act to be clear and convincing; and
- (4) The court must exclude the evidence if its probative value is outweighed by the danger of unfair prejudice.

**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. After application to the court, inquiry on cross-examination is allowable into relevant specific instances of conduct. The conditions which must be satisfied before allowing inquiry on cross-examination about specific instances of conduct are:

- (1) The court upon request must hold a hearing outside the jury's presence,
- (2) The court must determine that a reasonable factual basis exists for the inquiry, and
- (3) The court must determine that the probative value of a specific instance of conduct on the character witness's credibility outweighs its prejudicial effect on substantive issues.

**(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.**

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

(b) A habit is a regular response to a repeated specific situation. A routine practice is a regular course of conduct of an organization.

**Rule 407: Subsequent remedial measures.**

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

**Rule 408: Compromise and offers to compromise.**

Evidence of (1) furnishing or offering to furnish or (2) accepting or offering to accept a valuable consideration in compromising or attempting to compromise a claim, whether in the present litigation or related litigation, which claim was disputed or was reasonably expected to be disputed as to either validity or amount, is not admissible to prove liability for or invalidity of a civil claim or its amount or a criminal charge or its punishment. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence actually obtained during discovery merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution; however, a party may not be impeached by a prior inconsistent statement made in compromise negotiations.

**Rule 409.1: Expressions of Sympathy or Benevolence.**

(a) That portion of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering or death of a person involved in an accident and made to such person or to the family of such person shall be inadmissible as evidence of an admission of liability in a civil action. A statement of fault that is part of, or in addition to, any of the above shall not be inadmissible because of this Rule.

(b) For purposes of this Rule:

(1) "Accident" means an occurrence resulting in injury or death to one or more persons which is not the result of willful action by a party.

(2) "Benevolent gestures" means actions which convey a sense of compassion or commiseration

emanating from humane impulses.

- (3) "Family" means an injured party's spouse, parent, grandparent, stepparent, child, grandchild, sibling, half sibling, adopted sibling, or parent-in-law.

## **ARTICLE V. PRIVILEGES**

### **Rule 501: Privileges Recognized Only as Provided.**

Except as otherwise provided by constitution, statute, common law, or by these or other rules promulgated by the Tennessee Supreme Court, no person has a privilege to:

- (1) Refuse to be a witness;
- (2) Refuse to disclose any matter;
- (3) Refuse to produce any object or writing; or
- (4) Prevent another from being a witness or disclosing any matter or producing any object or writing.

### **Rule 502: Limitations on waiver of privileged information or work product.**

Inadvertent disclosure of privileged information or work product does not operate as a waiver:

- (1) the disclosure is inadvertent,
- (2) the holder of the privilege or work-product protection took reasonable steps to prevent disclosure, and
- (3) the holder promptly took reasonable steps to rectify the error.

## **ARTICLE VI. WITNESSES**

### **Rule 601: General rule of competency.**

Every person is presumed competent to be a witness except as otherwise provided in these rules or by statute.

### **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's own testimony. This rule is subject to the provisions of Rule 703 relating to opinion testimony by expert witnesses.

### **Rule 603: Oath or affirmation.**

Oaths or affirmations shall be taken in accordance with Mock Trial Rule 11. Any reference in these Rules of Evidence to an "oath," "affirmation," or "sworn" statement shall be in accordance with Mock Trial Rule 11.

**Rule 604: Interpreters.**

An interpreter is subject to the provisions of these rules and applicable statutes relating to qualifications as an expert and the administration of an oath or affirmation to make a true interpretation.

**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) the evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked.

**(b) Specific Instances of Conduct** - Specific instances of conduct of a witness for the purpose of attacking or supporting the witness's character for truthfulness, other than convictions of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, if probative of truthfulness or untruthfulness and under the following conditions, be inquired into on cross-examination of the witness concerning the witness's character for truthfulness or untruthfulness or concerning the character for truthfulness or untruthfulness of another witness as to which the character witness being cross-examined has testified. The conditions which must be satisfied before allowing inquiry on cross-examination about such conduct probative solely of truthfulness or untruthfulness are:

