

**Thomas S. Foley**  
**Memorial Forensics**  
**Tournament**

**Invitation and**  
**Information Packet**

February 3, 4, and 5, 2022

**PLEASE NOTE SPECIAL RULES AND SCHEDULE FOR  
THIS YEAR'S VIRTUAL TOURNAMENT.**

**IMPORTANT NOTES:**

- 1. TOC BID CONGRESS WILL BE HELD THURSDAY  
AND FRIDAY DURING THE DAY.**
- 2. MOST TOC AND NITOC BID IEs WILL BE  
SYNCHRONOUS IN IE PATTERNS A&B**
- 3. . THREE TOC AND NITOC BID IEs, AS WELL AS  
FOUR OTHER EVENTS WILL BE  
ASYNCRHONOUS IN PATTERN C.**

**Thomas S. Foley Memorial Forensics Tournament**  
**Invitation and Information Packet**

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## **2022 Thomas S. Foley Memorial TOC/NITOC Bid Forensics Tournament**

Titan Debate - University High School – 12420 East 32<sup>nd</sup> Ave. – Spokane Valley, WA. 99216

Cell Phone 509-993-7751 - Fax 509-558-6049 – Email [dsmithy@cvsd.org](mailto:dsmithy@cvsd.org)

Registration website address: <https://www.tabroom.com>

**Foley Committee Chair, Mr. Tyler Ormsby:** [tyler.ormsby@yahoo.com](mailto:tyler.ormsby@yahoo.com)

### **Contact Person: David Smith**

Dear Fellow Educator

We take great pleasure in inviting your school to the annual ***Thomas S. Foley Memorial Forensics Tournament***, which we will be hosting during the weekend of **February 3-5, 2022**. As the name suggests, this tournament is held in recognition and in honor of Tom Foley's many years of service to Washington and the United States as a representative from the 5th District, as Speaker of The House of Representatives, and as Ambassador to Japan. **The tournament features a student congress with four levels of competition, five traditional debate activities, and twenty-one IE/speech events. We are a TOC Bid Tournament in both Congress and Speech, as well as a NITOC bid tournament in individual events.** It is our sincere hope you and your students will have an enjoyable weekend of competition.

This year has continued to create challenges for all of us in the forensics world. Like many tournaments, we will be virtual again this year. This has necessitated some hard decisions. Again, we have had to suspend International Diplomacy and the Sparfest. Fortunately, we were able to bring back Dual Improvisation as a Pattern C event.

International Diplomacy and SPAR will be back soon. We simply could not determine how to present them in a virtual environment. We are sorry for any students, especially seniors, who had been looking forward to competing in SPAR and ID.

On a positive note, we will be adding Oral Interpretation of Literature (AKA: Oral Interpretive Reading) and DUET ACTING. Oral Interpretation of Literature has a TOC Speech Bid and Duet Acting has a NITOC bid.

### **Our four special awards will be presented:**

1. ***Thomas S. Foley Speaker's Award*** to the best individual speaker in the tournament;
2. ***Thomas S. Foley Ambassador's Award for Outstanding Forensics Education***;
3. ***Anita Sue Spirit of Debate Award***. [The criteria for each of these events is stated below.]
4. ***The John Clark Legal Argument Inscribed Black's Law Dictionary*** to the winner of

that event.

## **Registration** (<https://www.tabroom.com/>)

### **A Flat Rate per Student**

All programs are experiencing financial hardship. Since *Foley* is a non-profit tournament, we can afford to provide the **low price of \$35.00 per competitor.** Each student may enter congressional debate; **AND** one of five traditional debate events; **AND** up to four IE/speech events. Furthermore, coaches do not need to pay for, or enter, multiple squads.

We would **appreciate early registration** to ensure space and coordinate contest officiating. Although our goal is to avoid limiting entries, we reserve the right to do so and/or to collapse divisions if necessary for the efficient management of the tournament.

**Registration Deadline: Wednesday, February 2, 2022 at 6:00 p.m.** **Changes** in school registrations: Adds will not be accepted after this date. No additions will be allowed after this time. Drops after this time will not affect fee calculations.

Please **register online** at <https://www.tabroom.com>  
Fees will be assessed as of **6:15 p.m. on: Wednesday, February 2, 2022.** After **5:15 PM on Wednesday**, all drops or other concerns must be emailed to the tournament director at [dsmithy@cvsd.org](mailto:dsmithy@cvsd.org).

Please notify us of any last minute “emergency” drops as soon as possible. Drops are the main reason tournaments get off to a slow start.

**IMPORTANT:** Students wishing to be considered for the **Thomas S. Foley Speakers Award** must be **registered** as such on the registration website.

## **Sweepstakes**

**Two Levels of Sweepstakes** We will be providing 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> place sweepstakes awards in two divisions (Small Squad and Large Squad).

Sweepstakes Calculations	Policy—1st-30; 2nd-20; 3rd-15; Qtrs.-10
	LD—1st-15; 2nd-10; 3rd-7; Qtrs.-5
	Public Forum—1st-15; 2nd-10; 3rd-7; Qtrs.-5
	Parli—1st-15; 2nd-10; 3rd-7; Qtrs.-5
	Big Question—1st-15; 2nd-10; 3rd-7; Qtrs.-5

Congressional Debate—1st-12; 2nd-8; 3rd-5; Finalist-1;  
 Outstanding PO-5  
 International Diplomacy—1st-12; 2nd-8; 3rd-5; Finalist-1  
 IE's—1st-10; 2nd-7; 3rd-5; Finalist-3

Elimination of Squad Limits We have eliminated all maximum team and squad limits. **Each competitor on a team may enter as many events as s/he wishes to enter, up to the per competitor limits.** Each competitor may enter:

- A) Congressional Debate **AND**
- B) One Non-Congressional Debate [Policy, LD, Public Forum, Parli, or Big Questions] **AND**
- C) **Special for 2022 - Up to Six Individual Events (Two Synchronous Pattern "A" events and four Asynchronous Pattern "B" events.) [However, please note that students attempting to win the Foley Award must identify which four events will be counted toward the Foley Award. Coaches should email this information to the tournament director at dsmithy@cvsd.org]**

**Supervision:** WSFA/WIAA requires that a certified coach/staff member from the school or school district supervise competitors at all times.

**Judging Requirements:** Each school must either bring a sufficient number of qualified judges to cover its entry. Teams will be charged for any uncovered rounds. One judge covers 2 CX teams, 2 Parli Debate teams, 2 Public Forum teams, 2 Big Questions teams, or 4 LD student entries. One judge is required for every 8 student congress entries. One judge is required for every 6 IE entries (per speech pattern). Schools which only supply the minimum number of judges should warn their judges that they will be expected to judge every round. Any school which fails to meet its judging obligation, or contact the tournament director to discuss special circumstances, may be charged \$25.00 per missed round unless exceptional circumstances warrant excusal.

### **General Tournament Rules**

- 1) In order to stay on schedule, judges will be instructed to call the round in the event a competitor fails to show up. Competitors more than **15 minutes late to their debate rounds will forfeit to their opponents.** Double entered synchronous IE competitors should let the judge in the "other" event know they are double entered.
- 2) Judges are the heart of any successful tournament. We will require a complete judging list from each school by the Registration Deadline: Wednesday, February 2, 2022. Please email any judge substitutions ASAP. It is imperative that every school meets its judging commitment. That means judges must be present and pick up ballots. Any school which

fails to meet its judging obligation, may be charged \$25.00 per missed round unless exceptional circumstances warrant excusal.

- 3) **Please note the judge exchange option on Tabroom if you are having trouble securing judges.**

### **ONLINE SPECIAL PROCEDURES**

- Speech will be both asynchronous and synchronous. **Asynchronous recordings must be submitted by Thursday, February 3, 2022 at 6:00 PM.**
- Asynchronous Speech judges will receive pre-recorded preliminary ballots on Friday, and they must be returned by Saturday at 8:00AM. Speech judges must also be available to adjudicate finals on Saturday within the Asynchronous finals time window (1:00 PM – 4:00 PM). Please be intentional in entering your judge time conflicts.
- Congress and Debate will be synchronous, using NSDA Campus on Thursday, Friday, and Saturday.
- We will be using NSDA Campus. Make sure that your students have active Tabroom accounts well ahead of the tournament. They will be unable to compete otherwise.
- Teams in LD, PF, Parli, Big Question, and Policy are allowed up to ten minutes of tech time. If the debate is paused for technology related reasons, that team's Tech Time begins to count down. If a team uses all their Tech Time before the round ends, they will be required to forfeit that round. The tech time is not to be used as prep.
- Cameras should be on. This is a safeguard against outside assistance and it is an important accessibility feature. Cameras also help maintain the social atmosphere of debate.
- This year, given the electronic tournament format, we will have an ombudsperson available for competitors and coaches alike during the course of the tournament. We believe that debate should be a safe and fair space for all participants, and we will do our best to make this happen. There will be a link to the ombudsman on Tabroom.
- Please note that due to the changing landscape, changes to procedures may be necessitated. Please review the rules in advance.

### **Special Awards**

***Thomas S. Foley Speaker's Award:*** Presented to the best individual speaker in the tournament on the basis of the student's overall performance in all of his/her events. To be eligible for consideration for this award, **a competitor's coach must register the student as competing for the award on the registration website** (so that we may "track" the applicable student), and the competitor must meet the following criteria:

1. The competitor must compete at the open/varsity or champ level of all events;
2. The competitor must compete in Student Congress; and
3. The competitor must compete in another form of debate in addition to Student Congress/Legislative Debate; and
1. The competitor must compete in at least one individual event in both Pattern A and Pattern B. **Note: Students may enter up to four individual events for the Foley Award, but students competing for the Foley Award will be limited to One Asynchronous Pattern C Event.**

2.

