

Empire City Invitational Rulebook 2011 Edition

Based on the American Mock Trial Association's (AMTA) Rulebook

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Chapter 1: The Philosophy of Empire Mock Trial

All participants should strive to emulate the finest practitioners in the legal profession. Professional, ethical and collegial behavior is expected at all times. Inappropriate behaviors include but are not limited to the following:

- disparaging comments based upon race, gender, national origin, sexual orientation, disability, age, class, religion or political beliefs
- failing to treat fellow participants with respect
- engaging in dishonesty in any matter related to Mock Trial
- violating the rules outlined in the Empire fact situation and rules, including all rules related to courtesy
- engaging in irresponsible behavior that puts oneself or others at risk, including being intoxicated at any time during the tournament
- illegal conduct of any sort during the tournament, including underage drinking, from the arrival at registration until departure from the site following the awards ceremony

Rule 1.1 Ideals of mock trial. The ideals of fair play, civility, and friendship shall guide the conduct of all participants throughout all mock trial activities including, but not limited to, tournament rounds, breaks between rounds, organizational meetings, and team practices.

Comment to rule 1.1. Teams, individual participants and coaches who disregard the rules of competition or who participate in or encourage others to participate in unprofessional conduct may be subject to sanctions including, but not limited to, point deductions, award forfeitures, and exclusion from further participation in the Empire City Invitational.

Student Participants

Rule 1.2 Integrity. Participants shall strive to exemplify the highest ideals of the legal profession, to maintain the highest standards of ethical conduct and to strive for competence and integrity.

Rule 1.3 Courtesy. Courtesy toward opposing team members, judges, tournament officials, coaches and one's own team members is expected of all participants.

Rule 1.4 Abiding by rules. Participants—whether attorneys, coaches, witnesses, or alternates—are expected to abide by the rules.

Rule 1.5 Demeaning, harassing, or embarrassing behavior. Participants shall eschew any behavior designed to demean, harass or embarrass any other participant or solely to garner notoriety or publicity for themselves or their school.

Rule 1.6 Damage to property. No participant shall intentionally take or cause damage to any of the facilities utilized during the Empire or to anything belonging to the members of any other participating team at the tournament. In the case of accidental damage or loss of any property, participants are required to report the event and circumstances immediately to appropriate officials.

Coaches

Rule 1.7 Requirement of an educator. Every team must have at least one officially designated educator or attorney coach. Notwithstanding the limit on officially designated Coaches, a team may use the coaching services of any number of educators, attorneys or others before, during or after tournament competitions except during a round.

Rule 1.8 Coaching goals. Coaches are reminded that the purpose of mock trial is to instill respect for the legal system and its ideals of justice, equality, and truth. Coaches are expected to promote and champion these ideals above winning.

Rule 1.9 Coaches' responsibility to EMTA objectives. Every coach has the responsibility to instill in every student by word and by example the highest ideals of the American legal system including fairness, professional integrity, and respect for judges, officials and other members of the mock trial community.

Chapter 2: General Tournament Rules

Awards

Rule 2.1 Team awards. Team Trophies for, at least, places 1-5 will be presented at the Empire.

Rule 2.2 Individual awards. A minimum of 10 individual attorney and witness awards shall be given at the Empire City Invitational. Additional awards shall be given to students tied for 10th place. Ideally, the number of individual trophies awarded should be limited to ten per category. If, however, ties create the need for additional individual awards, EMTA representatives will mail the awards at a later date.

Ballots

Rule 2.3 Official ballots. All ballots used at the Empire City Invitational will be those utilized at the collegiate level and created by the American Mock Trial Association (AMTA). Official AMTA ballots shall be used for all rounds including the final round at the Empire.

Rule 2.4 Ballot requirements. The Empire will use two-part, pressure-sensitive ballots for pages one through four, with a three-part page five. Each team will receive one copy of each page of the ballot, with the first copy of page five retained by EMTA representatives.

Bye-Buster Teams

Rule 2.5 Service on tournament bye teams. Everyone accompanying a team to a tournament, including alternate team members not competing in the immediate round, timekeepers and/or spectators, may be required to serve on a bye-buster team at the discretion of the tournament administrators. When practical, teams should not be allowed to provide members to a bye-buster team that is facing another team from the same institution. Should a school with alternates or coaches refuse to supply personnel for a bye-buster team upon the request of an EMTA representative, that program's teams may be disqualified and not given a placement at the tournament.

