



California Mock Trial Program Judge/Attorney Handbook 2018 – 2019



Official Materials for the California Mock Trial Competition
A Program of Constitutional Rights Foundation

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San Diego county High School Mock Trial Committee
www.sdmocktrial.org**

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Introduction

Thank you for agreeing to serve as an attorney scorer or judge for the Constitutional Rights Foundation's California Mock Trial Competition. The program reaches over 8,000 students from around the state and involves thousands of members from the bench and bar. Locally, our competition will involve 28 schools and over 600 high school students. As a volunteer, you are an invaluable part of an extraordinary learning experience for San Diego County's young people.

Students have labored for months preparing this year's case and they value your comments and scoring of their presentations. Your role as a mock trial volunteer is critical to creating a positive learning experience, so it is crucial that your feedback be fair, helpful and positive. Your comments and accurate scoring of the trials you review are fundamental to making the mock trial an educational experience for all the students involved.

Instructions for Judges and Attorney Scorers

Judges, before the competition please review:

- ◆ Case materials (found in competition binder)
 - Judge/Attorney Handbook
 - Mock Trial Script
 - California Mock Trial Simplified Rules of Evidence

The role of the Judge is to preside over the trial and help students relax and enjoy this educational experience. **Judges do not score.** Judges render a verdict. The mock trial is a bench trial. As the Judge, you will make all decisions regarding the running of the trial, including ruling on the pretrial argument, ruling on objections (based on the Mock Trial Rules of Evidence, see page 23), ruling on competition violations and announcing a verdict at the end of the trial. Remember, the verdict is independent of which team may have "won/lost" based on performance.

Attorney Scorers, before the competition please review:

- Pages 2-4 and 10-23 of this handbook

The role of the attorney scorer is to numerically score the presentation based on the criteria in this handbook found on pages 19 -22. When filling out the score sheet, please make your decisions independently. There should be no conferring with other attorney scorers. Also, you will be asked to provide constructive comments to students at the conclusion of the trial after you have submitted your scoresheets to the judge.

Orientation: Orientation will take place 30 minutes prior to start of each round and will cover basic rules, last-minute instructions or changes, and trial assignments for both Judges and attorneys. Refreshments (light meal) will be provided.

Summary of Pretrial Motion Procedures

The Judge must ask questions of the pretrial attorneys during the arguments. As much as possible, please try to ask the same number of questions for each side. This will help the scoring attorneys to better evaluate the students. No objections are allowed during pretrial arguments. Points should be deducted for objections made during pretrial arguments.

1. The hearing is called to order.
2. The Judge asks the defense to summarize the arguments made in the motion. The defense has four minutes. The Judge may interrupt to ask clarifying questions.
3. The Judge asks the prosecution to summarize arguments made in its opposition motion. The prosecution has four minutes. The Judge may interrupt to ask clarifying questions
4. The Judge offers the defense two minutes of rebuttal time. The rebuttal time is used to counter the opponent's arguments. It is not to be used to raise new issues.
5. The Judge offers the prosecution two minutes of rebuttal time. The rebuttal time is used to counter the opponent's arguments. It is not to be used to raise new issues.
6. At the end of the oral arguments, before ruling, the Judge asks students if they would like 30 seconds to consult with teacher/attorney coaches regarding any trial irregularities. Only students are to address the court – No Adults.
7. The Judge will rule on the motion and begin trial.

Summary of Trial Procedures

1. Attorneys present physical evidence for inspection.
2. Judge states charges against defendant.
3. Prosecution delivers its opening statement. No questioning during opening statements.
4. Defense may choose to deliver its opening statement at this point or may wait to open after the prosecution has completed its case in chief.
5. Prosecution calls its witnesses and conducts direct examination.
6. After each prosecution witness is called to the stand and has been examined by the prosecution, the defense cross-examines the witness.
7. After each cross-examination, prosecution may conduct re-direct examination of its own witnesses if necessary.
8. After prosecution presents all its witnesses, defense delivers its opening statement (if it did not do so earlier).
9. Defense calls its witnesses and conducts direct examination.
10. After each defense witness is called to the stand and has been examined by the defense, the prosecution cross-examines the witness.
11. After each cross-examination, defense may conduct re-direct examination of its own witnesses if necessary.
12. Prosecution gives its closing argument, then defense presents its closing arguments. No questioning during closing arguments.

13. Prosecution and defense present rebuttal arguments.
14. At the end of the trial before ruling, the judge asks students if they would like 30 seconds to consult with their teacher/attorney coaches regarding any trial irregularities. Only students are to address the court – No Adults.
15. Judge deliberates, announces verdict in court.
16. No scores, winners or tiebreaker information will be announced at this time.
17. Judge completes the purple tiebreaker form (tiebreaker form is not the verdict, but rather an indication of which team performed better overall), reviews score sheets to insure all categories have been completed and places the score sheets, award nomination forms, tiebreaker form and timesheet in the envelope provided and gives it to the courtroom monitor.
18. Judge conducts a short debrief of the trial with the attorney scorers (not to exceed 10 minutes).

General Tips for Judges & Attorney Scorers

Do's:

- Do** be fair.
- Do** try to help the students relax. Remember this is supposed to be a positive experience for them! Note that some teams are highly competitive so know they take this very seriously.
- Do** offer a few words of encouragement or insight into the trial process before the trial begins. This will help put the students at ease, and by emphasizing the educational, rather than the competitive aspects of the mock trial, you will help to bring the experience into proper perspective.
- Do** give constructive feedback at the conclusion of the trial.

Don'ts:

- Do not** lecture the students.
- Do not** ask students to comment on cases, trial procedures or information not included in the case materials.
- Do not** give purely negative comments.
- Do not** announce a "winner," but do announce a verdict.

Please Keep in Mind....

- ♦ Mock trial students take their work and efforts very seriously. Judges and Attorney Scorers should be equally as serious about their roles and responsibilities. You are in a position of great influence with respect to the students' evaluation of their work and themselves.
- ♦ Your comments are very important to the students who participate, so please be constructive. Students are likely to take such comments to heart. Being mindful that the participants are high school students not college or law students, and that mock trial is a law-related education function, Judges and Attorney Scorers should strive to educate and inform participants as well as to give them advice on improving their performances.