**Note:** Out-rounds do not count toward the Speaker's Award. Even when offered, SPAR does not count toward the speaker's award.

***Thomas S. Foley Ambassador's Award for Outstanding Contributions to Forensics Education:*** Throughout his many years of service, Tom Foley was a steadfast supporter of education. It is, therefore, only fitting that this award be presented in his name to an adult who has made outstanding contributions to the field of forensics education. Please nominate a person who you believe is deserving of this award. Nominations should be submitted in writing and explain why your nominee should be selected to receive this honor. All submissions will be judged by an independent panel of community leaders. **Note:** *This trophy may only be awarded to a person once in a lifetime. Previous nominees who have not received the award are eligible to be re-nominated. Nominations may be made by any appropriate person including teachers, administrators, coaches, parents, students, former students etc.*

**Please email your nominations to Mr. Tyler Ormsby, Foley Forensics Tournament Committee Chair, at [tyler.ormsby@yahoo.com](mailto:tyler.ormsby@yahoo.com) Nominations must be received by the regular registration deadline.**

***The Anita Sue Spirit of Debate Award:***

Anita was a student who loved her debate team and her interschool debate community. Although she did not always win, she was always steadfast about attending practice and doing her best at tournaments. Perhaps most importantly, she was known as a "good sport" Anita would happily walk out of a round with her former competitors/new friends irrespective of whether she had won or lost the round. Anita was instrumental in helping to encourage and train new novice debaters and for adding fun and smiles to any debate outing. **We are asking coaches to nominate seniors for this award.**

**Please email a letter nomination to the Foley Forensics Tournament Committee Chair, Mr. Tyler Ormsby at [tyler.ormsby@yahoo.com](mailto:tyler.ormsby@yahoo.com)** The letter should include why your nominee reflects the positive spirit of debate. His or her debate and speech win loss record is not necessary. This award is to be presented to the person who best represents the comradery, sportsmanship, and pure joy of forensic competition irrespective of one's win/loss record.

**Nominations must be received by the registration deadline.**

## **Amended 2022 Foley Tournament Schedule**

### **Pattern A/Synchronous Includes:**

*Impromptu, Extemp, and John Clark Legal Argument*

### **Pattern B/Asynchronous Includes:**

*ALL other IEs.*

### **Wednesday February 2, 2022**

- Dual Improvisation and Tall Tales topics will be released on Tabroom on February 2, 2022 at 3 p.m. PST. There will be three rounds. Each Impromptu and Dual Improvisation round will have three topics from which to choose. Dual Improv and Tall Tales video submissions are due at 6 p.m. PST. Prep time must be included in the recording!

### **Thursday, February 3, 2022**

- Rounds will be paneled and available to judges as soon as we can get them out.
- 6:00 P.M. – All Asynchronous Submissions are due (link needed) to coaches for Tabroom entry. Deadline for coaches inputting URL into Tabroom for each contestant in the **Video URL** section of the entry

### **Friday, February 4, 2022**

- Rounds will be paneled and available to judges as soon as we can get them out.

### **Saturday, February 5, 2022**

8:00AM – All preliminary ballots from judges due.

1:00 PM – 4:00 PM – Final ballots available for judging

4:00 PM Final ballots due.

## **Synchronous Congress, Debate And Pattern A/Synchronous Speech Schedule**

### **Thursday, February 3, 2022**



**8:00 AM Congress Session 1**  
**11:00 AM Break**  
**11:45 AM Congress Session 2**  
**2:45 PM Break**  
**4:00 PM Debate Round 1**  
**6:00 PM Debate Round 2**  
**8:00 PM IE Pattern A Round 1**

### **Friday, February 4, 2022**

**9:30 AM Super Congress (One session)**  
**12:00 PM Break**  
**12:30 PM Super Congress Continues**  
**2:30 PM Super Congress Concludes**  
**2:30 PM Break**  
**4:00 PM Debate Round 3**  
**6:00 PM Debate Round 4**  
**8:00 PM IE Pattern A Round 2**

### **Saturday, February 5, 2022**

**8:00 AM Debate Round 5**  
**10:00 AM IE Pattern A Round 3**  
**11:00 AM Debate Quarter Finals**  
**1:00 PM Break**  
**1:30 PM Debate Semi Finals**  
**3:30 PM Break**  
**4:00 PM IE Pattern A Finals**  
**5:30 PM Break**  
**6:00 PM Debate Finals**

## **Events**

**Tournament of Champions (TOC) BID Tournament:** The Foley Committee is pleased to announce that *The Thomas S. Foley Memorial Tournament* has been selected as a Congressional Debate TOP SIX bid tournament. Students interested in seeking a TOC bid in congress must enter the championship division (see below). The TOC and NITOC bid tournament in speech events (see below).

**Student Congress:** We will host four levels of congress, novice, junior varsity, open, and champ. To be eligible for the *Foley Speaker's Award*, a student must be entered in either the open or the champ division. The number of chambers will depend on the number of students entered in the tournament.

Students will deliberate the merits of bills and resolutions using Robert's Rules of Order. The State of Washington follows the so-called "Kansas rule." As such, bills have been submitted to the appropriate WSFA committee for approval. Only approved bills may be considered in any division. Copies of these bills are on Tabroom.com. NFL, WSFA and GSL rules will apply. Copies of the Washington State approved legislation, applicable WSFA, NFL, and GSL rules will be forwarded to any school upon request. **Note:** *Student congress does not conflict with any other event.*

**Super Congress Reserved Legislation:** Pursuant to WSFA guidelines, only accepted Super Congress legislation may be used at any level of Super Congress. WSFA Reserved Super Congress Legislation is included in the WSFA Spring Legislation packet on the website.

**Congress Divisions:**  
**Champ:**

**Open to All Competitors Seeking the Top Level of Competition.**  
**Students who meet the following benchmarks SHOULD ENTER THIS LEVEL.**

- (1) Any student desirous of winning one of the six Tournament of Championship **(TOC) bids** available at this tournament **MUST** enter the championship division and is automatically qualified for this division;
- (2) Any student who has qualified for/and or attended the NFL, CNFL, or TOC, National Competition in Student Congress/Legislative Debate should enter this division; **OR**
- (3) Any student who has qualified for/and or attended the competitor's applicable State Student Congress/Legislative Debate Tournament should enter this division; **OR**
- (4) Any student who has broken to super congress or placed in the top third of a student congress tournament which does not hold a super congress at least three times in the last two years at the open or varsity level may enter this division (**NOTE:** At least one such super congress/top third standing must have occurred within the current debate season).

**Open:**

This division is open to all competitors regardless of experience, except for students seeking a TOC bid, who must enter the champ division.

**JV:**

This division is open to

- (1) Any student who has limited student congress experience (individual coach's preference) may enter this division.

(2) First year students who have broken to super congress at two or more tournaments or who have placed in the top third at two or more tournaments which have not held a super congress **MUST enter JV or Open Congressional Debate.**

### **Novice:**

This division is limited to first year novice student congress competitors **who have not broken to super congress in two or more tournaments (or twice placed in the top third of tournaments which do not offer super congress).**

**Policy Debate:** We will provide *junior varsity and open divisions* in policy/CX debate. Three and four person teams are allowed. However, only two students may compete at any one time. We will use the **2021/2022 National Forensics League policy topic.** WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request.

**Lincoln Douglas Debate:** We will provide *novice, junior varsity, and open* divisions in Lincoln Douglas debate. We will be using the **2022 January/February National Forensics League topic.** WSFA and GSL rules will apply. Copies of these rules will be forwarded upon request.

**Public Forum:** We will provide *junior varsity and open divisions* in Public Forum Debate. Three and four person teams are allowed. However, only two students may compete at any one time. NFL rules will apply (which are available online at <http://www.nflonline.org>). The **2022 February National Forensics League topic** will be used, which will be available on the NFL website.

**Parliamentary (Parli) Debate:** We will provide an *open division only* in Parli Debate. Three and four person teams are allowed. However, only two students may compete at any one time. The Open division is available to all teams.

**NOTE WELL:** This year, we have adopted the NPDA rules for parliamentary debate with the following exception. Students are not allowed to bring a copy of the NPDA “Rules of Debating and Judging” with them into their rounds and the provisions for appealing a judge’s decision have been eliminated. High school tournaments are not set up to facilitate such appeals.

### **Parli Debate Rules at Foley**

We will follow NPDA Rules with an adjustment to Speech times in order to double flight the round and the removal of point of orders (POIs).

### **Foley Parli Format of the debate**

**Pre-Round Prep Time: 15 minutes**

**First Proposition Constructive Speaker: 5 minutes**

**First Opposition Constructive Speaker: 6 minutes**

**Second Proposition Constructive Speaker: 6 minutes**

**Second Opposition Constructive Speaker: 6 minutes**

**Opposition Rebuttal by First Speaker: 3 minutes**

**Proposition Rebuttal by First Speaker: 4 minutes**

There is no cross-ex/crossfire period in Parli but Points of Information can be asked during the constructive speeches. A POI is when the opposite team raises their hand or stands. The Speaker will then recognize them for a question. **The first and last minute of constructive are protected time in which no question may be asked. The judge will knock on the table to indicate when a minute has passed and when there is one left.** A speaker should take between 1-3 questions during a constructive speech. **We will not be utilizing Points of Order which are traditionally used during the rebuttals.**

**Topic Announcement** for Parli will take place in a centralized location where it will be verbally announced and posted.

Prep time will start immediately after the topic is announced/posted. Students will have a two minute grace period to be in the room ready to debate after the prep time is announced. Being late for the round = an automatic drop.

Group prep is allowed as in consulting outside information. This means students may use any files, news sources, coaches etc that they have access to. Any files, documents, websites, etc. which may have been consulted before the debate, cannot be brought into the debating chambers for use during the debate. The debaters may bring in the handwritten notes they have prepared during preparation time.

