

**GENESEE COUNTY BAR
ASSOCIATION
2015 HIGH SCHOOL
MOCK TRIAL COMPETITION**



**PEOPLE OF THE
STATE OF MICHIGAN**

v.

CARY PRIOR

**Genesee County Circuit Court
900 S. Saginaw Street
Flint, Michigan 48502**

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COURTHOUSE RULES

I. DRESS CODE

A. Apparel Not Permitted

1. No shorts, tee-shirts, tank-type shirts, sweatshirts, sweat suits, jogging suits, or similar attire;
2. No hats, sunglasses, or outdoor jackets shall be worn when appearing formally before the Court;
3. No baggy pants or pants that drag on the ground.
4. No mini-skirts or "mini" dresses

B. Encouraged Dress Code

1. No provocative attire;
2. Shirt and tie for males;
3. Pants other than blue jeans;
4. Neat and clean shoes.

C. Other Courtroom Restrictions

1. **NO CELLPHONES, PAGERS, RECORDING DEVICES, IPADS, TABLETS, IPODS, LAPTOPS, VIDEO CAMERAS OR ANY OTHER RECORDING DEVICES** are allowed in the Courthouse.
 - a. Students and/or volunteers will not be allowed into the courthouse with a cellphone or camera.
 - b. The Genesee County Bar Association, its attorney members, and/or staff will not be responsible for lodging any cellphones that are brought to the courthouse or the luncheon by students or volunteers.
2. **NO FOOD OR DRINK** whatsoever shall be brought into the courtroom.
3. Courtroom tables may not be moved. If chairs are moved, they must be returned to their original location.
4. Programs and all other materials must be removed upon completion of the Mock Trial.

TIPS FOR MOCK TRIAL TEACHERS

- A. If the attorney advisor does not contact you, do not hesitate to contact them first.
- B. If possible try to schedule regular visitations with the attorney.
- C. Meet with the team on a regular basis as a follow-up to the attorney visits.
- D. If possible, schedule practice sessions in front of an audience such as a classroom.
- E. Advise the students to dress and act professionally in the courtroom giving all due respect to ALL court officials and personnel. The dress code **WILL BE ENFORCED**, and any student, whether they are serving as an attorney, witness, or juror, will not be allowed in the courtroom if they do not adhere to the dress code. To avoid any embarrassment for you, the student, the court, and the bar association, please emphasize this rule prior to the trial.
- F. To assist in efficiency of security clearance, advise students to leave cellphones, book/duffel bags, purses and/or briefcases at home. Heavy metal jewelry, metal belts, and steel-toed shoes (among other things) should also be avoided. Pocket change will also activate the detector. Students who are wearing belts may be required to remove them before going through the metal detector.
- G. Students are not allowed to bring any electronic devices into the courthouse. These devices include but are not limited to the following: cellular phones, games, pagers, and other communication devices which are a distraction to the learning process. They are not needed for the Mock Trial experience and are not permitted by the Courthouse Security.
- H. Please advise students that **LOUD, OBNOXIOUS, UNRULY BEHAVIOR IS NOT ACCEPTABLE**. Remember we are guests of the court. Disciplined behavior is a necessary component to that visit.
- I. Please advise the students that there should not be any planned outbursts or other theatrics during the Mock Trials. The purpose of the Mock Trial is to provide exposure to the courts and the legal system in a respectful manner. Our Attorney Advisors are teaching their respective teams how to present their cases in a respectable and appropriate manner. Planned outbursts or other theatrics are not appropriate behavior in a courtroom.

INSTRUCTIONS AND RULES FOR COMPETITION

The Genesee County Bar Association Mock Trial Competition is governed by these instructions and rules as set forth below. They should be studied carefully before beginning preparation of the case. These instructions and rules are designed to promote/insure excellence in presentation and fairness in judging all trials.

We want to thank the Michigan Center for Law Related Education for their assistance with competition instructions and rules.

I. GENERAL INSTRUCTIONS

A. Rules

All trials will be governed by the Michigan Rules of Evidence. No additional sources of authority should be cited during a trial.