Mock Trial Script

Introductory Script

This script incorporates some of the unique instructions of the mock trial competition. Feel free to use all or portions of this script during the trial.

1) **Opening Remarks (following the bailiff calling the court to order).**

[A few words of welcome or insight into the trial process may help put the students at ease.]

2) **Introduction**

- ♦ "To help myself and the attorney scorers, will the Prosecution team state your name and role? Defense team, state our name and role."

3) **Instructions**

- ♦ "You must complete your presentations within the specified time limits. The clerk will signal you as your time for each section of the presentation begins to run out. When your total time for each section runs out, you will be stopped, even if you have not finished. Attorneys must call all four witnesses."
- ♦ "This is a bench trial. At the end of the trial I will render a verdict of guilty or not guilty in relation to the charge brought. The teams will be scored based on the quality of their presentation, independent of my verdict."
- ♦ "Barring unforeseen circumstances, no recesses will be called. If for any reason a recess is necessary, team members should remain in their appropriate places and should have no contact with spectators or coaches."
- ♦ "Remember that objections are limited to the California Mock Trial Simplified Rules of Evidence located in the case materials."
- ♦ "If there are no questions, the pretrial arguments will begin."

[The time will be stopped when:

- *Witnesses are called to the stand*
- *Attorneys make objections*
- *Judge questions attorneys and witnesses*
- *Judge offer their observations]*

[The time will not be stopped if witnesses are asked to approach the diagram or for other physical demonstrations. Time will not be rounded off.]

Pretrial Motion Script

(12 minutes total)

- ♦ "Both sides have four minutes to present their arguments. Defense will begin. I will interrupt to ask clarifying questions. Time spent answering my questions is not included in the four-minute time limit."
- ♦ "At the conclusion of your arguments, each side will be offered two minutes of rebuttal time. Please remember that the rebuttal time is to be used to counter your opponent's arguments. It cannot be used to raise new issues."
- ♦ "Is counsel for the defense ready to begin? Please summarize your arguments."
- ♦ "Is counsel for the prosecution ready to begin? Please summarize your arguments."
- ♦ "Does the defense have a rebuttal?"
- ♦ "Does the prosecution have a rebuttal?"

30 Second Rule

- ♦ "Before I rule on the motion students may confer with their attorney coach/teacher sponsor regarding any trial irregularities. Please do so now."
- ♦ "Would the prosecution team like to note any trial irregularities?"
- ♦ "Would the defense team like to note any trial irregularities?"
- ♦ Rule on motion and begin trial.

[If the presider rules in favor of the defense, the criminal threat charge will be dismissed. However, the comment may still be used as evidence relating to the Count 1 – False Report of an Emergency, subject to relevance and other evidentiary objections]

Trial Script

(68 minutes total)

Evidence

- ♦ "Prosecution do you have any physical evidence you would like to present for inspection?"

- ♦ 'Defense, do you have any physical evidence you would like to present for inspection?"

Charge

"The people of the state of California are charging the defendant, Reagan Klein with:

Count One

The defendant is charged with reporting a false emergency, which occurs when any person knows that the report is false and knows or should know that the response to the report is likely to cause death or great bodily injury, and great bodily injury or death is sustained by any person as a result of the false report.

Count Two

The defendant is charged with a criminal threat, which occurs when any person willfully threatens to commit a crime which will result in death or great bodily injury to another person.

Opening Statements (9 minutes total)

- ♦ "Prosecution are you ready to present your opening statement?"
- ♦ "Defense are you ready to present your opening statement?"
[At the conclusion of the prosecution's opening statement, defense may present their opening statement or wait until the prosecution has completed their case.]

Prosecution Case (24 minutes total for prosecution and defense)

- ♦ "Prosecution you may call your first witness."
- ♦ "Prosecution you may conduct your direct examination"
- ♦ "Defense cross-examination?"
- ♦ "Prosecution, would you like to redirect?"
[There is no re-cross-examination]

- ♦ "Prosecution please call your next witness."
- ♦ "Prosecution you may conduct your direct examination"
- ♦ "Defense cross-examination?"
- ♦ "Prosecution would you like to redirect?"
[There is no re-cross-examination]

- ♦ "Prosecution please call your next witness."
- ♦ "Prosecution you may conduct your direct examination"
- ♦ "Defense cross-examination?"

- ♦ "Prosecution would you like to redirect?"
[There is no re-cross-examination]
- ♦ "Prosecution please call your next witness."
- ♦ "Prosecution you may conduct your direct examination"
- ♦ "Defense cross-examination?"
- ♦ "Prosecution would you like to redirect?"
[There is no re-cross-examination]

Defense Case

- ♦ "Is the defense ready to proceed?"
[Begin with opening statement or call first witness].
- ♦ "Defense you may call your first witness."
- ♦ "Defense you may conduct your direct examination"
- ♦ "Prosecution cross-examination?"
- ♦ "Defense, would you like to redirect?"
[There is no re-cross-examination]
- ♦ "Defense you may call your next witness."
- ♦ "Defense you may conduct your direct examination"
- ♦ "Prosecution cross-examination?"
- ♦ "Defense, would you like to redirect?"
[There is no re-cross-examination]
- ♦ "Defense you may call your next witness."
- ♦ "Defense you may conduct your direct examination"
- ♦ "Prosecution cross-examination?"
- ♦ "Defense, would you like to redirect?"
[There is no re-cross-examination]
- ♦ "Defense you may call your next witness."
- ♦ "Defense you may conduct your direct examination"
- ♦ "Prosecution cross-examination?"
- ♦ "Defense, would you like to redirect?"
[There is no re-cross-examination]

Closing Arguments – (9 minutes total)

[When the defense team completes their case, begin closing arguments].

- ♦ "Prosecution would you like to give your closing argument?"
- ♦ "Defense would you like to give your closing argument?"