**Resolutions will be a mix of policy, value and metaphors.**

Examples: The United States should raise the federal minimum wage. In politics, pragmatism should be favored over idealism. This House would share the sandbox.

**Schedule for topic announcement (if everything is running on time)**

**Round 1**

**A: Topic Announce @ 3:15, Round Starts @ 3:30**

**B: Topic Announce @ 3:55 , Round Starts @ 4:10**

**Round 2**

**A: Topic Announce @ 5:00, Round Starts @ 5:15**

**B: Topic Announce @ 5:40, Round Starts @ 5:55**

**Round 3**

**A: Topic Announce @ 3:30, Round Starts @ 3:45**

**B: Topic Announce @ 4:10 , Round Starts @ 4:35**

**Round 4**

**A: Topic Announce @ 8:30, Round Starts @ 8:45**

**B: Topic Announce @ 9:10, Round Starts @ 9:25**

**Round 5**

**A: Topic Announce @ 7:30, Round Starts @ 7:45**

**B: Topic Announce @ 7:50, Round Starts @ 8:05**

**Laptops MAY NOT be used during parli debates** unless a specific competitor has an ADA reason to do so and has so notified the tournament director. Laptops may be used to help research during the before round prep, but for fairness for all competitors, laptops **may not be used** during the round. **Handwritten notes, prepared during the prep time, may be taken into the round.**"

**Big Questions Debate:** We will provide an *Open division only* of Big Questions Debate. The rules for the event are as follows:

We will be using the **The 2021-2022 Big Questions topic will be used.**

For more information on Big Questions Debate, please see:

<https://www.speechanddebate.org/big-questions/>

### **Structure of the Debate**

Each debater will make an opening presentation, laying out the arguments and reasons to prefer their side of the resolution. These are called the Constructive speeches, and they are five minutes long. The Affirmative side will always speak first. Following these speeches, there is a three-minute question segment. During the questioning segment, the Affirmative side will ask the first question. Following the first question, the questioning period is a free-flowing question and answer period where both speakers may ask each other questions.

*Affirmative Constructive – 5 minutes*

*Negative Constructive – 5 minutes*

*Question Segment – 3 minutes*

Following the Constructive speeches and the first question segment, each debater will deliver a speech addressing the key claims and contentions of their opponents. This speech will address where there are weaknesses or opposing evidence, identify main areas of clash and how arguments interact with one another, rebuild their own contentions, and offer additional evidence for their position. These speeches are known as the Rebuttal speeches, though their content may not be entirely made up of rebuttal. The Rebuttal speeches are four minutes long and followed by a second question segment, which is identical in form to the first.

*Affirmative Rebuttal – 4 minutes*

*Negative Rebuttal – 4 minutes*

*Question Segment – 3 minutes*

The Rebuttals and question segment is followed by the Consolidation speeches. These speeches are three minutes long and serve to reduce the debate to its core elements. Debaters will focus on identifying the areas they are garnering the best advantage and strengthening the analysis and argumentation in those areas; the form will not resemble a strict “line-by-line” treatment of the debate. Additional evidence or analysis on existing points of contention will be given, but new arguments are discouraged.

*Affirmative Consolidation – 3 minutes*

*Negative Consolidation – 3 minutes*

Debaters will give a Rationale speech – a three--minute summation of the central argument(s) that prove their side and the reasons they have proven them in this debate. No new arguments are offered in the Rationale speech;; the speeches focus entirely on the activity that has taken place earlier in the debate.

*Affirmative Rationale – 3 minutes*

*Negative Rationale – 3 minutes*

Both teams will receive a three minute period of prep time to be used at any time (excepting in the middle of a speech which has begun) to prepare their speeches.

*Prep Time – 3 minutes / side*

### **The Negative and the Inverse Resolution**

Big Questions is designed to pit opposing worldviews against each other in an effort to lead students to explore levels of argumentation that are rarely reached in other debate formats. For that reason, the Negative is expected to present arguments that the resolution is actively false. Negative speaker(s) should view themselves as the Affirmative on the inverse resolution – *exemplum gratia*, the Negative on “Resolved: Socrates is a man” should view themselves as the affirmative on “Resolved: Socrates is not a man.” Any *prima facie* burdens on the Affirmative debater(s) apply equally to the Negative debater(s). Negatives must do more than refute the Affirmative case.

## **National Individual Events (NITOC) BID Tournament**

We are pleased to announce that this year’s *Thomas S. Foley Memorial Forensics Tournament* is a **bid tournament for the 2022 (NITOC) National Individual Events Tournament of Champions.**

## **TOC Speech BID Tournament**

We are pleased to announce that this year’s *Thomas S. Foley Memorial Forensics Tournament* is a **bid tournament for the 2022 (TOC) Tournament of Champions in speech.**

**Events in which TOC AND NITOC bids may be earned are marked in red following each applicable event’s rules/description.**

### **Individual Events**

#### **Synchronous Individual Events Pattern A**

**Students may enter up to *two* events in this pattern.**

### **Pattern A Includes:**

#### ***John Clark Legal Argument, Extemporaneous Speaking, and Impromptu***

**John Clark Legal Argument:** Although the event is called “legal argument,” *it encompasses both opening statements*, which are expository in nature, *and closing arguments*, which are akin to persuasive oratories. The purpose of an opening statement is to preview what the evidence will show in a manner supportive of the proponent’s position – but in a non-argumentative fashion. This is usually done in a story fashion with introductory phrases such as “the evidence will show.” Closing argument “marshals the evidence” and argues it in a manner consistent with the proponent’s position. ***Visual aides may be used in both opening statements and closing arguments.*** Competitors may choose to deliver either an opening statement or a closing argument for either the prosecution or the defense. Speeches must be based on the facts stated in the hypothetical fact pattern. Washington State law applies and students are encouraged to research applicable legal issues. The hypothetical fact pattern is attached to this invitation along with copies of the applicable criminal statutes. (See Appendix) The time limit for this event is 8 minutes with a 30 second grace period. Judges will be given access to the hypothetical fact pattern. To the extent possible, the event will be judged by attorneys. Further information may be found on the website. (Open division only.)

**Extemporaneous Speech:** Competitors are given 30 minutes to prepare a 7 minute speech with a 30 second grace period. Topic areas are selected from current events. Students may use published books, magazines, newspapers, journals, and/or copies of articles to help them prepare their speeches. WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request. (Novice and open divisions.) **[TOC & NITOC BIDS at Open Level]**

**Impromptu:** The speaker will be given a choice of three topics in each round and will pick one on which to speak. The time limit for this event, including preparation and presentation, shall not exceed 6 minutes with a 30 second grace period. Time signals must be given. WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request. (Novice and open divisions.)

### **Asynchronous Individual Events Pattern B**

**Students may enter up to *four* events in this pattern.**

### **Pattern B Includes:**

***Informative, Dramatic Interpretation, After Dinner speaking, , Radio Speaking, Oratorical Analysis, Oratory, Humorous Interpretation, Impromptu, Program Oral Interpretation, Prepared Storytelling, Sales Speaking, Dual Interpretation, Tall Tales, Editorial Commentary, Dual Improvisation, Original Performance, Oral Interpretation of Literature (AKA: Oral Interpretive Reading), and Duet Acting.***

**Informative Speaking** 1. The purpose of informative speech is to describe, clarify, explain and/or define an object, idea, concept, social institution or process. 2. The responsibility for



choosing a worthwhile topic rests with the contestant. The use of humor will not be penalized. 3. The speech must be the original work of the speaker. No more than 150 words of quoted material and/or paraphrased material may be included in the speech. This speech may not have been used in forensic competition by the student prior to the current competitive season. 4. The speech may be delivered extemporaneously, with or without the use of notes. 5. The contestant will not be penalized for the use of notes or visual aids, unless they interfere with ability to communicate with the audience. 6. Time limit: Maximum of ten (10) minutes. If the speaker goes over a 30-second grace period a judge may not award that contestant first place in the round. No minimum time limit. **(Novice and open divisions.) [TOC & NITOC BIDS at Open Level]**

**Dramatic Interpretation:** The speaker shall interpret one or more selections, serious in nature, from published prose, poetry, drama, radio, television, or recordings. The presentation must be memorized. Students may not use props, makeup, or costumes. Physical movement is permitted insofar as it suggests characterization and limited singing is permissible. Title and authors must be presented. The time limit for this event is 10 minutes with a 30 second grace period. WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.) [TOC & NITOC BIDS at Open Level]**

### **After Dinner Speaking**

After Dinner Speaking Time: 7 min. maximum Time signals: not provided

Competitors are speaking as if they are a keynote speaker addressing a specific group. The group being addressed (real or fictional) should be identified in the speech introduction. The intent of ADS is to develop a thesis, idea, or observation of some personal or societal importance through the appropriate use of satire, quips and humor. ADS is not intended to be an interpretive event with multiple characters. Material presented must be original. Delivery must be memorized. While humorous quips and jokes are appropriate, they must have purpose and fit the occasion. **(Open division only.)**

### **Radio Speaking**

Time: 5:30-6:00 Time signals: not provided A radio speech is a prepared event that includes news stories, an original commercial of no fewer than 30 seconds, and a commentary about a subject covered in the news stories. The news stories presented must have taken place 30 days or less, prior to the tournament date. The commentary, which shall be an original editorial, reflecting the opinion of the contestant, should consume 1- 2 minutes of the total speech and be presented last. A hard copy of the original news story, including source citations must be available upon request. Speakers may time themselves, but may not have another person assist with timing. **(Open division only.)**

### **Oratorical Analysis**

Time: 10 min. maximum Time signals: not provided. The contestant will present a non-original speech, portions thereof, or cuttings of various speeches by one “real life” speaker. The intent of this event should be the analysis (not interpretation) of the oratory or speech. The speech should not be from fiction, but from an actual address by a person of significance either past or present.