- (1) The Court must determine that the alleged conduct has probative value and that a reasonable factual basis exists for the inquiry;
- (2) The conduct must have occurred no more than ten years before commencement of the action or prosecution, but evidence of a specific instance of conduct not qualifying under this paragraph (2) is admissible if the proponent gives to the adverse party sufficient advance notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence and the court determines in the interests of justice that the probative value of that evidence, supported by specific facts and circumstances, substantially outweighs its prejudicial effect; and
- (3) If the witness to be impeached is the accused in a criminal prosecution, the State must give the accused reasonable written notice of the impeaching conduct before trial, and the court upon request must determine that the conduct's probative value on credibility outweighs its unfair prejudicial effect on the substantive issues. The court may rule on the admissibility of such proof prior to the trial but in any event shall rule prior to the testimony of the accused. If the court makes a final determination that such proof is admissible for impeachment purposes, the accused need not actually testify at the trial to later challenge the propriety of the determination.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the witness's privilege against self-incrimination when examined with respect to matters which relate only to character for truthfulness.

**(c) Juvenile Conduct** - Evidence of specific instances of conduct of a witness committed while the witness was a juvenile is generally not admissible under this rule. The court may, however, allow evidence of such conduct of a witness other than the accused in a criminal case if the conduct 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 in a civil action or criminal proceeding.

**Rule 609: Impeachment by Evidence of Conviction of Crime.**

**(a) General Rule** - For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime may be admitted if the following procedures and conditions are satisfied:

- (1) The witness must be asked about the conviction on cross-examination. If the witness denies having been convicted, the conviction may be established by public record. If the witness denies being the person named in the public record, identity may be established by other evidence.
- (2) The crime must be punishable by death or imprisonment in excess of one year under the law under which the witness was convicted or, if not so punishable, the crime must have involved dishonesty or false statement.
- (3) If the witness to be impeached is the accused in a criminal prosecution, the State must give the accused reasonable written notice of the impeaching conviction before trial, and the court upon request must determine that the conviction's probative value on credibility outweighs its unfair prejudicial effect on the substantive issues. The court may rule on the admissibility of such proof prior to the trial but in any event shall rule prior to the testimony of the accused. If the court makes a final determination that such proof is admissible for impeachment purposes, the accused need not actually testify at the trial to later challenge the propriety of the determination.

**(b) Time Limit** - Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed between the date of release from confinement and commencement of the action or prosecution; if the witness was not confined, the ten-year period is measured from the date of conviction rather than release. Evidence of a conviction not qualifying under the preceding sentence is admissible if the proponent gives to the adverse party sufficient advance notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence and 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.

**(c) Effect of Pardon** - Evidence of a conviction is not admissible under this rule if (1) the conviction has been the subject of a pardon 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 based on a finding of innocence.

**(d) Juvenile Adjudications** - Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, allow evidence of a juvenile adjudication of a witness other than the accused in

a criminal case 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 in a civil action or criminal proceeding.

**(e) Pendency of Appeal** - The pendency of an appeal of a conviction does not render evidence of that 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's credibility is impaired or enhanced.

**Rule 611: Mode and Order of Interrogation and Presentation.**

**(a) Control by Court** - The court shall exercise appropriate control over the presentation of evidence and conduct of the trial when necessary to avoid abuse by counsel.

**(b) Scope of Cross-Examination** - A witness may be cross-examined on any matter relevant to any issue in the case, including credibility, except as provided in paragraph (c)(2) of this rule.

**(c) Leading Questions -**

- (1) Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness's testimony. Leading questions should be permitted on cross-examination.
- (2) When a party calls a hostile witness, an adverse party (or an officer, director, or managing agent of a public or private corporation or of a partnership, association, or individual proprietorship which is an adverse party), or a witness identified with an adverse party, interrogation may be by leading questions. The scope of cross-examination under this paragraph shall be limited to the subject matter of direct examination, and cross-examination may be by leading questions.

**Rule 612: Writing used to refresh memory.**

If a witness uses a writing while testifying to refresh memory for the purpose of testifying, an adverse party is entitled to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness.

**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 and until 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 803(1.2).

**(c) Opinions** - A prior statement in opinion form is admissible to impeach testimony.

**Rule 616: Impeachment by bias or prejudice.**

A party may offer evidence by cross-examination, extrinsic evidence, or both, that a witness is biased in favor of or prejudiced against a party or another witness.