Rebuttal Closing Arguments (1 minute total)

30 Second Rule

- ♦ "Before I render a verdict, students may confer with their attorney coach/teacher sponsor regarding any trial irregularities. Please do so now."
- ♦ "Would the prosecution team like to note any trial irregularities?"

- ♦ "Would the defense team like to note any trial irregularities?"

Verdict by Judge

[Announce your verdict.]

- ♦ "Based on all the evidence, the defendant is
- ♦ "GUILTY"
- ♦ OR
- ♦ "NOT GUILTY."

Conclusion

- ♦ "Attorney Scorers please be sure to complete all the bubbles on the score sheets."
- ♦ "Courtroom Monitor please collect the score sheets and award nomination forms."

[No scores, winners or tiebreaker information will be announced at this time].

[The judge is responsible for completing the purple tiebreaker form after each trial. The tiebreaker form is not the verdict, but rather an indication of which team performed better overall].

[Prior to the debrief, the judge reviews the score sheets to insure all categories have been completed and places the score sheets, award nomination forms, tiebreaker form and timesheet in the envelope provided and gives it to the courtroom monitor]

Debrief

[Commence with debrief by judge and attorney scorers, please limit comments to no more than 10 minutes total, clerk keeps time for debriefing]

Important Excerpts from the Team Rulebook

Administrative

Rule 1.1 – Rules

- A. All trials will be governed by the rules of the California Mock Trial Program and the California Mock Trial Simplified Rules of Evidence.
- B. All participants must follow all rules and regulations as specified in the California Mock Trial materials as disseminated by the local County Mock Trial Committee. Failure of any member or affiliate of a team to adhere to the rules may result in disqualification of that team as determined in the sole discretion of the local County Mock Trial Committee

Rule 1.3 Trial Procedures

- A. The mock trial is a bench trial; participants shall not address the scoring attorneys as if they were a jury even if they are sitting in the jury box. Participants shall direct all presentations to the judicial presider.
 - At the State Finals, a ten point deduction must be taken from each score sheet when a team member addresses the scorers.
 - At the San Diego County Competition, a five point deduction will be taken from each score sheet when a team member addresses the scorers.
- B. When the trial begins, the judicial presider will ask the team members, teachers, and attorney coaches to introduce themselves. Other than the clerk and bailiff, team members must not communicate with the scoring attorneys until the conclusion of the trial.
- C. Teams shall be identified by assigned team code only and not by school name.
- D. All participants are required to wear appropriate courtroom attire. Spectators are prohibited from wearing clothing that identifies their school/county.
- E. Teacher sponsors, attorney coaches, participants, and spectators shall remain in the courtroom throughout the mock trial so as to not disrupt the mock trial.
- F. Teams are required to submit a team roster to each of the judicial presider, (2-4) scoring attorneys, and the opposing team. Teams competing in San Diego County shall add student photos to their team roster, but may not add any other information (fillable team roster forms can be found at sdmocktrial.org in the 2019 Competition Forms section).
- G. All team members participating in a mock trial must be in the courtroom at the appointed time, ready to begin the round. Incomplete teams shall begin the mock trial on time without their missing members or with alternates.
- H. If a scheduled team is not present within 15 minutes after the scheduled mock trial time, that team shall forfeit the trial and is subject to possible disqualification (subject to the sole discretion of the local County Mock Trial Committee). Mock Trial teams traveling to the downtown County Courthouse should allow for traffic delays.
- I. At the State Finals, it is mandatory for at least one team representative to attend the announcement of the finalists for the Championship Trial. If a team is announced and no representative is present, the team forfeits the Championship Trial and the third ranked team will take the absent team's place in the Championship Trial.
- J. Recesses will not be allowed in local or state competitions for any reason (unless authorized by the local County Mock Trial Committee or judicial presider on an emergency basis).

- K. Tie-breakers: At the State Finals, any tie will be broken by the judicial presider's independent selection of the winning team. San Diego County adopts this procedure.
- L. Use of laptop computers, tablets, or cellular/smart phones during mock trials is prohibited.
- M. Teams may only video/audio record a trial involving their school. Any team has the option to refuse participation in video/audio recording and still photography conducted by an opposing school. In order to participate in the San Diego County Competition, you have agreed to allow video/audio recording and still photography for purposes of use by the local County Mock Trial Committee. Video/audio recording is allowed for educational purposes only, and video/audio recordings should not be shared with any other team before the State Finals without the permission of both teams. CRF will not accept any videotape for complaint purposes nor will the local County Mock Trial Committee.
- N. Other than the exhibits provided for in the trial packet, no other illustrative aids of any kind may be used.
- O. Props, costumes, and theatrical makeup are prohibited. Costuming includes hairstyles, clothing accessories that are specific to a role in the case. In keeping with the educational philosophy and objectives of the competition, teams should concentrate on presenting the trial in a realistic manner, with witnesses wearing appropriate courtroom attire and using their normal speaking voices. Portrayals of racial, ethnic, and gender stereotypes are inappropriate and shall not be allowed.
- P. Gender-neutral names in the mock trials allow students of either gender to play the role of any witness. Any questions regarding gender, race, or physical characteristics not included in the official case materials are not allowed.

Rule 3.1 – The Case

- A. The case materials contain the sources for the Mock Trial Competition. These sources include the facts, witness statements, all the pretrial materials, charges, exhibits, rules of evidence, stipulations, role descriptions, Mock Trial procedures and California Mock Trial Simplified Rules of Evidence.
- B. The fact situation is a set of indisputable facts.
- C. Stipulations may not be disputed at trial. Stipulations are facts agreed to be true therefore they are uncontroverted.
- D. Stipulations will be considered part of the record and already admitted into evidence.
- E. Stipulations and charges will not be read into the record.

Rule 3.2 – Physical Evidence

- A. The prosecution team must bring to each trial the physical evidence listed under the heading "Physical Evidence" in the case materials. All reproductions can be as small as the original size of the exhibits found in the case material, but no larger than 22 x 28 inches. Teams will not be penalized if they choose not to reproduce and enlarge the exhibit as found in the case material. If the prosecution team fails to bring physical evidence to court, it may be reflected in the team presentation/participation score.
- B. No other physical evidence will be allowed. All physical evidence and witnesses found in this case, but not made physically available for trial, are unavailable and their availability may not be questioned.