The contestant will analyze the oratory selection(s) for approximately 50% of the presentation. The speech may be presented from memory or by use of a text.  
**(Open division only.)**

**Original Oratory:** The speaker shall deliver from memory a persuasive speech, the purpose of most oratories is to convince, stimulate, or move the audience to change beliefs or actions. However, the speaker may simply alert the audience to a danger, strengthen its devotion to an accepted cause or eulogize a person. The speech must not contain more than 150 words of quoted and/or paraphrased material. WSFA and GSL rules will apply. The time limit for this event is 10 minutes with a 30 second grace period. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.) [TOC & NITOC BIDS at Open Level]**

**Humorous Interpretation:** This event is the same as Dramatic Interpretation except that comedic materials should be used. WSFA and GSL rules will apply. The time limit for this event is 10 minutes with a 30 second grace period. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.) [TOC & NITOC BIDS at Open Level]**

**Program Oral Interpretation** The purpose of POI is a program of oral interpretation of thematically-linked selections chosen from two or three genres: prose, poetry, drama (plays). At least two pieces of literature that represent at least two separate genres must be used. Unlike the other interpretation events, Program Oral Interpretation may use multiple sources for the program. The title and author of all selections must be verbally identified in either the introduction and/or transitional phrases. Competitors are encouraged to devote approximately equal times to each of the genres used in the program. This distinction pertains to these two or three genres as a whole, not types of literature within a genre (such as fiction/nonfiction). Prose expresses thought through language recorded in sentences and paragraphs: fiction (short stories, novels) and non-fiction (articles, essays, journals, biographies). Poetry is writing which expresses ideas, experience, or emotion through the creative arrangement of words according to their sound, their rhythm, their meaning. Poetry may rely on verse and stanza form. 1. The use of a manuscript during the performance is required. Common practices include the use of a binder or folder. Reading from a book or magazine is not permitted. The intact manuscript may be used by the contestant as a prop, so long as it remains in the contestant's control at all times. No costumes or props other than the manuscript are permitted. Pictures, graphics, and/or illustrations are considered a visual aid, even if included in the original manuscript, and may not be displayed. The contestant must address the script; however, introduction and transitional material may be memorized. 2. The time limit is 10 minutes with a 30-second "grace period." If there are multiple judges in the round, all must agree that the student has gone beyond the grace period. Should a student go beyond the grace period, the student may not be ranked 1st. There is no other prescribed penalty for going over the grace period. The ranking is up to each individual judge's discretion. Judges who choose to time are to use accurate (stopwatch function) timing devices. No minimum time is mandated. 3. All literature performed must meet the publication rules of the Association. All online material must first be vetted and approved through the NSDA national office. Approved material and/or sites will be listed on the NSDA website. Song lyrics may be used if the performer has an original, hard copy of the lyrics such as sheet music or a CD jacket. Lyrics may only be used from online sources that appear on the approved websites list. 4. Adaptations may be used only for the purpose of transition. Any word changes (to eliminate

profane language) and/or additions (for transition) must be indicated clearly in ink. Failure to clearly indicate the addition of words will be subject to disqualification. Changes to the script may only be used for the purpose of transition or to eliminate profane language. They are not to be used for the purpose of embellishing the humorous or dramatic effect of the literature. **(Open and Novice divisions.) [TOC & NITOC BIDS at Open Level]**

**Prepared Story Telling:** A single story, anecdote, myth, legend, or incident will be retold without script, books, or props. The time limit for this event is 6 minutes. If a speaker goes over a 30 second grace period, he/she may not be awarded 1st place. There is no minimum time limit. The story may be delivered standing up or sitting down. Gestures or pantomime may be used but the focus must be on the narrative. The retelling must be true to the original tale. The contestant may not add original material or change the content of the story. The contestant is allowed one note card. **(Open division only.)**

**Sales Speaking:** The purpose of this event is to sell a singular, legitimate product and may include variations of that product. Contestant must identify brand. “Services” are not considered legitimate products. The **actual** product (not a model) must be displayed and/or demonstrated. Presentation may be memorized. Notes on one side of a 4 x 6 card may be used, but texts are not permitted. Video /audio aids are optional. In order to demonstrate the function of a product, that product may be put on as the demonstration begins and then removed following the demonstration. The contestant may not wear the product into the room, nor leave it on once the demonstration of that product is concluded. Additional items of clothing that might serve to enhance the visual effect of the product are considered costuming and are prohibited. Time: 3-7 minutes + 2 min. Questioning by judge only  
Time signals: not provided. **(Open division only.)**

**Dual Interpretation:** Two students shall interpret one or more selections, serious or comedic in nature, from published prose, poetry, drama, radio, television or recordings. Presentations must be memorized and students must maintain off stage focus. Students may not use props, makeup, or costumes. Physical movement is permitted insofar as it suggests characterization and limited singing is permissible. Title and authors must be presented. The time limit for this event is 10 minutes with a 30 second grace period. WSFA and GSL rules will apply. Copies of these rules will be forwarded to any school upon request. **(Novice and open divisions.) [TOC & NITOC BIDS at Open Level]**

**Tall Tales:** This event should be fun. The competitors and audience should enjoy themselves. The competitor who can tell the tallest tale utilizing all three given words, should win the round. Each speaker will be given three words to incorporate into his/her speech. The competitor will then have six (6) minutes to prepare and speak. If the speaker goes over a 30 second grace period, that contestant may not be awarded first place in the round. No minimum time limit. If a speaker does not incorporate all three words in his/her speech, the speaker will be ranked fifth. **(Novice and open divisions.)**

**Editorial Commentary:** A scripted speech, which offers an analysis of, and commentary on, a contemporary news event. Speakers must read from manuscript and deliver from a sitting position. The time limit for this event is between 1:45 and 2:00 minutes. Students going under or

over the time limit will be ranked one position lower than they would have been ranked had they been on time. **(Open and Novice divisions.)**

**Dual Improvisation:** Two students will be given a choice of three topics and then act out or pantomime an improvisational story which must adhere to the chosen topic. The time limit for this event, including preparation and delivery, shall be limited to 5 minutes. **(Novice and open divisions.)**

**Original Performance:** Competitors in this event are to present material of their own creation. Poetry, prose, drama, humor, mystery, spoken word, or any other form of literature is acceptable so long as it is original work and is appropriate to present in a school environment. The presentation must be between 5 and 10 minutes in length. There is no grace period. Students who fail to meet the minimum speaking requirement cannot take first place in the round. Students who exceed the maximum time limit should be cut off by the judge, and they additionally cannot take first place in the round. There is a one-step rule in this event, and students may present sitting or standing. The focus in this event is the presentation of original work, not the physical interpretation of literature. No props are allowed, though sitting on a chair or stool is permitted. Time signals will not be provided. **(Open division only.)**

**Oral Interpretation of Literature (AKA Oral Interpretive Reading)** The contestant shall interpret two or more selections from two or more authors. The presentation must include at least one selection of prose and one selection of poetry, which must be by different published authors and establish a central theme. No drama (e.g. a theatrical play) is allowed. The interpretation must be from manuscript. Title and authors must be presented. The time limit for this event is 10 minutes, with a 30 second grace period. The art of interpretation is to be regarded as recreating the characters and/or mood in the material presented and making them seem real to the audience. The presentation should not be from memory; however, a student may not be scored down for memorization as long as the appearance of reading is maintained. The judge should note favorably the student's use of good literature in a balanced program.

The contestant should be judged on poise, quality and use of voice inflections, emphasis, enunciation, pronunciation and, especially, the ability to interpret characters and/or mood correctly and consistently. The use of full bodily movement (bending, kneeling or turning) is not permitted in oral interpretive reading. Full bodily movement should be limited to a one step radius for the purposes of transition. (Novice and open divisions.) **[TOC BID, BUT NOT A NITOC BID BECAUSE THIS IS NOT A NITOC EVENT]**

**Duet Acting:** A. SELECTION — Selections used in Duet Acting shall be cuttings from a single source from a published printed novel, short story, play, poem or screenplay. No contestant may use the same literary work that s/he used in previous competitive years. No contestant may enter the same selection in two qualifying events. The material may be humorous or dramatic, or combine both tones depending on the selected work. Contestants may not combine two or more pieces of literature. A piece of literature shall be defined as one piece of writing which was written with the intent to be published as one work. Each of the two performers may play one or more characters so long as performance responsibility in the cutting remains as balanced as possible. Introductory and/or transitional material may be presented by either or both contestants.

B. PUBLICATION — All contestants must use published materials. “Published” as used in these rules means materials for which the coach is able to provide proof of publication using either of the following methods: — Originating in print form (book, photocopy of the book, or a manuscript) — Originating in digital form (a printed copy of an online transcript) Unpublished material used for introductions and transitions of interpretations shall be the original work of either or both of the contestants. Transitions and other added material must not change the author’s intent.

C. MANUSCRIPT – An original or photocopy of the original selection must be submitted at registration. Script check is the last step in the registration process. Schools that do not complete the registration process are not eligible to compete in the tournament. The portion(s) of the author’s work being used in the interpretation must be highlighted. All introductory and transitional phrases shall be clearly indicated as such on the manuscript. Transitions and other added material must not exceed 150 words and must not change the author’s intent. Contestants must adhere to the material as submitted when performing during rounds.

D. TIME — Interpretations shall be no more than ten (10) minutes in performance including introductory and transitional materials. There is no minimum time limit. Speakers exceeding this time limit by more than 30 seconds shall not be ranked first. For each final round, a tournament official, or designee shall serve as the official timer, and will have the discretion of waiving time violations for contestants exceeding the time limit due to audience reactions. This may be extended to the semi-final round at the discretion of the tournament director or designee.