**Rule 617: Impeachment by impaired capacity.**

A party may offer evidence that a witness suffered from impaired capacity at the time of an occurrence or testimony.

**ARTICLE VII. OPINIONS & EXPERT TESTIMONY**

**Rule 701: Opinion Testimony by Lay Witnesses.**

(a) **Generally** - If a witness is not testifying as an expert, the witness's testimony in the form of opinions or inferences is limited to those opinions or inferences which are

- (1) rationally based on the perception of the witness and
- (2) helpful to a clear understanding of the witness's testimony or the determination of a fact in issue.

(b) **Value** - A witness may testify to the value of the witness's own property or services.

**Rule 702: Testimony by Experts.**

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

**Rule 703: Bases of opinion testimony by experts.**

The facts or data 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. 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. The court shall disallow testimony in the form of an opinion or inference if the underlying facts or data indicate lack of trustworthiness.

**Rule 704: Opinion on ultimate issue.**

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.

**Rule 705: Disclosure of facts or data underlying expert opinion.**

The expert may testify in terms of opinion or inference and give reasons without prior disclosure of 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.**

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.

**Rule 802: Hearsay rule.**

Hearsay is not admissible except as provided by these rules or otherwise by law.

**Rule 803: Hearsay Exceptions.**

The following are not excluded by the hearsay rule:

**(1.1) Prior Statement of Identification by Witness.** A statement of identification of a person made after perceiving the person if the declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement.

**(1.2) Admission by Party-Opponent.** A statement offered against a party that is (A) the party's own statement in either an individual or a representative capacity, or (B) a statement in 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 an agent or servant concerning a matter within the scope of the agency or employment made during the existence of the relationship under circumstances qualifying the statement as one against the declarant's interest regardless of declarant's availability, or (E) a statement by a co-conspirator of a party during the course of and in furtherance of the conspiracy, or (F) a statement by a person in privity of estate with the party. An admission is not excluded merely because the statement is in the form of an opinion. Statements admissible under this exception are not conclusive.

**(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 and Treatment.** Statements made for purposes of medical diagnosis and treatment describing medical history; 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 and 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's 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 and a business duty to record or transmit 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) 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, profession, occupation, and calling of every kind, whether or not conducted for profit.

**(8) Public Records and Reports.** Unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness, records, reports, statements, or data compilations in any form of public offices or agencies setting forth the activities of the office or agency or matters observed pursuant to a duty imposed by law as to which matters there was a duty to report, excluding, however, matters observed by police officers and other law enforcement personnel.

**(9) Records of Vital Statistics.** Records or data compilations in any form of births, fetal deaths, deaths, marriages, or divorces, if the report was made to a public office pursuant to requirements of law.

**(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 member of the clergy, a public official, or another 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, engravings on rings, inscriptions on family portraits, engravings on burial urns, crypts,

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 contents 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.

**(16) Statements in Ancient Documents Affecting an Interest in Property.** Statements in a document in existence thirty years or more purporting to establish or affect an interest in property, the authenticity of which is established.

**(17) Market Reports and 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.

**(19) Reputation Concerning Personal or Family History.** Reputation among members of a person's family by blood, adoption, or marriage or among 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.

**(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 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 prosecution in a criminal case 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.

**(26) Prior Inconsistent Statements of a Testifying Witness.** A statement otherwise admissible under Rule 613(b) if all of the following conditions are satisfied:

- (A) The declarant must testify at the trial or hearing and be subject to cross-examination concerning the statement.
- (B) The statement must be an audio or video recorded statement, a written statement signed by the witness, or a statement given under oath.
- (C) The judge must conduct a hearing outside the presence of the jury to determine by a preponderance of the evidence that the prior statement was made under circumstances indicating trustworthiness.

**Rule 804: Hearsay Exceptions; Declarant Unavailable.**

**(a) Definition of Unavailability** - "Unavailability of a witness" includes situations in which the declarant:

- (1) is exempted by ruling of the court on the grounds 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) demonstrates 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 the declarant's 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 by process; or
- (6) for depositions in civil actions only, is at a greater distance than 100 miles from the place of trial or hearing.

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 had both an opportunity and a 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 and 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.