- C. Procedures for introducing items into evidence — Attorneys may introduce physical exhibits, if any are listed under the heading “Evidence,” provided that the objects correspond to the description given in the case materials. Below are the steps to follow when introducing physical evidence (maps, diagrams, etc.). All items are presented prior to trial.
- 1- Present the item to an attorney for the opposing team prior to trial. If that attorney objects the use of the item, the judge will rule whether the evidence is appropriate or not.
 - 2- Before beginning the trial, mark all exhibits for identification. Address the judge as follows: “Your honor, I ask that this item be marked for identification as Exhibit # ____.”
 - 3- When a witness is on the stand testifying about the exhibit, show the item to the witness and ask the witness if he/she recognizes the item. If the witness does, ask him or her to explain it or answer questions about it. This shows how the exhibit is relevant to the trial.
- D. Moving the Item into Evidence — Exhibits must be introduced into evidence if attorneys wish the court to consider the items themselves as evidence, not just the testimony about the exhibits. Attorneys must ask to move the item into evidence during the witness examination or before they finish presenting their case.
- 1- “Your honor, I ask that this item (describe) be moved into evidence as People’s (or Defendant’s) Exhibit # and request that the court so admit it.”
 - 2- At this point, opposing counsel may make any proper objections.
 - 3- The judge will then rule on whether the item may be admitted into evidence.
- E. Whether a team introduces, uses, and moves the physical evidence into evidence is entirely optional, but all physical evidence must be available at trial for either side to use.
- F. Evidence should not be altered in any way. It is not permitted to mark on the exhibits. Any alterations to the exhibits may be grounds for disqualification from the competition.
- G. Illustrative aids of any kind are prohibited, including but not limited to the use of electronic or light projected aids.
- H. The official diagrams establish only relative positions. Because the scale (if any) is approximate, the diagrams cannot be used to definitively establish distances. The issue of distances should be based on the witnesses’ testimony and is a matter of fact for presiders.

Rule 3.3 Trial Communication

- A. Once the trial has begun, attorney coaches, teacher sponsors, team alternates, and spectators may not talk to, signal, communicate with or coach their team members during any mock trial.
- B. Mock Trial is a bench trial; attorneys and witnesses may not verbally address the scoring attorneys as if they were a jury.
- C. Communication between trial attorneys is allowed during the trial but must be non-disruptive.
- D. The defendant may sit at counsel table and communicate with the defense attorneys. All communication must be non-disruptive to the mock trial.

- E. After the pretrial motion hearing, pretrial attorneys may not sit with the trial attorneys and may not communicate with the trial attorneys at any time during the trial.
- F. Once the trial has begun, there must be no spectator contact with student team members, whether in the hallway or in the courtroom.
- G. If rule 3.3, sections A,C,D,E or F, have been violated, scorers must deduct ten points per score sheet per violation. A violation of rule 3.3B requires a deduction of five points.

Rule 3.4 Witnesses

- A. Although witnesses are excluded from the trial proceedings in actual trials, for educational purposes, witnesses in the Mock Trial competition shall remain in the courtroom for the entire mock trial. Witnesses will sit in designated seating at the front of the courtroom and shall not disturb the mock trial.
- B. Witnesses may not testify or respond to another witness' testimony, unless otherwise stated in the stipulations.
- C. The fact situation, witness statements, stipulations and exhibits, are the official case materials and make up the sole source of information for witness testimony.
- D. Unless otherwise stated, attorneys may not solicit information from a witness that requires the witness to testify to information from another witness' statement or information not included in their own witness statement.
- E. The witness statements contained in the case material should be viewed as signed statements made to the police by the witnesses and adopted as their own statement. Unless otherwise specified, a witness can be impeached if her/his testimony contradicts the case material contained in her/his witness statement or fact situation using the procedures as outlined in the case material.
- F. Because this is a mock trial, witnesses may not be treated as hostile witnesses.
- G. All witnesses must be called in the allotted time. If the direct examination attorney runs out of time without calling one or more witnesses, the direct examination attorney and the witness will each automatically receive a score of zero for each witness not called, and the cross- examination attorney will automatically be awarded ten points for each witness not called. Once the time allotted for witnesses has ended, direct examination attorneys may not call any other witnesses. Time management of the trial is an important part of mock trial.
- H. Cross-examination is required for all witnesses. If the cross-examination attorney does not cross-examine one or more witnesses, the cross-examination attorney will receive a cross- examination score of zero for the witnesses not questioned under cross-examination.
- I. Witnesses are not allowed to use notes while testifying during the trial.

Rule 3.5 Unfair Extrapolation

- A. It is each student's responsibility to work closely within the record.
- B. An unfair extrapolation (UE) occurs when a witness creates a material fact not included in his or her official record. A material fact is one that would likely impact the outcome of the case.
- C. Witnesses may, however, make fair extrapolations from the materials. A fair extrapolation is one in which a witness makes a reasonable inference based on his or her official record. A fair extrapolation does not alter the material facts of the case.

- D. Unfair extrapolations are best attacked through impeachment and closing argument. They should be dealt with by attorneys during the course of the trial. (See Impeachment during Cross-Examination in the case packet.)
- E. If a witness is asked information not contained in the witness's statement, the answer must be consistent with the statement and may not materially affect the witness's testimony or any substantive issue of the case.
- F. Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting an unfair extrapolation.
- G. Attorneys for the opposing team may refer to this rule as a special "unfair extrapolation" objection.
- H. When a "UE" objection is made, possible rulings by the judicial presider may be one of the following:
 - a) No extrapolation has occurred. Objection overruled.
 - b) An unfair extrapolation has occurred. Objection sustained.
 - c) The extrapolation was fair. Objection overruled.
- I. The decision of the judicial presider regarding extrapolations or evidentiary matters is final.
- J. Witnesses and attorneys making unfair extrapolations and attorneys who ask questions that require the witness to answer with an unfair extrapolation should be penalized by having two points deducted from their individual scores.
- K. If a team has several team members making unfair extrapolations, in addition to the individual points deductions, five points must be deducted from the offending team's performance/participation score.