E. PERFORMANCE — The interpretation must be delivered from memory; no notes, prompting or scripts shall be permitted. No costumes or props shall be permitted. During the performance, on-stage focus (meaning contestants MAY look directly at each other) may and/or should be employed by both contestants. Contestants are encouraged to touch and make eye contact during any part of the performance. Two chairs will be allowed for use as props or to facilitate blocking and to create levels, atmosphere and environment. Two standard classroom chairs will be provided. If the performers deem it necessary, they may provide their own chairs.

F. VIOLATION – A violation of any of the rules stated above may result in disqualification (Open Division Only.) **[NITOC BID, BUT NOT A TOC BID BECAUSE THIS IS NOT A TOC EVENT]**

## **John Clark Legal Argument 2022**

### **John Clark Legal Argument Rules**

Although the event is called “legal argument,” it encompasses both *opening statements*, which are expository in nature, and *closing arguments*, which are akin to persuasive oratories. The purpose of an opening statement is to preview what the evidence will show in a manner supportive of the proponent’s position – but in a non-argumentative fashion. This is usually done in a story fashion with introductory phrases such as “the evidence will show.” Closing argument “marshals the evidence” and argues it in a manner consistent with the proponent’s position. Visual aides may be used in both opening statements and closing arguments.

**Competitors may choose to deliver either an opening statement or a closing argument for either the prosecution or the defense. Speeches must be based on the facts stated in the**

**hypothetical fact pattern.** *Washington State law applies and students are encouraged to research applicable legal issues.* The hypothetical fact pattern is attached to this invitation along with copies of the applicable criminal statutes. The **time limit for this event is 8 minutes.** Judges will be given access to the hypothetical fact pattern.

## **Suggestions for Competing in John Clark Legal Argument**

From a debater standpoint, the beginning Legal Argument competitor should think of a modified oratory and or a modified expository. When lawyers present their opening statements or closing arguments in front of a jury or judge, they do not really argue with each other. In a legal drama, one might hear an objection raised during one of these presentations, but in reality such objections are extremely rare. For example, think how often you have ever heard the other side in an LD or CX debate shout out objection during the opponent's affirmative case. It never happens does it! It should not happen in this Legal Argument event. Instead, the contestants simply present their opening statements or closing arguments as they would if they were presenting the case to a jury.

The first thing the Legal Argument competitor must do is read the fact pattern through to get a general flavor for the facts. The student should then decide whether he or she wants to be a prosecuting attorney or a defense attorney. Then the competitor should decide whether to present the opening statement or the closing argument. Although both are allowed, most debaters seem to pick closing arguments; although a few students, mostly those with experience in expository speech have chosen to do opening statements and have done very well. Sometimes, doing something different helps one to stand out.

After deciding what side of the argument the competitor wants to represent and whether to take the closing argument or opening statement, the competitor should go back to the fact pattern and carefully read it. The fact pattern is designed so that both sides (prosecution and defense) can win. Look for any discrepancies in the factual statements or the opinions of the experts. Look at timelines. When did things actually happen, and how exactly did the event occur. Carefully go over the law provided with the fact pattern. This is the basic law. A student may research other aspects of Washington law if s/he wishes to do so and add it to his/her argument. No facts stated in the official fact pattern may be changed. However, a student is free to draw any reasonable inferences from the facts (in closing argument) to argue his or her case.

Remember, opening statement is designed to show the jury what the evidence at trial will show. Like a good expository speaker, in a non-persuasive manner, the event will be "explained" in such a manner that the jury is convinced that the defendant is guilty (prosecutor) or not guilty (defense) just from the manner and clarity of the way the evidence is presented. In the closing argument, the contestant will argue how the evidence meets the legal criteria (law) to convict the defendant or how doubt exists such that the defendant could not possibly be found guilty beyond a reasonable doubt.

When the competitor has written his/her argument, s/he may decide to create visual aids to help present his case. The use of visual aids is totally up to the competitor. I have seen students win this event with and without visual aids. Sometimes visual aids help and sometimes they detract from the presentation. Thus, their use is up to each individual competitor.

The time limit for legal argument is eight minutes with a 30 second grace period. Students will present their cases in a pattern consistent with any typical IE. Competitors do not actually cross examine each other. Students may use note cards.

One closing suggestion is that some competitors in the past have watched a courtroom drama or two (e.g. the movie, *The Verdict* or a similar TV drama) and modeled the manner in which they walk up and down in front of the jury or the way they speak after the movie/television lawyer(s). It sometimes helps, and at least the kids can enjoy a good courtroom drama. I hope that everyone who attempts this event has a lot of fun with it.

### **John Clark Legal Argument Fact Pattern 2022**

**Note:** The following fact pattern is a work of fiction. Any resemblance to real persons, places, facts, establishments, or locales is entirely coincidental.

### **State vs. Johannes**

This is a claim for vehicular homicide arising out of the death of Rico Seppala on or about the 26th of December, 2021. The defendant, Mario Johannes was allegedly driving in a Westerly direction on North River Drive in the City of Someplace, Washington, wherein he struck the decedent who was running in a Northerly direction on Washington Street at or near its intersection with North River Drive. The defendant, has elected to exercise his 5<sup>th</sup> Amendment rights and has neither testified nor given any statements regarding the incident.

### **Kosta N. Leon**

Kosta Leon is a 45-year-old teacher and croquet coach from Grand Place High School in Someplace, Washington. He has only recently taken up running both for relaxation and competition. Despite the fact he has only been running “regularly” for about a year, his natural athleticism has led him to win three Masters Division races in Eastern Washington. Kosta joined the Roaring Rhinos in April of 2021, at the encouragement of his friend and fellow croquet coach, Rico Seppala.

#### **Kosta Leon states:**

“The Roaring Rhinos is one of the largest running clubs in the United States. We meet at the Rouge Puma which is located downtown next to the Someplace River at the intersection of North River Drive and Division. Our regular club night is Wednesday. We go out for a three to four-mile run. We have several different routes, but they all start and end at the Puma.”

When we return from a run, we usually drink a root beer or two, talk amongst ourselves, and attend the shirting ceremonies. When a new member has run with the group for six consecutive runs, he or she has to stand on the stage, sing the Rhino song and then receives a free Roaring Rhinos shirt; thus, becoming a full-fledged member of the club. You can also get other shirts after you have had various numbers of runs. They are good shirts made out of a wicking material

that wicks the sweat from your skin and keeps you dry. Well, I should say, they are all made of wicking material except for the special fifty consecutive run shirts. That shirt is still made of cotton. The club wants to use up the old cotton T-shirts before buying the new more expensive ones. Times are tough and everyone, even clubs and businesses, need to watch the bottom line.”

“On the night of the accident, I was in a hurry to get back to the Puma as I was to be “shirted” that night. As the person who brought me into the group, Rico was supposed to have the honor of presenting me with the shirt. Although, I have been in the club for several months, it seemed that something always broke up my running streak, so I never got my six in a row until mid-December. Rico had been bugging me for weeks to keep this streak going so that I could be “shirted” by the end of the year. In fact, for the last month, he took to calling me twice a week so I wouldn’t forget. The shirting ceremony was a big deal to him. When he didn’t show up back at the Puma, I knew something had to be wrong.”

“Although Sepala was slow as molasses in winter, I would sometimes jog with him out of friendship for about a mile or so as a warm up. Then I would stop, stretch out a bit, easily pass Rico, and meet him back at the Puma for drinks.”

During the winter months, The Great Ceros, Norman Sampson, the leader of the Rhinos, has a strict rule about wearing lights and / or reflective gear. Lights and reflective gear are always important for runners in the winter months since it gets dark so early, but they are especially important for Rhinos since our shirts are dark black with a simple grey outline of a rhino on the front. Most of the members don’t even wear their Rhino shirts during the winter months, opting for bright neon high visibility shirts instead.”

“Rico was extremely proud of being a long-time member of the club and refused to wear any shirt but his Roaring Rhino Fifty Consecutive Runs shirt. He did have a head lamp and a reflective arm band that he wore on his left arm. I used to kid him that a reflective left arm band wouldn’t be much help if a car approached him on his right. Now that joke seems kind of morbid.”

“On the night of the accident, I started out with Rico as usual. Everything was going as normal. Everyone had already passed us. Rico is always ADL (Absolutely Dead Last); Rico was sweating like a pig, despite the twenty-degree weather, and I felt like I wanted to tear up the track, but I didn’t want to abandon my friend.”

“We ran about a mile through the park before I stopped for my routine stretches. I know it sounds strange to stop and stretch while running, but my doctor told me never to stretch cold. I am supposed to warm up first and then stretch. Before an actual race, I run a mile or so about half an hour before start time, stretch and line up for the race; but since our weekly runs are partly social in nature, I do my warm-ups with Rico while he is running “full out.” After about a mile, I stop, stretch for about fifteen minutes and still beat Rico and most of the pack back to the Puma.”

“Before stopping to stretch, I remember making a sarcastic remark that Rico didn’t exactly “light up the night.” As always, he was wearing his Fifty Consecutive Run Roaring Rhino shirt along with matching full-length black running pants, a black wool stocking cap, and black gloves that he got from his wife for Christmas. He said he had been hinting all year for the outfit to match

his Roaring Rhino shirt and wasn't going to miss his first opportunity to wear it. His wife had even given him a pair of black shorts for summer."

"He was wearing his reflective arm band on his left side as always and he had his headlamp on. However, the light was going dim. I suggested he pick up some batteries at the gas station up the road before we went out, but he said he would last the night and that he could buy a case of batteries at Costco for what they'd probably charge him at a gas station."