B. The Case

The case consists of eight witness statements, exhibits, stipulations, and jury instructions. Witness statements are not to be changed in order to create a more favorable fact situation for either party.

C. Competition Structure

There are two sides in this case: prosecution and defense. Teams will be randomly determined before the Mock Trial date. Each school will be advised as to which side that the school will represent prior to the Mock Trial.

II. THE TRIAL

A. Team Presentation

Each team must be prepared to present its appointed side of the case. The case will be tried before a jury.

B. Team Composition

Your team must have two attorneys, three witnesses, and eight to ten jurors. You may have two alternate members.

1. Attorneys (two)

- a. One attorney shall give the opening statement and the other attorney shall give the closing argument(s). The Prosecuting Attorney who gives the closing argument shall also give the rebuttal argument.

- b. Each attorney shall conduct the direct examination of one of the witnesses for the attorney's side and the cross examination of one opposing witness. The attorney who conducts the direct examination of a witness shall conduct the redirect examination of the witness and shall make and argue the objections, if any. The attorney who conducts the cross examination of an opposing witness shall make and argue objections, if any, during the cross examination of a witness.
- c. Attorneys may confer with one another at any time.
- d. On cross examination, the examining attorney may not impose restrictions on the form of the witness' answer, except that the answer must be responsive. However, the Judge may instruct the witness to answer the questions "yes" or "no," if possible. If not possible for the witness to respond yes or no, the Judge may instruct the witness to respond to the best of his/her ability.
- e. An attorney may not recall a witness once that witness has completed testifying.

2. Witnesses

- a. Witnesses may not refer to any notes while testifying.
- b. Witnesses may not be sequestered.
- c. Each side is allowed to call three of their witnesses to the stand. Prosecution may only call Prosecution Witnesses and Defense may only call Defense Witnesses.
- d. Pursuant to the Fifth Amendment of the U.S. Constitution, the Defendant is not required to testify on his/her own behalf. If the Defendant decides not to testify, his/her silence cannot be used against him/her.
- e. A witness is bound by his/her statement.

3. Jurors

- a. The jurors from each school will be split among the courtrooms that are holding Mock Trials.
- b. Two jurors from each school will be placed in each courtroom.
- c. Jurors will not be placed in a courtroom where their school is participating in a Mock Trial.

C. Witness Statements

1. Witness Bound by Statement

A witness' statement is to be treated as a statement made by the witness under oath. Each witness must admit that he/she made the statement. Minor extrapolations of facts not in the record are allowed, provided they may be reasonably inferred from the case material, since some additional information may be necessary to make the case realistic. As an example of a fair extrapolation, background information such as date or place of birth would be a minor extrapolation and would be allowed to amplify or humanize the case. Unfair extrapolations that would not be allowed include

information pivotal to the particular facts at issue. **ONLY THOSE FACTS WHICH ARE NEUTRAL TO BOTH SIDES ARE FAIR EXTRAPOLATIONS.** If you have a question as to whether a particular added fact would be allowable background information, or if you believe it might be an unfair extrapolation, do not add the questionable fact. As a general rule of thumb, the more the “supplemental” information helps your case, the more cautious you should be in adding it to the witness’ testimony. **WHEN IN DOUBT, LEAVE IT OUT!**

2. Unknown Information

It is virtually impossible to provide witnesses with detailed answers to every conceivable question that attorneys can ask. The witness statements are not intended as a complete life history, and for the most part, information not in the statements will be irrelevant and should be subject to objection. If an attorney’s question solicits unknown information, the witness may supply an answer of his/her choice, so long as it does not materially affect the witness’s testimony. Try to avoid a rigid mechanical approach to the trial (the witness statements are not scripts), but stay within the bounds of honest competition. Just as in our legal system, lawyers must deal with the facts as they exist.