Rule 3.6 Attorneys

- A. The Prosecution presents the opening statement and closing argument first.
- B. Attorneys may conduct re-direct examination when appropriate. No re-cross-examination is allowed. Witnesses may not be recalled to the stand.
- C. The attorney who conducts the direct examination of a witness is the only person allowed to make objections to the cross-examination of that witness. The attorney who conducts the cross-examination of a witness is the only person allowed to make objections during the direct examination of the witness. Two points must be deducted for objections made by the wrong attorney.
- D. Attorneys may use notes while presenting their cases. Witnesses, however, are not allowed to use notes when testifying.
- E. The Mock Trial competition proceedings are governed by the California Mock Trial Simplified Rules of Evidence in the case materials. Only specified types of objections will be recognized in the competition. Other rules of evidence may not be used at the mock trial.
- F. Legal motions not outlined in the official materials will not be allowed.
- G. There are no objections allowed during opening statements or closing arguments. (It will be the judicial presider's responsibility to handle any legally inappropriate statements made in the closing, while scorers will also keep in mind the closing argument criteria.) Two points must be deducted for objections made during opening statements or closing arguments.
- H. At the State Finals and in San Diego County, there will be 30 seconds provided at the end of the pretrial and at the end of the trial for team members from each performing team, to confer with the team's attorney coach and teacher sponsor to discuss any trial irregularities.

- I. If there are any irregularities regarding the rules of the competition which a team would like to bring to the attention of the judicial presider and attorney scorers, one team member will have 30 seconds to orally note the irregularities to the judicial presider. Coaches may not directly make arguments on behalf of the team.
- J. Teams arguing a rule violation must be able to point to specific incident(s) of the misconduct and be able to cite to the judicial presider, the corresponding violation in the team rulebook and/or case material.
- K. The judicial presider will hear the alleged violation(s) and rule on the violation(s), the judicial presider's decision will be final and any interpretation of the Mock Trial Competition rules and their application shall be determined in the sole discretion of the local County Mock Trial Committee.
- L. If the judicial presider determines a violation exists, and there is not a specified deduction outlined in the team rulebook, the judicial presider will direct the scoring attorneys to take the violation into consideration. The scoring attorneys will use their discretion to determine individually how many points (if any) will be taken off their score sheet.
- M. The 30 second rule should be used for substantial rule violations and should not to be used to argue additional points of law or rebut opponent's closing argument.
- N. This time should not to be used to argue additional points of law or rebut opponent's arguments. Regarding questions of rule violations, the judicial presider's decision shall be final. The local County Mock Trial Committee in its sole discretion determines interpretation of the Mock Trial Competition rules and their application.

Rule 3.7 Conduct of the Pretrial Motion

Note: The pretrial motion (oral arguments only) is a mandatory part of the Mock Trial competition at the state level and in San Diego County.

- A. The defense will argue the pretrial motion first (as they are the proponent).
- B. Each attorney arguing a pretrial motion has four minutes to present a statement and two minutes for rebuttal. During these proceedings, pretrial attorneys must be prepared to answer questions from the judicial presider in order to clarify their position.
- C. No objections are allowed during pretrial arguments. Two Points must be deducted for objections made during any pretrial arguments.
- D. In order to present a position in the most persuasive manner, pretrial attorneys should carefully review and become familiar with the materials provided in the mock trial case materials.
- E. Additional background research may supplement student understanding of the issues at hand, but such supplemental materials may not be cited in arguments.
- F. No written pretrial motion memoranda may be submitted at trial.
- G. The pretrial motion, motions entering exhibits into evidence and motion to strike testimony are the only motions allowed. All other motions are prohibited. If a motion is made that is not listed in this section, two points must be deducted from the team's total performance/participation score.

Rule 3.8 – Clerks and Unofficial Timers

- A. The Mock Trial Competition involves timed presentations. At the San Diego County Competition, the clerk and unofficial timer must bring a stop watch or any other electronic timing device and a time sheet to each trial. Any team member of the team presenting defense may serve as an unofficial timer. This unofficial timer must be identified before

the trial begins. To avoid timing issues, both the official and unofficial timers must sit next to each other during the trial. The time sheet can be downloaded from sdmocktrial.org. At the State Finals, the clerk and unofficial timer must use only a stop watch (no cell phones, tablets, or other electronic devices).

- B. The clerks may only use the time cards from sdmocktrial.org printed out on white paper (card stock recommend but not necessary). (At the State Finals teams must use the laminated time cards provided by CRF, which will be distributed by the presider. The time cards must be returned to the presider after each trial). The time cards will be printed with:
- 2 minutes
 - 1 minute
 - 30 seconds
 - Stop
- C. Modifications of time intervals are not permitted.
- D. Running of another team's time is not allowed. One team's unreasonable running of the opposing team's time is inappropriate. If the judicial presider determines there has been an unreasonable running of time, the witness may be admonished by the judicial presider and the judicial presider may direct the attorney scorers to deduct five point from the offending witness' score.
- E. Each team will have 40 minutes to present its case, including the pretrial motion. (The time may be utilized however they choose, but the maximum allowable totals for each section must be observed.)
Time limits for each section are as follows:
- Pretrial Motion (4 minutes) and Rebuttal (2 minutes)
 - Opening Statements/Closing Arguments (9 minutes) and Rebuttal (1 minute)
 - Direct/Re-direct Examination (14 minutes)
 - Cross-Examination (10 minutes)
- F. The time will start when each attorney starts to speak (i.e. first word of pretrial, opening, direct, cross-examination and closing.) Examples include but are not limited to:
- "May it please the court..."
 - "Your Honor..."
 - "Please state your name for the court..."
- G. The time will be stopped when:
- Witnesses are called to the stand
 - Attorneys make objections
 - Judicial presider questions attorneys and witnesses
 - Judicial presider offers their observations
- H. The time will not be stopped if witnesses are asked to approach the diagram or for other physical demonstrations. Time will not be rounded off.
- I. One minute is automatically reserved for rebuttal at the conclusion of closing arguments. Only issues that were addressed in an opponent's closing argument may be raised during rebuttal. Formal reservation of rebuttal time is not required.
- J. At the State Finals, two-minute, one-minute, and 30 second visual warnings (not verbal) must be given before the end of each section. The clerk will stop students (both visually and verbally) at the end of the allotted time for each section. Thus, there will be no allowance for overtime. Two points must be deducted per score sheet if the judicial presider finds that any section of this rule has been violated. In San Diego County both visual and verbal warnings

will be allowed for two minute, one-minute, 30 second, and stop warnings.