"After stretching for fifteen or twenty minutes, I took off to catch up with Rico. I was thinking to myself that since this was a special night, when I caught up with him, I'd just jog in with him; but I never saw him. I thought maybe he might have taken a short cut back to the hotel even though that wasn't like him, but when I made it to the Puma, he still wasn't there. When he didn't show up for the shirting ceremony, I knew something was wrong. I went to Norman and told him I thought something might have happened to Rico. I also tried to call Rico's wife, Zanna, but the phone just rang. I left a message, and then went and sat with another running buddy, Duane Stocklund. Duane bought me a root beer and started telling me about an upcoming Polar Bear Triathlon in Heart of the Mountains, Idaho, on New Year's Day. Boy, triathletes may be crazy, but a polar bear triathlon...that's insane! Especially this year, with all the cold weather we've been having."

### **Norman Sampson**

Norman Sampson is the leader of the Roaring Rhinos, aka, The Great Ceros. As leader, he sets the weekly routes, makes and enforces the rules, maintains the team website, organizes group parties, and does all the other matters that no one else is willing to do. He is universally loved and adored by the rhinos, especially the female rhinos who see him as the epitome of masculinity. Of course, he is, by far, the fastest runner in the group. During the day, he is the head engineer on the Someplace Light Rail Project which someday hopes to connect Someplace with the nearby university and, perhaps, even Heart of the Mountains, Idaho.

#### **Norman Sampson states:**

"You know what a group of rhinos is called? A crash. Isn't that sick. I never thought anything about it until Rico's death. Then for some reason, I just remembered that fact from my high school biology class. I can't seem to get his death off my mind. We've never even had a bad accident in the ten years I've been running this club and now we have a death. I really feel bad for his wife, Zanna. She didn't even get the calls."

"Our runs start at 6:00 PM. I usually make a few announcements, tell the group the run that we're doing that night, and then lead the runners out on the route. After the run, we meet back at the Rouge Puma for some of the best root beer in town and then do the shirting ceremony before going home."

"On the night of the run, we left about 6:10 PM since I didn't have many announcements to make. I run about a five-minute mile. We ran the Julian Jaunt, a route that we named after a former member who moved to the coast. He was a croquet coach like Rico and Kosta. He got a better gig over on the coast so he moved over there several years ago. Anyway, the Julian Jaunt is almost exactly four miles; it's one of our longer runs, so I would have been back to the hotel



right about 6:30 PM. Most of the club members started getting back five to ten minutes later with the snails like Rico coming in around seven o'clock, I guess."

"We started the shirting ceremony at 7:30. I know because I looked at my watch. I always want to make sure the stragglers have had time to make it back before we start the official festivities. I remember being surprised when Kosta was called up because I thought he'd have Rico present him with his shirt, but instead he had Lori Stephenson do the honors. Lori's been a member of the group for years and often helps with the presentations so it was not out of the ordinary for her to present Kosta with his shirt; it is just that I assumed Rico would want to have the honors. Rico was always a pretty gregarious guy; any opportunity to get in front of a crowd, and he'd be all over it."

"Kosta came to me about 8:30 PM and said that Rico had never shown up. He also said that he had tried to call Rico's wife, Zanna, to no avail."

"I was kind of ticked at Kosta for not mentioning something earlier. It had been really dark and quite icy when we went out that night. By 8:30, it was starting to snow, it was pitch black outside, and cold enough to freeze the ... well, you know."

I asked one of our fastest runners, Dan Rixon, if he would go out with me and "sweep" the course and see if we could find Rico."

"We started off just jogging the course backwards, but the snow kept getting worse. Dan offered to run back to the hotel and see if he could borrow a couple flashlights. It took him about a quarter of an hour to get back. He had two of those high-powered Mag flashlights that cops use. We then walked the entire course backward, but found no sign of Rico at all."

"By the time we got back to the hotel, the snow was coming down so hard and fast that we couldn't even see our own tracks from when we had started out less than an hour before."

"I called Zanna again, but there was still no answer, so I left a message to call me and then I called 9-11. I never did hear from Zanna until the next day. Apparently, she had shut off her phone to watch a movie."

"I heard Rico was wearing that fifty-run shirt of his. I sent out an email just this week in which I warned the members to dress for the weather. A cotton shirt is not dressing for the weather. Heck, when Rixon and I got back to the hotel, the reader board read minus 3 degrees and who knows what the wind chill was that night. Don't get me wrong, I liked Rico a lot and I hope they nail the guy that did this... but man Seppala could be stubborn. You just couldn't get him out of that shirt!"

### **Dan H. Rixon**

Dan H. Rixon is a 48-year-old former sugar beet farmer from Mud Lake, Washington. When the sugar beet farming went sour, he moved to Someplace and started working as a commodities broker. He has been a member of the Roaring Rhinos for about eight years. Next to the Great Ceros, himself, Dan is the fastest member of the team. Although the years have started to catch

up with him, he was a standout cross country runner in both high school and college and came close to qualifying for the Olympic marathon trials when he was in his early twenties.

**Dan Rixon states:**

“I didn’t know Seppala very well. He was one of the older members of the team. I thought he was a bit of a show off in that he always wanted to be the center of attention. He claims he was fast when he was young, but you’d never know it now. He was a big slow guy. When I say big, I mean rotund for a runner. He wasn’t obese by society’s standards, but he was heavy for a runner; what they call a Clydesdale runner. He was probably about 5’2 and a couple hundred pounds and boy, was he ever slow. If they gave awards for being ADL, he’d surely win; but at least he ran. That’s better than most people.”

“On the night of the accident, Norman asked me if I would help him “sweep” the course. To sweep a course, means to go out and make sure that nobody has been left behind. It’s something that is normally done at area fun runs, but we don’t usually need to sweep for stragglers after a Rhinos run. However, Norman said that Rico had never shown back up. So, of course, I went.”

“Both Norman and I had on our neon yellow 200 run shirts and headlamps. I suspected that Rico was wearing his dark black Fifty Consecutive Runs shirt since I don’t think I’ve ever seen him without it. I admire that he is, or I guess I should I say was, a big supporter of the club; but this time of year, it is stupid to wear dark clothing when you are running and even dumber to wear a cotton shirt if you sweat like Rico did. Man, I’ve never seen anyone who could sweat like that old fat guy!”

“Norman and I started out trying to jog the course backwards, but by the time we went out, it was not only dark, but snowing heavily. I went back and borrowed a couple big flashlights from the hotel. On the way back to Norman, I saw the hotel reader board. It was only eight degrees, and it seemed to be getting colder by the minute.”

We each took a flash light and spent about an hour on the course looking, but never found any sign of Rico. I think we got back to the hotel about 9:30 or so. Norman called 911. I waited until the police showed up and gave them my statement and then left for the night. I didn’t hear what happened to Rico until I read it in the weekend papers.”

## **Zanna Seppala**

Zanna Seppala is the wife of the victim, Rico Seppala. Zanna and Rico have been married for ten years. They have no children of their own, but Zanna has two grown sons from a prior marriage. At 62, Zanna is three years younger than Rico, but she refuses to run with him. She feels that at their age, they should be snuggling together not running like kids.

Zanna claims she shut off her phone so she could watch a movie in peace and quiet. She fell asleep and didn’t awake until the police arrived at her door about midnight.

**Zanna Seppala states:**

“When I checked my phone, I had two messages to call Norman, two messages to call Kosta, and a frightening message from Rico.”

“Rico’s call came in at 7:47 PM. We never left each other messages. If he called, I just returned his call. He knew I wouldn’t listen to his actual messages since all he’d ever say is that it was him and to call him when I got a chance.”

“Since the police were looking for evidence of where he might be, I let them listen to the messages. Rico’s message was awful. I heard him try to say my name a couple of times and then there was just silence until the message went dead. I never heard from him again. The officer asked if he could take my phone and I gave it to him. Apparently, the police used my phone to find Rico, but he was already dead when they found him.”

### **Carl Davidson**

Carl Davidson is the Northwest Regional Manager of Horizon Cellular Services, a national cell phone company with its Northwest Regional Office in Someplace, Washington.

#### **Mr. Davidson states:**

“I was contacted at approximately a quarter after one in the morning by Officer Andy “Mac” Lanes of the Someplace Police Department. Officer Lanes had been given my name and home phone number by the on duty monitor at the regional office. Officer Lanes requested my help in tracking down a missing person by use of our cell phone technology.”

“I rode with Officer Lanes back to my office. Through company alarm records, I can verify that I arrived at the office at 1:53 AM on the morning of December 27, 2021.”

“Horizon Cellular, like most cellular companies, maintains detailed Cell Dated Records or CDR. By consulting the CDR for the evening of the 26<sup>th</sup>, I was able to ascertain that Mr. Seppala’s call had been made from Sector Y in the Northwest Quadrant. As luck would have it, we maintain a cellular tower one block West of the intersection of Division and North River Drive. Based on the strength of the signal, I told the officer that I thought the call had probably been made within a six-block radius of that particular tower.”

### **Officer Andy “Mac” Lanes**

Officer Andy “Mac” Lanes is a fifteen-year veteran of the Someplace Police Department.

#### **Officer Lanes states:**

“At 9:47 PM, I was advised by radio to respond to a 911 call made by a Norman Sampson at the Rouge Puma Hotel. I arrived at the hotel at 9:59 PM and made contact with Mr. Sampson at 10:07 PM. Sampson advised that he had attempted to contact the wife of the alleged missing person to no avail and that he and a Mr. Dan H. Rixon had gone back over the course of the race they had run that night, but found no trace of Seppala. I took statements from Sampson, Rixon, and a friend of the missing man, Kosta Leon. I departed the scene at 11:37 PM. At that time, I advised radio that I was en route to the home of Mr. Seppala.”

The roads were extremely slick. The evening was dark and foggy. I was travelling at about 15 to 20 miles an hour, which was appropriate and safe for conditions.