3. Unfair Extrapolations

- a. A team may best attack unfair extrapolations through impeachment and closing arguments.
- b. Each witness should understand that if he/she is asked for information not contained in the witness statement, he/she must either give an answer which is consistent with the statement and does not materially affect the balance of the case, or if the question otherwise would elicit an unfair extrapolation, the witness may answer, “there is no information in the statement of facts to answer this question.”
- c. Attorneys for the opposing team may refer to this Rule in a special objection, such as “unfair extrapolation” or “this information is beyond the scope of the statement of facts.”
- d. Judge’s Ruling on Unfair Extrapolation
The Judge will determine whether an unfair extrapolation has occurred. **THE JUDGE’S RULING IS FINAL.** The objections and ruling will be dealt with in open court during the course of the trial. The purpose of the ruling is to avoid an irrelevant digression from the statement of facts whether through attorney questions or witness response. Participants should understand that any ruling by the Judge is not an indication of the eventual outcome of the trial. Do not become overly obsessed with handling extrapolations. The Judge’s ruling on an objection due to unfair extrapolation may consist of the following:
 - i. No extrapolation has occurred.
 - ii. A fair extrapolation has taken place.
 - iii. An unfair extrapolation has taken place and the testimony will be stricken from the record.

- iv. Ruling taken under advisement. (After another question or answer, the Judge may rule or respond to another objection.)

D. Preparation and Supplement Material

The Mock Trial Notebook contains all materials necessary to participate. **TEAMS MAY ENTER INTO EVIDENCE ONLY THOSE DOCUMENTS AND EXHIBITS GIVEN IN THIS TRIAL NOTEBOOK.** No enlargements of any kind shall be used during the trials unless provided by the Genesee County Bar Association Law Day Committee. If a chalkboard is available in a courtroom, it may be used during the course of the trial. Attorneys are encouraged to call the court's attention to particular parts of the stipulation and the Competition Rules that support the attorney's position.

E. Time Limits

THE MOCK TRIAL MAY NOT EXCEED TWO HOURS. TIME LIMITS ARE MANDATORY. The Judge will have the ultimate responsibility for enforcing these time limits. The time limits are as follows:

Prosecution's Opening Statement	5 minutes
Defendant's Opening Statement	5 minutes
Prosecution's Direct Examination	21 minutes (7 per witness)
Defendant's Cross Examination	21 minutes (7 per witness)
Defendant's Direct Examination	21 minutes (7 per witness)
Prosecution's Cross Examination	21 minutes (7 per witness)
Prosecution's Closing Argument incl rebuttal	8 minutes
Defendant's Closing Argument	8 minutes
Jury Instructions	4 minutes
Participants, Judge's Comments	6 minutes

The time for making and arguing objections is to be counted as part of the time of the side examining the witness. If the Judge believes one team is deliberately using up the other team's time with objections, the Judge may address the problem by allowing the other team additional time. Whenever there is an allegation of a violation, timing will halt.

Attorneys are not required to use the entire time allotted to each part of the trial. It should be noted however, that time left over in one part of the trial cannot be carried over to another part of the trial.

F. Motions

Pursuant to Michigan Court Rules (MCR) 6.419, a defendant may make a motion for directed verdict of acquittal on any charged offense as to which the evidence is insufficient to support conviction after the prosecution's case-in-chief and before the defendant presents proofs.

Attorneys may make a motion for a directed verdict or dismissal of the case, however, this motion will be taken under advisement and the trial will continue. If there is an extreme health or safety emergency, an attorney may make a motion and the Judge may grant a recess.

III. COURTROOM DECORUM

Observe the following rules in the courtroom at all times:

1. No food or drink is allowed in the courtroom.
2. Do not smoke in the courtroom.
3. Cellular telephones, recording devices, Ipads, Tablets, Ipods, laptops, video cameras, pagers, or any other recording devices are not allowed.
4. All participants must be properly attired.
5. Rise when addressing the Judge, when the Jury enters or leaves the courtroom, or when the Judge enters or leaves the courtroom.
6. Direct all remarks to the judge or witness – **NEVER** to opposing counsel.
7. Natural movement of attorneys during trial is encouraged.
8. Do not approach the bench, witness, or jury box without permission of the Judge.
9. No outbursts or other planned theatrics are allowed by participants.