- K. If timing variations of 15 seconds or more occur at the completion of any task during the trial, the timers will notify the judicial presider immediately that a time discrepancy has occurred. Any time discrepancies less than 15 seconds are not considered a violation. No time discrepancies will be entertained after the trial concludes. The judicial presider shall determine whether to accept the clerk's time or to make a time adjustment.
- L. At the end of the pretrial motion and the trial, the clerk will time the 30-second rule.
- M. The judicial presider and attorney scorers will be allowed at total of 10 minutes for debriefing at the end of the trial. Following the verdict, the judicial presider will complete the tie breaker form and collect the score sheets, time sheets, and award nomination forms, place them in the envelope provided and give the envelope to the courtroom monitor. The clerk will then begin timing the debriefing. The clerk will provide the judicial presider and attorney scorers with a two minute, one minute, 30 second visual warnings and will stop (both verbal and visual) the debriefing.
- N. The clerk will not be scored on timing the debriefing, consultations, and any formal presentations regarding irregularities. No extensions of time will be granted.
- O. The bailiff will call the court to order and swear in the witnesses. In addition, the bailiff must bring a copy of the 2018-19 Team Rulebook and Case Packet should the presider need to clarify an issue or question.

Rules

Rule 4.1 Rule Interpretation

- A The judicial presider is the ultimate authority throughout the mock trial. If there is a rule infraction, it is solely the student attorneys' responsibility to bring the matter to the judicial presider's attention before a verdict is rendered.
- B There will be no bench conferences (no sidebars) allowed.
- C The judicial presider will determine if a rule was, in fact, violated. Her/his word is final.
- D The bailiff must have a copy of the rules of competition and case materials for reference during the mock trial.
- E Unless a specific point deduction for a particular infraction is provided in these rules, each attorney scorer will determine the appropriate amount of deduction individually.
- F These rules are designed to introduce the procedures of law to participants and to foster good sportsmanship. Interpretations of the rules should be guided by common sense.
- G Arguing for hyper-technical interpretations of the rules, especially when designed to embarrass others or to gain unfair advantage, is prohibited and five points must be deducted.

Judging and Team Advancement

Rule 5.1 Finality of Decisions

- All decisions of the judicial presider and scoring attorneys are final. The local County Mock Trial Committee in its sole discretion ultimately resolves any disputes over interpretation or application of the rules.

Rule 5.2 – Scoring Panel

- A. The competition "scoring panel" will typically consist of two to four scoring attorneys. Judicial presiders do not score the mock trials. They preside and render the verdict.

- B. At the State Finals, the scoring panel may be people with substantial Mock trial coaching experience, scoring experience, law students, paralegals or attorneys. There will be at least one attorney on each scoring panel. The presider shall be either an attorney or judge. In San Diego County, the judicial presiders are all current or retired state or federal Judges, Magistrates or Commissioners, and the scorers are all attorneys, preferably those with courtroom trial experience.
- C. San Diego Conflict of Interest Policy: Attorneys who have a child (or close friend or relative) competing on a high school team during the 2018-2019 San Diego County High School Mock Trial Competition are ineligible to serve as attorney scorers during the competition. Attorneys who serve as an adviser, or a judge or scorer for unofficial scrimmages for any San Diego County high school team or teams during the 2018-2019 competition year are ineligible to serve as attorney scorers for the 2019 competition.

Rule 5.3 – Evaluation

- Each scoring attorney will use the evaluation and scoring criteria to assign a numerical value (1-10) to individual and team presentations.
 - Closing argument and pretrial arguments are weighted twice as much as other categories.
 - The Clerk and bailiff are evaluated using a scale of 1-5.

Rule 5.4 – 1 to 10 Point Scale

Please note: New this year, San Diego County will begin using a 1-10-point scale for the San Diego County Competition.

- A. Students are to be rated on the ten-point scale for each category according to the criteria appropriate to each presentation.
- B. Scoring attorneys will consider a "5" as a starting point and move up or down based on the presentation content and quality.
- C. Scoring attorneys must award points individually and not in consultation from other scoring attorneys.
- D. Some scores are weighted and therefore can affect a team's score more dramatically. These include the pretrial motion (x2) and the closing argument (x2).
- E. The scoring attorneys are scoring the individual presentation in each category.
- F. The scoring attorneys are not evaluating the legal merits of the case.