“I arrived at the Seppala home at 11:56 PM. I knocked at the door twice. The door was opened by Mrs. Zanna Seppala, who claimed to have no idea what was going on. Mrs. Seppala claims to have been sleeping on the couch and did not know her husband was missing. She was noticeably upset by the news as would be appropriate under the circumstances. While in my presence, Mrs. Seppala turned her cell phone on and allowed me to listen to her messages.”

“I retrieved one message from her husband, but it was barely discernible with only the wife’s name stated twice and then silence until the phone message clicked off. I received permission to take the phone with me. I departed the Seppala home at 12:32 AM.”

“I advised radio that I was going to the offices of Horizon Cellular (the Seppala’s cell phone server). I arrived at the office of Horizon Cellular at 12:59 AM. I was met by a Ms. Molly Hussers, the evening monitor at Horizon. Ms Hussers advised me to contact the regional manager, Mr. Carl Davidson. Ms. Hussers gave me his address and phoned Mr. Davidson to advise that I was on my way.”

“I arrived at the Davidson residence at 1:15 AM, advised Mr. Davidson of my purposes, and escorted him to his office wherein he checked his corporate CDR records relative to the Seppala’s cell phone history. Mr. Davidson informed me that Rico Seppala’s call had probably been made within a six-block radius of a Horizon Cellular tower located one block West of the intersection of Division and North River Drive. From my prior interviews, I knew that the Rhino’s run had gone through this area.”

“At 2:05 AM, I radioed for a K-9 unit to meet me at the Horizon Cellular Tower. I advised that I would stop by the Seppala home to obtain some item of clothing for the dog to use to get a scent. I called Mrs. Seppala and requested she have an article of Mr. Seppala’s clothing available for me to pick up en route to the tower. I arrived back at the Seppala home at 2:30 AM, obtained a coat which had belonged to Mr. Seppala and arrived at the Horizon Cellular Tower for Sector Y Northwest Quadrant at 2:49 AM where I was met by K-9 officer, Darren Droskney.”

“The dog immediately obtained Seppala’s scent from the coat and we started searching the area. Within about twenty minutes, the dog began barking and pulling. We followed the dog and found the body of Ricco Seppala burrowed in the snow under a fir tree approximately nine hundred- and fifty-yards Northeast of the intersection of North River Drive and Washington. Seppala was completely naked. I checked his pulse; he was deceased.”

“At 3:27 AM, I radioed that we had located Seppala’s body and that he was deceased. I was advised to secure the crime scene and await the forensics unit. Captain JJ Cobbler of the Someplace Police Crime Scene Investigation unit (SPD CSI) arrived at 4:10 AM and took control of the scene. I radioed my departure at 4:29 AM.”

### **Officer Darren Droskney**

Officer Darren Droskney has been employed as a K-9 officer with the Someplace Police Department for five years.

### **Officer Droskney states:**

“I was radioed at 2:11 AM with instructions to meet Officer Andy “Mac” Lanes at the Horizon Cellular Tower for Sector Y Northwest Quadrant, one block West of the intersection of Division and North River Drive. I arrived at the designated location at 2:30 AM and waited for Officer Lanes who arrived at 2:49 AM. My dog, Max, was given a coat with which to obtain a scent. Max located the victim under a fir tree approximately nine hundred- and fifty-yards Northeast of the intersection of North River Drive and Washington. The decedent, who was identified as Rico Seppala, was found completely naked in a fetal position burrowed into a snow bank underneath a fir tree. Officer Lanes checked the victim’s pulse and confirmed he was dead. Lanes radioed in the findings at 3:27 AM. I stayed at the scene until relieved at 4:20 AM.”

### **Captain JJ Wassa Cobbler**

Captain JJ Cobbler is a twenty-year veteran of the Someplace Police Department. After serving seven years in accident reconstruction, she obtained special training in Crime Scene Investigation from the National Institute of Justice. She has worked for thirteen years in the Someplace Police Department’s crime scene investigation unit and has supervised the SPD CSI Department for the last three years.

#### **Captain Cobbler states:**

“I arrived at the scene of an apparent homicide at 4:10 AM on the morning of December 27, 2021. I found the decedent, who was identified as Rico Seppala, in a fetal position burrowed into a snow bank underneath a fir tree approximately nine hundred- and fifty-yards Northeast of the intersection of North River Drive and Washington, in the City of Someplace, Washington.”

The road conditions were horrible. Even in my police cruiser, which has excellent snow and ice traction tires, I couldn’t get my speed up over about 15 miles an hour, so it took me longer to arrive at the scene than it would have normally taken me to drive that distance.

The road was covered in ice, so I could not possibly get any skid marks or other evidence as to the speed of the vehicle that hit the victim.

“The victim was wearing no clothing. However, I located a dark black pair of long-legged wicking fabric running pants, a dark black cotton fabric long sleeved T-shirt with a grey outline of a rhinoceros on the front of the shirt, a pair of wicking fabric underwear, athletic socks, black runners’ gloves, a black wool stocking cap and a runner’s head lamp. The items were scattered about within twenty to thirty yards of the body. All of the items were frozen due to the temperature. However, from the particularly stiff and wrinkled nature of the T-shirt, it appeared as if it had been soaked wet and then frozen. Examination of the head lamp revealed that the lamp worked, but the batteries in the lamp were dead. Subsequent laboratory examination of the T-shirt revealed that it had been soaked with men’s sweat and that the sweat drenched shirt had frozen. Due to the shape in which the shirt was found, the shirt must have frozen at some time after it had been removed from the body. DNA testing established that the victim’s own sweat had soaked the shirt.”

“Upon examination of the body, I located bruising on the right shoulder and right hip as well as abrasions to the right frontal side of the scalp with dried black blood around the abrasions. Examination of the clothing revealed a tear in the right shoulder of the athletic shirt and a tear in the right hip region of the running pants. Both tears corresponded to the bodily injuries. Green

paint chips of a type of paint used on automobiles was located around the tear in the right shoulder of the T-shirt.”

“Subsequent examination of the defendant’s 1996 Civic revealed matching green paint with flecks of deteriorating green paint along the bumper. Three black threads were located on the underside of the bumper. Microscopic examination of the threads established they were of the same material and color as the shirt the victim was wearing. We attempted, but were unable to obtain, useable DNA from the threads.”

“I checked with Honda business records and confirmed that, assuming no intervening paint jobs, all green Civics produced in 1996 would have had matching paint. The vehicle in question had original paint, and, as stated, the paint along the car’s bumper was peeling.”

“Despite the fact that other 1996 green Honda Civics were produced by the company, when I consider the age of the vehicle in question, along with the finding of peeling paint on the car’s bumper and the discovery of the three black cotton fibers under the bumper, it is my professional opinion that the 1996 Honda Civic registered to the defendant, which I examined, is undoubtedly the vehicle that collided with the victim.”

“Considering the extent of bruising, I would estimate that the victim suffered a low speed glancing blow. The location of the injuries is consistent with the victim having slipped in front of the oncoming vehicle such that he was in an all fours position.”

“The victim most likely wandered off from the site of the initial injury to the point under the fir tree where he died.”

### **Dr. Mickey S. Ranger**

Dr. Mickey S. Ranger is a board-certified pathologist with three years of specific training in forensic pathology. He has been employed by the Someplace Coroner’s Office for seven years.

#### **Dr. Ranger states:**

“On December 29, 2021, I performed an autopsy of the victim, Rico Seppala.”

“I was presented with a slightly obese middle to later middle-aged Hispanic male. Weight 178 pounds. Height 5’2.”

“Examination of the outside of the body, revealed bruising on the right shoulder and right hip as well as abrasions to the right frontal side of the scalp with dried black blood around the abrasions. Internal Examination revealed internal abdominal bleeding. Location of the injuries to the scalp are consistent with the victim having suffered a mild intracranial injury. In such an injury, the patient may have remained conscious or may have lost consciousness for a few seconds or minutes. The victim would most likely have experienced some of the following symptoms prior to death: headache, vomiting, nausea, lack of motor coordination, dizziness, difficulty balancing, lightheadedness, blurred vision or tired eyes, fatigue and/or lethargy.”

“Examination of the decedent’s heart, blood viscosity, brain, vascular permeability, cryofibrinogen levels and signs of hyperglycaemia reveal that Mr. Seppala died of hyperthermia. Time of death is estimated at approximately 8:27 PM on the evening of September 26<sup>th</sup>.”

“In layman’s terms, Mr. Seppala suffered a mild traumatic brain injury which would have left him feeling hazy. He most likely stumbled around and then sat down. As the temperature dropped throughout the evening, he would have begun to experience symptoms of hypothermia. That is, he froze to death. The fact that he was found naked is consistent with death by hypothermia. In twenty to fifty percent of hypothermia deaths evidence of paradoxical undressing is found. Such actions have been attributed to the disorientation and confusion which is associated with moderate to severe hypothermia. The victim begins discarding his or her clothing, which, in turn, increases the rate of heat loss. In the final stages, the victim will experience terminal burrowing, or what’s known as the “hide-and-die syndrome.” In an attempt at survival, the victim will enter small enclosed spaces. Of course, in so doing, the victim hides him or herself from those who may be searching for him or her.”

### **Brady Thaw**

Brady Thaw is a seventeen-year-old senior at Closeby High School in Someplace, Washington.

#### **Brady Thaw states:**

“On the evening of December 26<sup>th</sup>, I was a passenger in the front seat of Mario Johannes’ green 1996 Honda Civic. Mario and I have been friends since grade school. We had just come from a Christmas party that had been thrown by some mutual friends. Mario’s car is ancient, but it belonged to his grandparents and they never drove it, so it was actually in good mechanical shape despite the peeling paint from always having been left out in the weather.

I was supposed to be the dedicated driver, but I couldn’t get the keys from Mario. However, I didn’t fight too hard because he seemed okay to drive. He said he’d only had a couple of beers at the party, and that he had eaten since his last drink. I saw him sharing a joint with some of his other friends. I don’t do drugs or alcohol, so I am always the designated driver. Anyway, like I said, he seemed okay; however, after we had been driving for a while, he started acting stupid. He would speed up fast, hit the brakes and slide to a stop on the ice or spin “brodies.” That’s where you hit the brakes and try to slide/spin in a circle.”