- (4) *Statement of Personal and Family History.* A statement made before the controversy arose (A) concerning declarant's own birth, adoption, marriage, divorce, or legitimacy; relationship by blood, adoption, or marriage; ancestry; or other similar fact of personal or family history; even though the declarant had no means of acquiring personal knowledge of the matter asserted; or (B) 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.

**Rule 805: Hearsay within hearsay.**

Hearsay 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 or otherwise by law.

**Rule 806: Attacking and supporting credibility of declarant.**

When a hearsay statement 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.

**ARTICLE IX. AUTHENTICATION**

**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 the court to support a finding by the trier of fact 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 of Fact or Expert Witness.* Comparison by 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 a 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 the business, the call was made to a place of business and the conversation 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, if authentic, it would likely be, and (C) has been in existence thirty 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 the Tennessee Legislature or by other rules prescribed by the Tennessee Supreme Court.

**Rule 902: Self-Authentication.**

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required as to the following:

**(1) Domestic Public Documents Under Seal** - A document bearing a seal purporting to be that of the State of Tennessee, the United States (or of any other 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, office, 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) 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 execution or attestation, 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 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 the Tennessee Legislature or rule prescribed by the Tennessee Supreme Court.

**(5) Official Publications** - Books, pamphlets, or other publications purporting to be issued by public authority.

**(6) Newspapers and Periodicals** - Printed material purporting to be newspapers and periodicals.

**(7) Trade Inscriptions and the Like** - Inscriptions, sign, 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, including all signatures, and related documents to the extent provided by general commercial law.

**(10) Presumptions Under Acts of Congress or the Legislature** - Any signature, document, or other matter declared by Act of Congress or the Tennessee Legislature to be presumptively or prima facie authentic.

**(11) Certified 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 an affidavit of 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 and a business duty to record or transmit 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.

**Rule 903: Subscribing Witnesses' Testimony**

The testimony of a subscribing witness is not necessary to authenticate a writing unless required by statute.

**ARTICLE X. CONTENTS OF WRITINGS, RECORDINGS & PHOTOGRAPHS**

**Rule 1001: Definitions.**

For purposes of this article the following definitions are applicable:

**(1) Writings and Recordings** - "Writings" and "recordings" consist of letters, words, numbers, sounds, 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. If data are stored in a computer or similar device, any printout or other output readable by sight and shown to reflect the data accurately is an "original."

**(4) Duplicate** - A "duplicate" is a copy 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 reproduce the original.

**Rule 1003: Admissibility of duplicates.**

A duplicate is admissible to the same extent as an original unless a genuine question is raised as to the authenticity of the original.

**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 times and places. The court may order that they be produced in court.

**Rule 1007: Testimony or written admission of party.**

Contents of writings, recordings, or photographs may be proved by the testimony, deposition, or written admission of the party against whom offered, without accounting for 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 of whether the condition has been fulfilled is ordinarily for the court to determine in accordance with the provisions of Rule 104. When an issue is raised as to (a) whether the asserted writing, recording, or photograph 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.



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 to compete in the District \_\_\_\_\_ competition:

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 send this form by email to [kgoodner@lewisthomason.com](mailto:kgoodner@lewisthomason.com) and upload to**

**<https://www.tba.org/node/39648>**

**on or before Saturday, February 1, 2020 at 5:00 p.m.**

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**20200 NATIONAL MOCK TRIAL  
PLEDGE OF PARTICIPATION**

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**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 on May 6-9, 2020. I understand that participation in the state competition is contingent on signing this pledge. Multiple copies of the form may be submitted to expedite the gathering of signatures.

<b>Student Name</b>	<b>Student Signature</b>	<b>Parent/Guardian Signature</b>	<b>Competed At District Competition*</b>
<b>1</b>			Yes No (circle one)
<b>2</b>			Yes No
<b>3</b>			Yes No
<b>4</b>			Yes No
<b>5</b>			Yes No
<b>6</b>			Yes No
<b>7</b>			Yes No
<b>8</b>			Yes No

<b>9</b>	Yes	No
<b>10</b>	Yes	No
<b>11</b>	Yes	No
<b>12</b>	Yes	No
<b>13</b>	Yes	No
<b>14</b>	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) members of the district-winning team. Alternates do not count for purposes of this rule.