Evaluation Criteria

Pretrial Motion (X2)	
<ul style="list-style-type: none"> • Clear and concise presentation of issues and appropriate use of case materials. • Well-developed, reasoned, and organized arguments. 	<ul style="list-style-type: none"> • Solid understanding of legal reasoning behind the arguments. • Responded well to president's questions and maintained continuity in argument. • Effective rebuttal countered opponent's argument.
Opening Statement	
<ul style="list-style-type: none"> • Provided a case overview • Theme/theory of the case was identified • Overview of key witnesses and their testimony • Introduction of Attorneys 	<ul style="list-style-type: none"> • Outlined burden of proof • Request for relief (what the side is asking the court to decide) • Mention of applicable law or statutes to be covered
Direct/Re-Direct Examination	
<ul style="list-style-type: none"> • Questions required straightforward answers and brought out key information for her/his side of the case. • Attorney properly introduced exhibits and, where appropriate, properly introduced evidence as a matter of record. • Attorney properly phrased and rephrased questions and demonstrated a clear understanding of trial procedures. • Responded to objections utilizing rules of evidence or the rules of competition. 	<ul style="list-style-type: none"> • Attorney made effective objections to cross-examination questions of her/his witness when appropriate. • Attorney did not make unnecessary objections and used only those objections listed in the Summary of Evidentiary Objections. • Throughout questioning, attorney made appropriate use of time. • Attorney avoided leading questions • Did not ask opinion questions unless witness is an expert.
Cross-Examination	
<ul style="list-style-type: none"> • Attorney made effective objections to direct examination (of the witness she/he cross-examined) when appropriate. • Used narrow questions that suggested a yes or no answer and did not allow the witness to provide a narrative explanation. • Responded to objections utilizing rules of evidence or the rules of the competition. • Followed protocol to introduce exhibits. • Utilized objections as a means to forward the case and not just to throw the other side off their game; unnecessary objections, excessive interruptions, and/or obstructionist behavior should not be rewarded. 	<ul style="list-style-type: none"> • Attorney properly phrased and rephrased questions and demonstrated a clear understanding of trial procedures. • Attorney exposed contradictions in testimony and weakened the other side's case. • Impeached the witness without appearing to harass or intimidate him/her. • Referred to witness testimony and followed rules for showing the testimony to the witness. • Demonstrated a clear understanding of the rules of competition and of evidence.
Witnesses	
<ul style="list-style-type: none"> • Witness was believable in her/his characterizations and presented convincing testimony. • Witness was well prepared for answering the questions posed to her/him under direct examination and responded well to them. • Witness responded well to questions posed under cross-examination without unnecessarily disrupting or delaying court proceedings. 	<ul style="list-style-type: none"> • Witness testified to key facts in a consistent manner and avoided irrelevant comments. • Witness did not disrupt the trial with unreasonable inferences. • Played up the strengths of his/her statements and adequately explained the weaknesses. • Did not use notes. • Sounded spontaneous and not memorized. • Did not wear a costume.

Evaluation Criteria (cont.)

Closing Arguments (x2)	
<ul style="list-style-type: none"> • Attorney's presentation contained elements of spontaneity and was not based entirely on a prepared text. • Attorney incorporated examples from the actual trial, while also being careful not to introduce statements and evidence that were not brought out during the trial. • Outlined the strengths of his/her side's witnesses and the weakness of the other side's witnesses. 	<ul style="list-style-type: none"> • Asked for the verdict, including a request for relief, and explained why the verdict was justifiable. Attorney made an organized and well-reasoned presentation summarizing the most important points for her/his team's side of the case. • Effective rebuttal countered opponent's arguments. • Reviewed the exhibits and how they helped the case. • Stated the applicable law or statues and how they supported the side's theory.
Clerk	
<ul style="list-style-type: none"> • Present and punctual for trial. • Performed her/his role so that there were no disruptions or delays in the presentation of the trial. 	<ul style="list-style-type: none"> • Conducted herself/himself professionally without attracting any unnecessary attention. • Properly used verbal and visual time warnings.
Bailiff	
<ul style="list-style-type: none"> • Present and punctual for trial. • Performed her/his role so that there were no disruptions or delays in the presentation of the trial. 	<ul style="list-style-type: none"> • Conducted herself/himself professionally without attracting any unnecessary attention. • Knowledgeable about script and role in trial. • Followed script.
Team Presentation	
<ul style="list-style-type: none"> • Team members were courteous, observed general courtroom decorum, spoke clearly and distinctly, and displayed good sportsmanship to all competitors, regardless of trial results. • All team members were involved in the presentation of the case and actively participated in fulfilling their respective roles. • Witnesses performed in synchronization with attorneys in presenting their side of the case. 	<ul style="list-style-type: none"> • As much as possible, each trial attorney displayed examination and argumentation skills, and when appropriate, displayed knowledge of California Simplified Rules of Evidence in making objections. • Team members demonstrated cooperation and teamwork. • The teachers and attorney coaches displayed good sportsmanship.

Guidelines for (1-10) Scoring

The following are general guidelines to be applied to each category on the score sheet. It is strongly recommended that scorers use “5” as an indication of an average performance, and adjust higher or lower for stronger or weaker performances.

Attorneys	Score	Witnesses
<p>Excellent understanding of the case, rules, and legal issues Questions and arguments advanced case and didn't ask for answers that asked for unfair extrapolations Persuasive and articulate delivery made without use of notes Thought well on feet, in control of situation, and responded to other team's presentation Objected when appropriate; clearly understood how to respond to objections Maintained eye contact with judge and witnesses, spoke in clear and audible voice</p>	<p>9-10 Excellent</p>	<p>Excellent understanding of case, witness statements, and exhibits (if applicable) Convincing, credible presentation Answers were thorough, accurate, persuasive, and natural, not scripted Didn't provide answers that embellished facts and/or went outside scope of case materials Maintained eye contact with judge and student attorneys; strong, audible voice</p>
<p>Good understanding of the case, rules, and legal issues Most questions and arguments advanced case and didn't ask for unfair extrapolations Mostly persuasive and articulate delivery; used notes occasionally Able to think on feet some of the time Most objections were appropriate; usually understood how to respond to objections Mostly maintained eye contact with judge and witnesses Mostly spoke in clear and audible voice</p>	<p>7-8 Above Average</p>	<p>Good understanding of witness statements and exhibits (if applicable) Mostly convincing, credible presentation Most answers were thorough, accurate, persuasive, and mostly natural, not memorized Rarely provided answers that embellished facts and/or went outside scope of case materials Sometimes forgot to maintain eye contact with judge and student attorneys Mostly spoke in clear and audible voice</p>
<p>Fair understanding of case, rules, and legal issues Used notes, sometimes stumbled on delivery Some questions and arguments advanced case and didn't ask for unfair extrapolations Prepared for trial but often relied on preparation and not responding to other team's presentation Missed appropriate opportunities to object; didn't always understand how to respond to objections Sometimes forgot to maintain eye contact with judge and witnesses Sometimes difficult to hear</p>	<p>5-6 Average</p>	<p>Fair understanding of witness statements and exhibits (if applicable) Somewhat convincing, credible presentation Answers not always thorough, accurate or persuasive; sounded scripted, not natural Some answers embellished facts and/or went outside scope of case materials Sometimes forgot to maintain eye contact with judge and student attorneys Sometimes difficult to hear</p>
<p>Demonstrated little understanding of case, rules, and legal issues Needs work on poise and delivery; didn't respond to other team's presentation Read mostly scripted questions; relied heavily on notes Few questions and arguments advanced case; may have asked questions that required unfair extrapolations Struggled to understand when to object and how to respond to objections; used objections to interfere with other team's presentation Often forgot to maintain eye contact with judge or witnesses Often difficult to hear</p>	<p>3-4 Below Average</p>	<p>Struggled to understand witness statements and exhibits (if applicable) Presentation not convincing, credible; often unrealistic Answers were generic and often didn't seem natural, but based on memorized script; sometimes stumbled over responses Often provided answers that embellished facts and/or went outside scope of case materials Often forgot to maintain eye contact with judge and student attorneys Often difficult to hear</p>
<p>Did not understand case, rules, or legal issues Not persuasive or articulate in delivery; read entirely from script Not prepared for trial; not able to think on feet Questions and arguments didn't advance case; asked for answers that required unfair extrapolations Did not know when to object or how to respond to objections Disruptive/disrespectful/inappropriate actions Did not maintain eye contact with judge or witnesses; unclear or inaudible voice</p>	<p>1-2 Far Below Average</p>	<p>Did not understand witness statements and exhibits Presentation not convincing or credible; seems unrealistic Answers were not thorough, accurate, or persuasive, and didn't sound natural; stumbled over responses Answers not consistent with the facts and/or went outside scope of case materials Did not maintain eye contact with judge or student attorneys Weak, inaudible, or unclear voice Disruptive/disrespectful/inappropriate actions Gave excessively long, non-responsive answers on cross examination to deliberately use up opposing counsel's time</p>