Comment to rule 2.5. A bye-buster team may be recognized for its final placement. However, it never receives a team award. Students volunteering to serve on a bye-buster team are eligible for individual awards based upon bye-buster team participation.

Captains' Meetings

Rule 2.6 Necessity of one captain. Each team must have a Captain. The Captain shall represent the team at Captains' Meetings.

Rule 2.7 Captains' Meetings required. Captains' Meetings shall be held at the Empire City Invitational.

Rule 2.8 Captains' Meeting start times. Captains' Meetings shall be scheduled to begin between 15-30 minutes before the start of all rounds at the Empire City Invitational.

Rule 2.9 Prompt arrival required. The Captain for each team shall arrive promptly for all scheduled meetings of team captains and perform all functions required by the tournament official presiding over the Captains' Meeting. Any team whose Captain does not appear on time for a scheduled Captains' Meeting may be sanctioned.

Rule 2.10 Required functions at the Captains' Meetings. Captains shall complete the following tasks at the Captains' Meetings.

(a) Witness selection. Witnesses shall be selected in the order dictated by the case materials. Each Captain shall inform the opponent's Captain of the gender of the witnesses who will be called.

(b) Demonstrative Aids. If a team has prepared a demonstrative aid for trial, it must be shown to the opponent's Captain. All demonstrative aids are subject to Rule 3.18.

(c) Ballot preparation. At the Captains' Meeting, the opposing Captains shall neatly complete the non-judges' portions of the sets of ballots required for the trial. The ballots to be completed will be those distributed to the Captains by tournament officials.

(d) Tournament announcements. It shall be the responsibility of the team Captain to report to all team members, coaches and observers any tournament announcements made at the Captains' Meetings.

Results

Rule 2.11 Distribution of ballots. Ballots shall not be distributed prior to the end of a tournament.

Rule 2.12 Review period. Results shall be distributed at the conclusion of a tournament, and teams shall have 30 minutes to submit claims of error—after that, results will be final. Because of the open tab room policy, team representatives must review results and report errors within 30 minutes of the end of a round or forfeit the right to make corrections.

EMTA representatives have the discretion to correct errors, including those in pairing, tabulation or recording provided that such errors can be corrected without undue tournament schedule disruption. Record errors shall be corrected if discovered within the 30-minute review period for each round. Pairing errors discovered within the 30-minute review period shall be corrected if such correction can be made without undue tournament schedule disruption. The EMTA representative(s) shall not correct any errors discovered after the expiration of the 30-minute review period unless pairings can be redone without undue tournament schedule disruption.

Rule 2.13 Tab summaries. EMTA representatives will produce a tabulation summary, which shall be distributed to participating teams and posted on the Empire website within seven days of the competition.

Scouting

Rule 2.14 Open and public trials. All trials shall be open and public. No one, whether family, friend, press, or opponent, shall ever be excluded from any proceeding except that the court may clear the court room during its deliberations at the end of a round. Witnesses shall not be sequestered except pursuant to the Midlands Rules of Evidence.

Time Limits

Rule 2.15 Time limits. Time limits for all trials in Midlands shall be strictly observed.

a) Time limits generally. Time limits for each side shall be as follows:

Opening statements - 5 minutes per side

Direct examinations of all three witnesses (combined) - 25 minutes per side

Cross-examination of all three witnesses (combined) - 25 minutes per side

Closing Arguments- 9 minutes per side

b) Plaintiff's/Prosecutor's rebuttal. The plaintiff's attorney in a civil case or prosecutor in a criminal case may reserve up to five minutes of closing time for rebuttal provided the attorney requests reservation of remaining time for rebuttal prior to commencing the closing argument proper.

c) Untimed activities. Time spent in arguing objections or comments of judges shall not be assessed against either side but shall be included in all calculations.

d) Expiration of Time. If a team runs out of time for direct examination before all of its witnesses are called to the stand, that attorney who was slated to direct that witness shall receive no points for the direct examination. The witness shall receive no points for direct examination. The opponent may choose to have the witness take the stand for cross examination. If the opponent chooses to exercise this option the witness will receive a cross examination score and the crossing attorney will also receive a score. No re-direct examination is allowed. If the crossing attorney declines to have the witness take the stand, the witness will not receive a cross examination score and the crossing attorney will receive no score.