QUICK REMINDERS

1. Prosecution may only call three witnesses. The three witnesses shall only be those witnesses that are labeled Prosecution Witness on their Affidavit.
2. Defense may only call three witnesses. The three witnesses shall only be those witnesses that are labeled Defense Witness on their Affidavit.
3. No team may request that witnesses be sequestered. This is a learning experience for everyone involved and we would like the students to observe the entire process.
4. The Prosecution may not call the Defendant as a Witness but it may cross-examine him/her if he/she chooses to testify. Pursuant to the Fifth Amendment of the U.S. Constitution, the Defendant is not required to testify on his/her own behalf. If the Defendant decides not to testify, his/her silence cannot be used against him/her.
5. Defendant's statement cannot be used as an Exhibit if Defendant chooses not to testify. The Affidavit can be used to cross-examine the Defendant only.
6. No planned outbursts or theatrics will be allowed in the Mock Trial. Please advise students that they are to act in a respectful and appropriate manner within the courtroom. The purpose of the Mock Trial is to provide exposure to the courtroom and provide guidance on how to act appropriately while in the presence of a Judge and Jury.

TRIAL PRESENTATION

The following remarks are intended only to aid teams in “technique”. They should not be interpreted as rules unless so indicated.

A. OPENING STATEMENTS

The opening statement allows you to introduce yourself and your client as well as acquaint the jury and judge with the nature of the case. You should outline the case from your point of view which includes mentioning key witness’ testimony. Also, you should tell the jury and judge what relief you are seeking.

In your opening statement, you should avoid too much narrative detail about witness testimony, exaggeration and overstatement of the facts which may not be proven. You cannot argue or discuss the law as it is not permitted in opening statements. Try to avoid reading your opening statement and do not repeat undisputed facts.

B. PRESENTING EVIDENCE

1. Direct Examination

The purpose of direct examination is to present evidence that supports your case with clarity to the judge and jury. You want your witnesses at their best. When questioning a witness, keep it simple by avoiding complex and verbose questions. You should take the witness through his or her testimony by small steps and do not attempt to elicit conclusions from the witnesses. Reaching conclusions is the jury’s job. During your questioning, avoid redundant, monotonous questions. Further, try to avoid narrative testimony as it could prove dangerous if your witness gets out of control. When the facts are in evidence, stop questioning the witness.

2. Cross Examination

The purpose of cross examination is to discredit the witness and to discover flaws in his or her testimony. You want to try to secure admissions which help your case. But, you want to avoid hostility toward the witness because the jurors usually resent it. Do not give the witness a chance to clarify damaging statements. When you have an answer favorable to your side, drop the matter and wait for closing arguments to emphasize the point.

If a witness contradicts his or her statement, wait until cross examination to confront the witness with the inconsistency. A witness’ testimony can be impeached by asking the witness whether he or she has ever testified differently in a signed statement. The attorney should ask whether the statement was made under oath, at a time much closer to the events in controversy, and contained all that the witness could remember. The attorney can show the witness the statement (first showing it to the judge and opposing counsel) and ask him or her to admit that he or she made it and signed it. The attorney can read aloud, or ask the witness to read aloud, the part of the statement the attorney claims is inconsistent with the witness’ testimony. The attorney may then further question the witness about the inconsistency. The attorney may want to:

- A. Leave the matter and point out in closing argument the contradiction between the statement and witness' testimony (both of which were made under oath);
- B. Ask the witness why his or her testimony is different today under oath than it was when he or she gave the statement which was also under oath and given much closer in time to the events in question (**NOTE: It can be dangerous to give a witness an opportunity to explain such a discrepancy because you may not like the answer you get!**);
- C Ask the witness whether he or she was lying under oath when he or she gave the statement or lying under oath today when he or she testified (**Note: This can also be a dangerous question unless the contradiction is very clear, definite, and material.**) Witnesses must admit making their statements when directly confronted with the question. "Do you remember making and signing this statement under oath?" or a similar question. Don't waste impeaching on matters that are not material to your case.