“It was early evening; probably about 6:30 or so. We were going West on North River Drive, past the John Clark Memorial Justice Building. We were coming up fast on a stoplight. The road was extremely icy; it was dark and foggy. We were doing about thirty or forty miles an hour. The light turned yellow, and as he’d been doing all night, Mario, slammed on the brakes and started sliding on the ice. I saw something black dart out in front of us. Whatever it was, it was crossing North by the crosswalks. I don’t know if it was in the crosswalks or not. I yelled, ‘Watch the dog man!’ Mario swerved and I’m pretty sure he clipped it. I told him to stop. I said I think we hit a large dog, man.”

Mario, just took off. He said, “Dude, I’ve been smoking weed. I ain’t stopping for some dog.” “I said, “Bro... that’s probably some kid’s lab. I had a lab when I was a kid. We should try to help it.”

“I kept telling him to go back. I wanted to make sure the dog was okay. I really thought it was a dog, but then when I read about the accident involving that jogger, I knew I had to call the cops. I’m just sick to think we hit a person.”

### **Karla Smotherly**

Karla Smotherly is the former girlfriend of the defendant, Mario Johannes. Alaina and Mario had been going together all through high school. She was with Mario and Brady at the party for about three hours. She left the party crying just before Brady and Mario left.

#### **Karla Smotherly states:**

“Mario and I have been going together for three and a half years. Something weird is going on with Mario because he just up and dumped me at the party. I left the party crying. I wasn’t crying because of Mario. I’d have dumped him even if he hadn’t dumped me. I just couldn’t stand all of the “drama” that was going on at the party. It seems that being a senior means everything has to change. Besides, getting rid of that jerk was the best thing that ever happened to me. The very next day, I got asked out by a hot guy who just moved here from Elsewhere, Washington; Ben Kisabey! Ben is twice the guy Mario is!”

“I heard about the accident. Mario definitely should have let Brady drive. Mario was completely “baked.” That’s one reason we were fighting. I hate it when he drinks, but I really hate it when he smokes dope. He thinks that because Washington State has legal marijuana, he can smoke all he wants to without any fear of consequences, despite being underage. I saw him smoking two or three different times during the evening.”

“Mario’s good at looking like he’s holding it together when he’s high, but he’s not. You can’t fool me. I’ve known him a long time and the guy was stoned. In fact, if he hadn’t been stoned, we’d still be going out.”

### **Dr. Colton Palmer**

Dr. Colton Palmer is an expert witness in forensic evidence retained by the defense. Dr. Palmer holds a Ph.D. in forensic science from Someplace University. He worked for three years in the Heart of the Mountains Sherriff’s Office. Palmer left the sheriff’s office in 2004 to start his own consulting firm. He states that although he enjoyed the work, there was little room for advancement and the pay was poor. As a sheriff’s deputy, he earned \$50,000 a year plus government benefits. He now earns in excess of \$250,000 a year as a private consultant. Dr. Palmer has appeared as an expert witness in over thirty trials in the states of Washington, Idaho, Oregon, California, and Utah. Although most of his work is in criminal defense, he has worked for the prosecution in a few cases. He has also appeared as a plaintiff’s expert in several civil cases brought against police and sheriff’s departments throughout the United States.

#### **Mr. Colton Palmer states:**

“I have examined the physical evidence, as well as the reports and testimony provided by Captain JJ Cobbler and Dr. Mickey Ranger. I have talked at length with Brady Thaw. There is no reason to doubt Brady’s original thoughts. They most likely hit a dog.”

“I examined the bumper of Mario’s 1996 Honda Civic. I could not locate any evidence of fibers from the victim’s shirt. As far as the three fibers found by Ms. Cobbler, it is quite odd and somewhat suspicious that only three fibers were found and I was unable to discover any remnants whatsoever, nor could I find any evidence of the car having struck anything. A



glancing blow to a dog, such as Brady described, would not necessarily leave any hair, blood etc.”

“In essence, the only thing I could find to tie Mario’s car to the accident would be that the paint chips matched. But as Captain Cobbler herself stated, the green paint chips could have come from any green 1996 Honda Civic. The fact that the paint on Mario’s car bumper is peeling is simply a sign of age not of a crime.”

“We cannot be sure as to exactly when the victim suffered his head injury. It is pure speculation to assume that he his head injury came from being hit by a car. He could have simply fallen on the ice, sustained a head injury, and then wandered about.”

“It is my opinion, the victim is solely responsible for his own injuries. Not even considering the stupidity of running in dark clothing on a dark night without a working light, we must consider the evidence of the cotton shirt. The evidence is overwhelming that this man sweated profusely. He must have known that. His sweat, like any liquid, would have cooled his body. The literature is overwhelming that when the human body gets wet, the body’s core temperature drops. Considering the extent of his sweating, and the brutally cold temperatures on the evening in question, I must conclude that he brought about the hypothermia on his own. If anyone else is to share the blame, look to his wife. She actually turned off her phone while he was on a run on a dark cold night. Who does that? Had she simply answered her call, he might still be alive!”

## **Applicable Washington Law**

**NOTE:** You may use your own research into Washington law for this event. The following Washington statutes and criminal jury instructions are provided for your benefit. Depending on how you construct your case, the following laws may or may not apply to your case.

**Remember:** In building your case, you should consider the facts, the law, and the believability of the witnesses.

### **Statutes:**

#### **RCW 46.61.520 Vehicular homicide — Penalty.**

(1) When the death of any person ensues within three years as a proximate result of injury proximately caused by the driving of any vehicle by any person, the driver is guilty of vehicular homicide if the driver was operating a motor vehicle:

- (a) While under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502; or
- (b) In a reckless manner; or
- (c) With disregard for the safety of others.

#### **RCW 46.61.502 Driving under the influence.**

(1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

- (b) While the person is under the influence of or affected by intoxicating liquor or any drug; or
- (c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

**RCW 46.61.522 Vehicular assault — Penalty.**

- (1) A person is guilty of vehicular assault if he or she operates or drives any vehicle:
  - (a) In a reckless manner and causes substantial bodily harm to another; or
  - (b) While under the influence of intoxicating liquor or any drug, as defined by RC W 46.61.502, and causes substantial bodily harm to another; or
  - (c) With disregard for the safety of others and causes substantial bodily harm to another.

**RCW 46.61.245 Drivers to exercise care.**

- (1) Notwithstanding the foregoing provisions of this chapter every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway.

**RCW 46.61.445 Due care required.**

Compliance with speed requirements of this chapter under the circumstances hereinabove set forth shall not relieve the operator of any vehicle from the further exercise of due care and caution as further circumstances shall require.

**RCW 46.61.465 Exceeding speed limit evidence of reckless driving.**

The unlawful operation of a vehicle in excess of the maximum lawful speeds provided in this chapter at the point of operation and under the circumstances described shall be prima facie evidence of the operation of a motor vehicle in a reckless manner by the operator thereof.

**RCW 46.61.400 Basic rule and maximum limits.**

- (1) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.
- (2) Except when a special hazard exists that requires lower speed for compliance with subsection (1) of this section, the limits specified in this section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits.
  - (a) Twenty-five miles per hour on city and town streets;
  - (b) Fifty miles per hour on county roads;
  - (c) Sixty miles per hour on state highways.

The maximum speed limits set forth in this section may be altered as authorized in RCW 46.61.405, 46.61.410, and 46.61.415.

(3) The driver of every vehicle shall, consistent with the requirements of subsection (1) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

### **Washington Pattern Jury Instructions Criminal**

#### **WPIC 4.01 Burden of Proof—Presumption of Innocence—Reasonable Doubt**

The defendant has entered a plea of not guilty. That plea puts in issue every element of each crime charged. The State is the plaintiff and has the burden of proving each element of each crime beyond a reasonable doubt. The defendant has no burden of proving that a reasonable doubt exists.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless during your deliberations you find it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly, and carefully considering all of the evidence or lack of evidence. If, from such consideration, you have an abiding belief in the truth of the charge, you are satisfied beyond a reasonable doubt.

#### **WPIC 5.01 Direct and Circumstantial Evidence**

The evidence that has been presented to you may be either direct or circumstantial. The term “direct evidence” refers to evidence that is given by a witness who has directly perceived something at issue in this case. The term “circumstantial evidence” refers to evidence from which, based on your common sense and experience, you may reasonably infer something that is at issue in this case.

The law does not distinguish between direct and circumstantial evidence in terms of their weight or value in finding the facts in this case. One is not necessarily more or less valuable than the other.

#### **WPIC 90.01 Vehicular Homicide—Definition**

A person commits the crime of vehicular homicide when he or she drives or operates a motor vehicle while under the influence of intoxicating liquor or any drug or in a reckless manner or with disregard for the safety of others and thereby proximately causes the death of any.

#### **WPIC 90.07 Vehicular Homicide and Assault—Proximate Cause—Definition**

To constitute vehicular homicide or assault there must be a causal connection between the death of a human being or substantial bodily harm to a person and the driving of a defendant so that the act done or omitted was a proximate cause of the resulting death or substantial bodily harm.

The term “proximate cause” means a cause which, in a direct sequence, unbroken by any new independent cause, produces the death or substantial bodily harm, and without which the death or substantial bodily harm would not have happened.

There may be more than one proximate cause of a death or substantial bodily harm.

**WPIC 91.01 Vehicular Assault—Definition**

A person commits the crime of vehicular assault when he or she operates or drives any vehicle in a reckless manner or while under the influence of intoxicating liquor or any drug or with disregard for the safety of others, and proximately causes substantial bodily