Rule 2.16 All-Loss Rule. The All-Loss rule will be used at the Empire City Invitational.

a) All-Loss rule defined. The All-Loss Rule requires that trial rounds be completed within three hours of the official "start time," which is defined as the time the last judging panel arrives at its assigned room. To implement this rule a tournament official at each competition site shall take note of the start time. The tournament official shall immediately calculate the Warning time and the All-Loss time by adding 150 and 180 minutes respectively to the start time. The official

shall post the Warning and All-Loss times. It is the responsibility of the teams to ascertain the Warning and All-Loss times. Teams involved in a round that passes the All-Loss time shall each have one ballot subtracted from their final total. The actual record of each team (before the penalty is imposed) shall be used for the purposes of pairing and tiebreakers.

1. Round defined. A round begins when the judges enter the room and ends when the blue scoring sheets are submitted to a tournament official.

2. Warning and All-Loss times explained. The Warning time is the time all trials should be concluded. The All-Loss time is the time when the All-Loss penalty goes into effect. When the Warning time is reached, the two competing teams need to adjust their performance to assure that the trial is concluded and the ballots received before the All-Loss time is reached.

3. Request for intervention by the tournament officials. An EMTA representative or his/her designee may intervene to get a delayed trial back on schedule and may allow adjustment to the operation of this rule to prevent unfairness on those rare occasions where delay in a trial occurs without any contribution from team participants. A representative of either team must make a timely request to the EMTA representative who will observe the trial and determine whether the team requesting intervention is entitled to assistance or relief. Decisions of the EMTA representative are final.

Videotaping

Rule 2.17 Videotaping and Recording. Rounds may only be recorded if the following procedure is followed:

- a) The tournament director is notified of your intention at least one week prior to the round.
- b) The tournament director approves your request.
- c) You are a member of one of the two schools participating in the round.
- d) The educator or attorney coach of the school you are facing grants permission.

Comment to rule 2.17. Videotaping requests are typically denied because of strict courthouse rules.

Judging

Rule 2.18 Fairness and impartiality. Every mock trial judge shall strive to be absolutely fair and impartial in all evidentiary rulings, in scoring and in all other judging activities. In order to assure impartiality, team names shall not be used nor disclosed in any manner during a round. However, a judge or spectator, after submitting the scoring ballot, may inquire about the identity of the schools represented by the teams competing in any round.

Presiding Judges

Rule 2.19 Presiding Judge required. In each round, one and only one, judge shall act as Presiding Judge. If there are three judges, the Presiding Judge will not score the round. If there are fewer than three judges, the Presiding Judge will score as well as preside.

Rule 2.20 Role of the Presiding Judge. It is the role of the Presiding Judge to control all proceedings, to rule on objections and to carry out all other functions of a trial court judge for the mock trial over which he or she presides. The court should refrain from questioning witnesses or preempting the role of student attorneys.

Rule 2.21 Argument on objections. The court, at its discretion, may allow limited argument on objections and may question counsel concerning objections.

Rule 2.22 Ruling on objections. After receiving such argument on an objection as the court deems necessary, the judge should rule on objections without discussion or comment. However, in stating its ruling, the court may indicate the reason for the ruling.

Scoring Judges

Rule 2.23 Scoring Judges. There should be two Scoring Judges in each round. The role of the Scoring Judge is to evaluate the performance of the witnesses and attorneys in the round.

Rule 2.24 Ballots. In scoring the round, judges shall use the ballots provided by the Captains. Regulation EMTA ballots are impression ballots. Each page consists of a form in duplicate or triplicate. Judges should take care to write on one page at a time only, setting the other pages aside. Judges should press firmly on the top sheet. The white ballots are designed to be used by the judges to record comments and critique. The blue ballots are used to record numerical scores for each performance by a student attorney or witness.

Rule 2.25 Scoring shall be on performance not outcome. Scoring shall be based on the performance of the student witnesses and attorneys. Scores should not be based on the merits or outcome of the case as it would be judged in an actual trial.

Rule 2.26 Importance of comments. The comments of the judges are very important to the students who participate. Students are likely to take such comments to heart. Being mindful that the participants are undergraduate rather than law students and that mock trial is a law-related education function, judges should strive to educate and inform participants as well as to give them advice on improving their performances.