C. INTRODUCTION OF EVIDENCE

The following steps will be used for introduction of evidence:

1. All evidence should be pre-marked as exhibits before the trial begins.
2. Show opposing counsel the proposed exhibit.
3. Ask permission to approach the witness.
4. Give the exhibit to the witness and go back to the podium. Then state, I have shown you People's/Defendant's Exhibit Number 1. Can you tell me what that is?
5. The witness will state what it is.
6. If it is a picture, ask the witness the following questions:
 - a. Is this a reasonable and accurate depiction of the area in question?
 - b. When was the picture taken?
7. After the witness has identified the exhibit, the attorney may ask the Court that the exhibit be admitted into evidence as the authenticity of the exhibit has been stipulated.
8. The Court will then ask opposing counsel whether there are any objections.
9. If no objections, then the exhibit will be admitted into evidence.
10. Once the exhibit is admitted into evidence, the attorney may not solicit testimony on its contents.
11. If an attorney wants to show it to the jury, then the attorney should ask the Judge whether he or she can publish the exhibit to the jury (**Note: Give the jury an opportunity to review the exhibit before proceeding further because if you continue then the jury will be distracted.**)
12. After completion of questions regarding an exhibit, return it to the Judge.

D. OBJECTIONS

When an attorney raises an objection, the attorney is presenting a rule of evidence to the Judge which would bar an answer to the question asked (or result in striking from the record the answer, if already given.) Special objections may also be used to bring a procedural problem to the Judge's attention such as unfair extrapolation or continuing past the expiration of allowable time.

When making an objection, the attorney shall stand. The attorney should direct all objections and arguments to the Judge. In making objections, counsel shall stand as soon as the objectionable question is asked and say "I object, your Honor", "Your Honor, I object", or "Objection" and then state your basis for the objection. (NOTE: Jurors usually do not like a party that objects too much.)

1. Allowable Objections:

a. **Leading Questions:** "Counsel is leading the witness" or "The questions are leading." Leading questions suggest the answer and are generally not allowed on direct examination but are proper on cross examination. The Judge may allow leading questions on direct examination for preliminary matters.

b. **Hearsay:** "The question calls for Hearsay." Hearsay is evidence of an out-of-court statement offered to prove the truth of the matter asserted in the statement.

i. EXCEPTIONS to Hearsay:

a. **Admission against Interest:** Hearsay is admissible if the out-of-court statement was made by a party in the case and contains evidence which goes against that party's side. Admissions against interest are permitted because they are thought to be more trustworthy than other hearsay, since people generally do not make statements that are against their own interest unless they are true.

b. **Excited Utterance:** A statement relating to a startling event or condition by someone other than the witness testifying is admissible when the statement was made under the stress of excitement caused by the event or condition. Any other statement made under circumstances which, in the judgment of the Judge gives substantial assurance of the truth of the matter asserted.

c. **Irrelevant:** A question is irrelevant if it seeks information which has no logical bearing on the existence of a material issue before the court, or if its logical bearing is small in comparison to its inflammatory nature.

- d. **Lacks Personal Knowledge/No Proper Foundation.** This objection asserts that there has been no showing that the witness has personal knowledge about the matter to which the question is directed. For example, if there has been no evidence that the witness was present at a certain event, there is no foundation for the witness to testify as to what occurred at that time.
- e. **Assumes Facts not in evidence.**
- f. **Argumentative.** The attorney is not asking a question, but instead is arguing with the witness or making an argument to persuade the jury.
- g. **Asked and Answered.** On cross examination, an attorney can ask a question previously asked on direct examination.
- h. **Badgering the Witness.**
- i. **Narrative Statement.** Questions such as “what happened on” a certain date call for a narrative from the witness which prevents opposing counsel from objecting in advance to objectionable material. Questions should be more specific, such as “Who was present?”, “Did she see that person do anything at that time?”, “What did you see him or her do?”, “Did you see anyone else do anything at that time?” An attorney may ask “what happened next?”
- j. **Opinion.** However, opinion evidence is proper on a subject on which the witness has been qualified as an expert or on which a non-expert’s opinion would be helpful to understand the evidence.
- k. **Unfair Extrapolation.** See page 5 of this Trial Notebook.
- l. **Outside the Scope of Cross Examination.** If an attorney re-directs (see below) a witness and asks questions that were not raised in the cross examination, then an objection may be made.
- m. Any other objections based on reason or justice, including but not limited to “the question is ambiguous”