Clerk	Score	Bailiff
Very professional demeanor Clear understanding of procedures; excellent time keeping Clear, audible voice when issuing verbal warnings (if applicable) Visual warnings were clearly visible to student attorneys Able to think well on feet, in control of situation	5 Excellent	Very professional, believable presentation Consistent use of clear and audible voice, and eye contact Consistently natural delivery of script Excellent understanding of role and procedures
Professional demeanor Good understanding of procedures; good time keeping Mostly spoke in clear, audible voice when issuing verbal warnings (if applicable) Visual warnings were mostly clearly visible to student attorneys	4 Above Average	Professional, believable presentation Used clear, audible voice, and eye contact a lot of the time Knew script and delivery was mostly consistently natural Good understanding of role and procedures
Good demeanor Basic understanding of procedures; able to keep time Was heard when issuing verbal warnings (if applicable) Visual warnings were visible to student attorneys	3 Average	Mostly natural, believable presentation Audible voice, some eye contact Apparent that script was memorized Understood role and procedures
Demeanor lacked professionalism Demonstrated little understanding of procedures; time keeping not entirely accurate Not clear or audible when issuing verbal warnings (if applicable) Visual warnings may not have been visible to student attorneys	2 Below Average	Presentation not realistic, lacked professionalism Voice not all that clear or audible; little eye contact Used notes, stumbled with script Did not have a good understanding of role and procedures
Complete lack of professionalism No understanding of procedures; time keeping was inaccurate Verbal warnings not used or completely inaudible (if applicable) Verbal warnings not used or not at all visible Disruptive/disrespectful/inappropriate actions	1 Far Below Average	Complete lack of professionalism Voice not audible or clear; no eye contact Relied almost entirely on notes/script Did not understand role and procedures Disruptive/disrespectful/inappropriate actions

Thank you for your dedication to the youth of San Diego County and we hope you enjoy your Mock Trial judging/scoring experience!!

California Mock Trial Rules of Evidence Summary of Allowable Evidentiary Objections

(See Mock Trial Simplified Rules of Evidence in the case binder for more detail)

1. **Unfair Extrapolation:** "Objection your honor. This question is an "unfair extrapolation," or "This information is beyond the scope of the statement of facts."
2. **Relevance:** "Objection, your honor. This testimony is not relevant," or "Objection, your honor. Counsel's question calls for irrelevant testimony."
3. **More Prejudicial Than Probative:** "Objection, your honor. The probative value of this evidence is substantially outweighed by the danger of undue prejudice (or confusing the issues, wasting time, or misleading the trier of fact)."
4. **Foundation:** Objection, your honor. There is a lack of foundation."
5. **Personal Knowledge/Speculation:** "Objection, your honor. The witness has no personal knowledge to answer that question." Or "Objection, your honor, speculation."
6. **Opinion Testimony (Testimony from Non-Experts):** "Objection, your honor. Improper lay witness opinion," or "Objection, your honor. The question calls for speculation on the part of the witness."
7. **Expert Opinion:** "Objection, your honor. There is a lack of foundation for this opinion testimony," or "Objection, your honor. Improper Opinion."
8. **Character Evidence:** "Objection, your honor. Inadmissible character evidence," or "Objection, your honor. The question calls for inadmissible character evidence."
9. **Hearsay:** "Objection, your honor. Counsel's question calls for hearsay," or "Objection, your honor. This testimony is hearsay. I move that it be stricken from the record."
10. **Leading Question:** "Objection, your honor. Counsel is leading the witness."
11. **Compound Question:** "Objection, your honor. This is a compound question."
12. **Narrative:** "Objection, your honor. Counsel's question calls for a narrative." Or, "Objection, your honor. The witness has lapsed into a narrative answer."
13. **Argumentative Question:** "Objection, your honor. Counsel is being argumentative," or "Objection, your honor. Counsel is badgering the witness."
14. **Asked and Answered:** "Objection, your honor. This question has been asked and answered."
15. **Vague and Ambiguous:** "Objection, your honor. This question is vague and ambiguous as to _____."
16. **Non-Responsive:** "Objection, your honor. The witness is being non-responsive."
17. **Outside Scope of Cross-examination:** "Objection, your honor. Counsel is asking the witness about matters beyond the scope of cross-examination."