Rule 2.27 Scoring performance of the participants.

a) Scoring witnesses. The scores of students playing witness roles should be based on knowledge of the part, faithfulness to the part, believability of the character, ability to handle cross-examination, and credibility. Witnesses are limited to the information in their sworn affidavits and reasonable inferences. Egregious invention of facts by witnesses on direct and

redirect examination is prohibited. It is a decision of the Scoring Judge whether testimony offered by a witness is reasonable inference or outrageous invention. The Scoring Judge should deduct points from the score of a witness who engages in outrageous fact invention.

The following guidelines should be used in selecting the numerical score to be given for a student's performance as a witness:

Points
Description

10
Excellent
5
Average
1
Poor

b) Scoring student attorneys. In scoring student attorneys, judges may consider the student's mastery of trial techniques, understanding of the legal issues and the role of counsel, oratorical and advocacy skills, and demeanor. Judges should not consider whether the party being represented would prevail on the merits of the case. However, the judge may consider the effectiveness of the student attorney's representation for the party the student attorney represents, taking into consideration the restrictions on time and materials available to counsel that are inherent in mock trials.

c) Scoring guidelines. The following guidelines should be used in selecting the numerical score for a student's performance as an attorney:

Points
Description

10
Excellent
5
Average
1
Poor

Rule 2.28 Deductions from scores. At the discretion of the Scoring Judges, points maybe deducted for:

- a) Unreasonable invention of facts by a witness;
- b) Violation of rules;
- c) Any act that would constitute contempt of court or unprofessional conduct on the part of a

student attorney.

Rule 2.29 Complete blue ballots quickly. Judges should enter numerical scores on the blue ballot as the trial progresses. Completing the blue ballot immediately after the last final argument will greatly facilitate the operation of the tournament.

Rule 2.30 Ruling on the merits. After the Scoring Judges have completed their blue scoring sheets, the court may render a verdict on the merits. The judges need not agree. Each may offer an explanation of his or her decision. The decision on the merits of the case should not affect the outcome of a round or the tournament.

Rule 2.31 Comment and critique by the court. Judges' comments and critiques are important to student participants both to improve performance in subsequent rounds and to educate students. Judges are urged to share their insights and coaching tips in the following two ways:

a) Written comments. To offer critique or comment to an individual student, judges are encouraged to write down their ideas in the section of the ballot below the student's name. It is usually a good idea to write such comments as the trial progresses while they are fresh, but judges should feel free to add to their comments after the trial, too. Each team will get one copy of the ballot.

b) Oral critique. At the end of the trial after the blue scoring ballot has been completed and submitted to a tournament official, the judging panel may offer oral comment to the participants and answer questions. Students are generally eager to get the impressions of the judges who have watched their rounds. Each mock trial judge becomes a law-related educator for the participants he or she is judging. Positive observations, specific tips on improving performance in subsequent rounds and sharing insights and experiences are beneficial to the students. Time is important. Time is always a factor at mock trial events, so judges are urged to keep oral critiques short as well as positive in tone. Comments should never exceed ten minutes per judge.

Chapter 3: Rules for Trial

General Trial Procedures

Rule 3.1 Arrangement of the courtroom. When possible, counsel tables should be marked with placards indicating which team is plaintiff/prosecution and which team is defense. The table closest to the jury shall be given to the plaintiff/prosecution. Teams shall not move furniture where such rearrangement is prohibited.

Rule 3.2 Bench conferences and side-bars. Bench conferences and side-bars are not permitted. Judges should handle all matters that might be the subject of a side bar or bench conference in open court so that all participants may learn from the exchanges. The court may call a brief conference to clarify an objection or a rule. Counsel will remain at counsel table unless specifically instructed by the court to approach the bench.

Rule 3.3 Format of the trial. All trials in Midlands courts are to be treated as jury trials.

Rule 3.4 Presumptions.

a) Civil cases. In all civil cases the plaintiff shall have the burden of proof, which shall be by a preponderance of the evidence.

b) Criminal cases. In all criminal trials the prosecution shall have the burden of proof, which shall be beyond a reasonable doubt.