E. REDIRECT/RECROSS (OPTIONAL)

The purpose of redirect is to rehabilitate a witness or repair damage done by your opponent. If credibility or reputation for truthfulness of the witness has been attacked on cross examination, the attorney whose witness has been damaged may wish to ask several more questions. These questions should be limited to the damage the attorney thinks has been done and should be phrased so as to try to “save” the witness’ truth-telling image in the eyes of the jury. Redirect examination is limited to issues raised by the attorney on cross-examination. If questions on

other matters are asked, a proper objection would be: "Objection. Counsel is asking the witness about matters that did not come up in cross examination."

F. CLOSING ARGUMENTS

Closing arguments are an opportunity to summarize your case. As the attorney, you can point out testimony that supports your theory of the case and that which damages your opponent's case. This is where you put the pieces together for the jury and the judge. Argue what you feel is important and discard the unimportant. Be an advocate by forcefully arguing your point of view. Be dynamic by avoiding a boring view of the facts. State your case so you are sure it is fully understood. You may use all exhibits which have been admitted into evidence. Point out bias, credibility, or self-interest of a witness.

In your closing argument, do not assume that the judge or jury have understood the impact of all the testimony. You should correct any misunderstandings that the jury or judge may have about the testimony or other evidence. Be cautious in using ridicule. Avoid illogical or confusing argument. Organize in advance by anticipating your opponent's argument. You should avoid using weak words, such as "we believe" and "we think" etc.

The Prosecution's rebuttal is limited to the scope of the defendant's closing argument.

ETHICAL CONDUCT

The purpose of the Genesee County Bar Association Mock Trial Competition is to stimulate and encourage a deeper understanding and appreciation of the American legal system. This purpose is accomplished by providing students the opportunity to participate actively in the learning process. Education of high school students is the primary goal of the mock trial program. Healthy competition helps to achieve this goal. Other important objectives include improving proficiency in speaking, listening, reading and reasoning skills; promoting effective communication and cooperation between the educational and legal communities; providing an opportunity to compete in an academic setting; and promoting cooperation among students of diverse interests and abilities.

As a means of diligent application of the Genesee County Bar Association Mock Trial Competition Rules, the Law Day Committee has adopted the following Code of Ethical Conduct for all participants:

1. Students promise to compete with the highest standards of deportment, showing respect for their fellow students, opponents, judges, court staff, evaluators, attorney-coaches, teacher-sponsors and mock trial personnel. All competitors will focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly, and with the utmost civility. Students will avoid all tactics they know are wrong or in violation of the rules of the competition in spirit or in practice.
2. Teacher-Advisors agree to focus attention on the educational value of the Mock Trial Competition. They shall not encourage willful violations of the rules. Teachers will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the competition's rules and this Code of Ethical Conduct.
3. Attorney-Advisors agree to uphold the highest standards of the legal profession and will zealously encourage fair play. They will promote conduct and decorum in accordance with the competition's rules and this Code of Ethical Conduct. Attorney-Advisors are reminded that they are in a position of authority and thus serve as positive role models for the students.
4. All participants (including school observers) are bound by all sections of this code and agree to abide by the provisions. Teams are responsible for insuring that all observers are aware of the code.
5. The Code of Ethical Conduct governs all participants, observers, guests, and parents at the competition.
 - A. Ban on Coaching.
 1. Once the trial begins no coaching is permitted by ANYONE for the duration of the trial. Student attorneys may consult with one another and with their witnesses.

2. To avoid even the appearance of impropriety, the attorneys trying the case and the witnesses should not engage in any conversation with any other team members, coaches or observers until after closing arguments.
3. Any student team member (including team members not participating in the trial) who observes any violation of this rule shall report it immediately to the Judge who shall inquire into the circumstances of the allegation. The Judge may penalize any team for a violation of this rule.

B. Statement of Principles for Mock Trial Jurors

The mock trial competition, because it does represent a “mock” situation, obviously does not involve the “life and death” circumstances that would apply in an actual Circuit Court jury trial. On the other hand, in order that all mock trial participants, including those students who assume the role of jury members, might achieve maximum benefits (educational and otherwise) from their participation, mock trial jurors are strongly urged to fill their roles with the following principles in mind:

1. Like real jurors, mock trial jurors should do their utmost to pay careful attention to, and follow the instructions given them by the judge at the beginning of trial.
2. Mock trial jurors should recognize that the many hours of hard work and preparation undertaken by the other participants in the mock trial competition are deserving of the mock trial jurors’ careful attention during the course of the trial presentation.
3. Similarly, mock trial jurors should do their utmost to respect and enhance the efforts and experience of all other mock trial participants by paying careful attention to, and following the court’s instructions at the conclusion of trial.
4. Consistent with these principles, and perhaps more important than any one of them, mock trial jurors should make every effort to conduct their jury deliberations, to the extent humanly possible, as though the ultimate decision made were a “real” one with “real” consequences for “real” people.

A. Violation of Competition Rules During Trial

Any violation of a competition rule observed during trial should immediately be called to the attention of the Judge by one of the attorneys trying the case.

B. Judge’s Instructions

1. Materials.

All judges should have a copy of the competition materials.

2. Role of the Judge.

The Judge has a delicate task. A trial is an adversarial proceeding. Yet the central goal is to give the young people participating a positive educational experience. Obviously, the Judge must be evenhanded. In addition, the judge should take special care to avoid intimidating the student lawyers and witnesses so they feel comfortable and free to act at the true level of their capacity. The judge should be encouraging to both sides and still maintain the essential form of a trial.

3. Enforcement of Code of Ethical Conduct.

To assist in enforcing the code, the Judges, upon taking the bench before the start of the trial, will handle the following pre-trial matters:

- a. Ask each side if it is ready for trial.
- b. Ask each side to provide the Judge with a copy of the team roster.
- c. Ask each side for a witness list of those to be called.
- d. Ask each member of the team to rise and identify himself or herself by name and role.
- e. The Judge will remind the participants about the ban on coaching.
- f. The Judge will remind the jurors about the Statement of Principles for Mock Trial Jurors.

4. Questions Regarding Mock Trial Rules.

If questions arise regarding application of the Mock Trial Rules, the Judge should entertain arguments by the attorneys regarding the construction of the rules and should encourage the attorneys to make reference to the rule in question. The Judge has the sole authority to make decisions about the conduct of the trial.

CASE MATERIALS

People of the
State of Michigan

v

Cary Prior

TYPE OF CASE:

This case involves a criminal prosecution. The People of the State of Michigan are represented by the Prosecuting Attorneys. The Defendant is Cary Prior who is represented by the Defense Attorneys.

SUMMARY OF FACTS:

Cary Prior, Robbie Williams, and Imani Conteh went to a friend's house to comfort their grieving friend. Cary Prior and Robbie Williams were drinking as they were playing cards. Imani Conteh was not.

The Prosecution argues that Cary Prior had Imani Conteh exit the driver side and Prior drove from their grieving friend's house. When Prior came to the intersection of Dye and Lennon, he/she did not stop and collided with Charlie Michaelson. The collision threw Michaelson from his Mercedes convertible and killed him immediately. After questioning by police, Defendant Prior fled the area but was captured and handcuffed. During a search incident to arrest, officers found marijuana and open alcohol containers within reach of the driver's seat.

Prior is charged with the following: Count I, Open Intoxicant; Count II, Possession Marijuana; Count III, Operating While Intoxicated; Count IV, Resisting Arrest; and Count V, Reckless Driving Causing Death.

The Defense argues that Prior was not driving the vehicle that collided with the white Mercedes convertible. He/she did not have possession or control over the marijuana or the alcohol as he/she sat in the back seat.