Rule 3.5 Pretrial Activities. Although not required, teams may introduce themselves during pretrial and offer documents into evidence, subject to the standard set forth by the MRE.

a) Pretrial defined. In this context, pretrial refers to the time in between a team entering the courtroom and the prosecution/plaintiff beginning opening statements.

Rule 3.6 Motions. No motions, except a motion to strike pursuant to Midlands Rule of Evidence 102, a motion to exclude witnesses pursuant to Midlands Rule of Evidence 615 and a motion to enter a witness as an expert in a particular field pursuant to Midlands Rules of Evidence 702 are permitted.

Rule 3.7 Voir Dire. Voir dire will be allowed and will count against the cross-examination time of the team employing it

a) Experts. When a party wishes to enter a witness as an expert, the opposing counsel may be permitted to conduct a voir dire, at the court's discretion. The scope of the examination is limited to challenging the competency of the expert. Inquiry as to the quality of the expert's work in the given case is not an appropriate subject for voir dire, and should be dealt with on cross-examination.

b) Exhibits. When a party seeks to admit an exhibit into evidence, the opposing counsel may ask to voir dire the witness on the basis of his/her personal knowledge of the document. The scope of the examination is limited to challenging the foundation of the document, strictly for purposes of determining its admissibility. Inquiry as to the substance of the document is not an appropriate subject for voir dire, and should be dealt with on cross-examination.

c) Remedy for Improper Voir Dire. If an attorney at any point violates provisions (a) or (b) of this rule, an improper voir dire objection may be raised.

Teams

Rule 3.7 Number of members on a team. A team shall consist of no less than six members and no more than twelve members.

Rule 3.8 Roles of members. Roles of members are to be decided by educator and/or attorney advisors prior to the Empire, however, subject to the following constraint: each student is limited to portraying *one* role on each side of the case. Any violation of this rule will result in a point violation. This rule may only be suspended for a bye-buster team.

Rule 3.9 Communication during a round. From the time a round begins until it ends, student participants may communicate only with other student participants, judges and tournament officials. For purposes of this rule, ‘student participant’ is defined as those students on the six to twelve person roster of the team involved in the round. If anyone else, including coaches and spectators, attempts to communicate with a student participant during a round, it is the duty of the student to terminate the communication. A round begins when the judges enter the room and ends when the blue scoring sheets are handed over to a tournament official.

Rule 3.10 Team identification. Participants shall identify themselves to the judges only by assigned team names. Clothing and other materials visible to the judges during a trial shall not identify any institution of higher education. After scoring sheets have been submitted to the tournament officials, both teams may identify their school affiliations to the judges.

Rule 3.11 Role of each attorney.

a) Examinations. Each attorney shall conduct *one* direct examination and *one* cross-examination per trial. An attorney that violates this rule will receive a zero on any subsequent examination(s).

b) Statements. An attorney may give either the opening statement or the closing argument but not both during any single trial. If an attorney gives both statements, they will receive a zero on closing argument.

c) Objections. Only the attorney handling the examination of a witness may interject an objection during the testimony offered by that witness, subject to the Midlands’ Rules of Evidence (i.e. only the attorney assigned to cross-examine a witness may raise an objection to that witness’ direct examination). Nothing in this rule prohibits an attorney from requesting

permission to consult with co-counsel.

Rule 3.12 Role of each witness. A student shall portray *one* witness role in a given trial. Each witness will be subject to one direct examination and one cross-examination.

Affidavits and Exhibits

Rule 3.13 Authenticity of documents. No witness may deny the authenticity of documents supplied by the Empire. Proper foundation must be laid, and to the extent that the authenticity standard promulgated by MRE 901 requires testimony sufficient to show that evidence is what it purports to be, such is still required. There are no restrictions as to how evidence is to be used in a trial beyond the requirement that participants acknowledge the legitimacy of the documents provided by Empire. Arguing for hyper-technical interpretations of the rules is to be avoided. Witness affidavits cannot reasonably identify documents in a degree of detail sufficient to prevent witnesses from denying central case components clearly within their knowledge bases. Manipulating this reality in an effort to argue that Empire-supplied documents are or are possibly not the real documents is being hyper-technical.

Rule 3.14 Marking of exhibits. Exhibits are not, and cannot be pre-marked. When used, exhibits should first be given to the judge to mark for identification purposes. After proper foundation is laid, an attorney may request an exhibit be moved into evidence. To expedite the process, teams may have exhibits marked during pre-trial.

Rule 3.15 Affidavits. All affidavits shall be treated as sworn to and signed by the witness. All affidavits are assumed to have been reviewed and updated by each witness immediately prior to trial. Each witness is assumed to have affirmed that no changes to the affidavit are necessary.

Rule 3.16 Updates. Teams must obtain all case materials and updates via the Empire web site.

Rule 3.17 Extrinsic Materials. Notwithstanding any explicit or implicit reference to the U.S. Constitution or any other federal, state or local law within the Midlands Rules, no statute, code, regulation, ordinance, rule, treaty, doctrine or opinion of any judicial, legislative or administrative authority may be invoked, asserted, cited, referenced, relied upon, or otherwise mentioned or observed in competition unless expressly included among the relevant legal authorities set forth in the case materials at use in that competition.

Rule 3.18 Demonstrative Aids. The use of demonstrative aids is permitted so long as such aids are not hazardous or potentially damaging to persons or property. Teams may create demonstrative aids; however, it must be shown to their opponent's Captain in Captains' Meeting, as outlined in Rule 2.10 (b). The contents of the demonstrative must be reasonably inferred from the affidavits and exhibits in the case materials. If a team believes an opposing team's demonstrative violates this rule, then the *only* remedy is to contact an EMTA representative *prior* to the start of trial. No action can be taken once a trial begins. Any ruling made by an EMTA representative is final. Once a trial begins, the demonstrative is subject to the MRE. If used, a demonstrative aid must be made available to the opposing attorneys for subsequent use during

examination of witnesses and closing argument. Any defacing of another team's demonstrative will result in a point deduction and potential disqualification from the round.

Attorneys

Rule 3.19 Manner of examination. Whenever possible counsel will stand when speaking to the court, opposing counsel, or a witness and shall maintain a respectful demeanor. Team members should address a jury if there is a jury present and address the bench if there is no jury. Unless directed otherwise by the court, counsel will ask permission to approach the court or a witness or to use an exhibit.

Note: Mock trials have elements that resemble both a jury trial and a bench trial. Students should adapt their presentations to the situation they confront in individual rounds

Rule 3.20 Objections. Objections to evidence are subject to the following limitations:

- a) When objections are permitted and prohibited. Objections are permitted during the examinations of witnesses but not during opening statements or closing arguments.
- b) Which objections are permitted and prohibited. The only objections that may be made are those that are consistent with the Midlands Rules of Evidence or which have been recognized by a Midlands appellate court in a published case provided with the case materials.
- c) Who may object. Only the attorney who conducts the direct or cross-examination of the witness may advance objections during the questioning or testimony of a witness.

3.21 Impeachment. Impeachments are permitted in the state of Midlands.

a) There are two different types of impeachments:

1. **Contradiction.** When a witness contradicts a fact contained in his/her affidavit, the attorney is permitted to illustrate the contradiction.
2. **Omission.** When a witness invents an *egregious* fact not contained in his/her affidavit, an attorney is allowed to show the omission.

Comment to Rule 3.21 (a)(2). An impeachment by omission is only effective if the omission is substantial in nature.

b) **Procedure.** Teams are not bound to, but are encouraged to use the following impeachment procedures:

1. Contradiction.

A: Bailey, you were kidnapped, weren't you?

W: No, I was not.

A: Is it your testimony that you were not kidnapped?

W: Yes.

A: Bailey, you made an affidavit before coming to court today, didn't you?

A: You knew you could have updated it at anytime before today's proceeding?

A: You knew you had to tell the truth when making this affidavit.

A: And you did tell the truth?

A: Isn't it true that in your affidavit, you stated that you were kidnapped?

W: I never said that.

A: Your Honor, at this time I would like to have Bailey Reynolds' affidavit marked as Defense Exhibit A for identification purposes. Permission to approach opposing counsel with Defense A [approach counsel]. Permission to approach the witness [approach witness]?

A: Bailey do you recognize this document?

A: Are all the pages there?

A: Is that your signature on the last page?

A: I want you to read page 2, line 31 silently to yourself, as I read it out loud to the Court. "The night I got kidnapped, Peyton came over around 6:00PM".

A: Did I read that correctly?

W: I must have forgot I wrote that.

A: Permission to approach and retrieve the document.

2. Omission.

A: Bailey, you don't know who kidnapped you, do you?

W: I never saw the person, but I heard Peyton Bralow say that she did it.

A: Is it your testimony that you heard Ms. Bralow admit to kidnapping you?

W: Yes.

A: Bailey, you recall making an affidavit?

A: You knew you could have updated it at anytime before today's proceeding?

A: You knew you had to be complete and thorough when making this document.

A: You had to include all relevant and pertinent information, right?

A: And that you had to be truthful, isn't that so?

A: Isn't it true that no where in your affidavit, did you state that you heard Ms. Bralow admit she kidnapped you?

W: I believe I wrote something like that in there.

A: Your Honor, at this time I would like to have Bailey Reynolds' affidavit marked as Defense Exhibit A for identification purposes. Permission to approach opposing counsel with Defense A [approach counsel]. Permission to approach the witness [approach witness]?

A: Bailey, do you recognize this document?

A: Are all the pages there?

A: Is that your signature on the last page?

A: I want you to show us where in that affidavit do you include that statement by Peyton Bralow.

W: I guess I forgot to put it in there.

A: Permission to approach and retrieve the document.

Witnesses

Rule 3.22 Learning and adhering to the role. Each student witness shall endeavor, to

the best of the student's ability, to learn and adhere to the role of that witness.

Rule 3.23 Invention of fact. In lieu of discovery, this rule shall govern the testimony of all witnesses:

(a) Content of direct and redirect examination testimony: During direct and redirect examination, a witness may testify only to facts that are either stated in or which could be reasonably inferred from the witness's affidavit. Such inferred testimony may fill in details of the witness's answer, provide background information or develop the character of a witness as long as it does not introduce substantive new facts.

(b) Content of cross and re-cross examination testimony: During cross and re-cross examination, a witness's answers to questions posed by the cross examiner must (1) be responsive to the question, and (2) not be contradictory to that witness's affidavit. An unlimited number of redirects and re-crosses are permitted subject only to a) time limits and b) the limitation that all crosses and redirects other than the first cross of each witness are limited to issues raised in the prior cross, redirect, or re-cross.

Comment to Rule 3.23 (b): Under cross examination and re-cross examination, witnesses may invent facts as long as they are responsive to the question asked and do not contradict their affidavits.

(c) Remedy for violation of Rule 3.23 (b): If the cross-examiner believes that the witness has exceeded the limitations of this rule, the only remedy available to him or her during the trial is to impeach the witness using the witness's affidavit or any other written statement of the witness. No other remedy for "invention of facts" is permitted under these rules.

Comment to Rule 3.23 (c) The cross-examiner is not permitted to make an objection to the judge on the basis of "invention of fact" or "unfair extrapolation," under any circumstance.

Rule 3.24 Use of notes during a round. A witness, other than one summoned for a by-buster team, may not use notes while giving testimony. However, the recollection of a witness may be refreshed, where appropriate, pursuant to MRE 612.

Rule 3.25 Characterizations. Witnesses may develop the persona of their character. Any dress, demeanor, and appearance alteration is permitted. Props are also allowed.

Rule 3.26 Non-testifying witnesses. No one may sit at the attorney table in the role of plaintiff or defendant unless that person is on the team's six to ten person roster.

Timekeepers

Rule 3.27 Necessity of a timekeeper. Each party is expected to supply a timekeeper for each trial. The timekeeper is an officer of the court while keeping time during a round. Although it is preferable for a team to supply a timekeeper other than those who are serving as witnesses or attorneys, a team does not violate this rule by using its witnesses, a spectator, or its coach as a

timekeeper.

Rule 3.28 Duties of timekeepers. Each timekeeper shall accurately monitor the time elapsed. The timekeeper may unobtrusively indicate to her/his team the amount of used or remaining time. The timekeeper shall announce aloud to the court when the time for any part of the trial has expired. Timekeepers for the opposing teams shall cooperate with and assist each other to insure accurate timekeeping and to eliminate any interruption of the trial due to errors in timekeeping.

Rule 3.29 Communication during a round. Timekeepers, if they are student members of a team, may communicate only with other student participants, judges, and tournament officials once a round begins. Other persons acting as timekeepers may not communicate with participating team members during a round, including breaks.