STATUTES / CASE LAW

1. A person found guilty of operating a motor vehicle with an open container of liquor is guilty of a misdemeanor. The person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense. MCLA 257.624b(1). Further, the vehicle may be impounded. MCLA 257.624b(1).

2. A person who knowingly or intentionally possesses marijuana is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000 or both. See MCLA 333.7403.

3. A person who operates a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles within this state while intoxicated, and who by the operation of that motor vehicle causes the death of another person, is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both. *See* MCLA 257.625.

4. Highway is defined as the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. MCLA 257.20.

5. A vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks, except, only for the purpose of titling and registration under this act, a mobile as defined in section 2 of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being section 125.2302 of the Michigan Compiled Laws. MCLA 257.79.

6. Operate or operating means being in actual physical control of a vehicle regardless of whether or not the person is licensed under this act as an operator or chauffeur. MCLA 257.35a.

7. A defendant can be convicted of reckless driving if he/she intentionally disregarded the safety of persons or property or if he/she acted with indifference as to the whether his/her conduct would endanger the safety of persons or property. *See People v Burris*, unpublished per curiam opinion of the Court of Appeals, dated October 23, 2007 (Docket No. 271790).

8. A person who operated a vehicle upon a highway or other place open to the general public in willful or wanton disregard for the safety of persons or property and by the operation of that vehicle causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500 or more than \$10,000, or both. *See* MCLA 257.626.

9. A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if the person is operating while intoxicated. As used in this section, "operating while intoxicated" means any of the following:

- (a) The person is under the influence of alcoholic liquor, a controlled substance, or other intoxicating substance or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance.
- (b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine....

See MCLA 257.625(1).

STIPULATIONS

1. There are statements from four witnesses for each party. Each statement is designated as Prosecution Witness or Defense Witness. Each party may call only three witnesses to the stand. It will be up to each team to determine which witnesses will testify at trial. The Defendant may invoke his or her 5th Amendment right and not testify at trial. If the Defendant does not testify, then the prosecution cannot use the defendant's affidavit as support for their case but may use statements made to the police officer. Further, a party may not call a witness that is designated for the opposing party. For example, the Prosecuting Attorney may not call Defendant's witness to testify at trial.
2. Marijuana is a Schedule 2 controlled substance. *See MCLA 333.7214.*
3. The substance found in the ashtray of the Silverado tested positive for marijuana.
4. The substance found in the prescription bottle under the driver's seat in the Silverado tested positive for marijuana.
5. Charlie Michaelson's blood results showed that his blood alcohol content was 0.08 and there was a presence of marijuana.
6. Cary Prior's blood tests showed a blood alcohol content of 0.05 and there was marijuana in his/her system.
7. The presiding judge will conduct the trial according to the Michigan Rules of Evidence. Trial will be by jury.
8. The jury will be instructed on the elements of the offense according to the jury instructions beginning on page 18.
9. The presiding judge will entertain no motions prior to trial.
10. All exhibits included in these case materials are authentic and are accurate in all respects; no objections to the authenticity of the exhibits will be entertained.

COMMENTS AND SUGGESTIONS:

The 2015 Mock Trial is a fictitious case. Any names, descriptions or events described herein are purely coincidental. Most witnesses were created to be gender-neutral.

As in previous years, all admissible exhibits and information relating to the case are contained in these case materials. Students are not allowed to introduce at trial cases, exhibits not contained in the case materials, or a witness from the opposing party.

JURY INSTRUCTIONS

The court instructs the jury regarding the general features of a case, defines the offense, and explains what must be proven to establish the offense. The following instructions are taken from the Criminal Jury Instructions currently in effect in Michigan and will be used in this Mock Trial.

CJI2d 3.2 Presumption of Innocence, Burden of Proof and Reasonable Doubt

- (1) A person accused of a crime is presumed to be innocent. This means that you must start with the presumption that the defendant is innocent. This presumption continues throughout the trial and entitles the defendant to a verdict of not guilty unless you are satisfied beyond a reasonable doubt that he/she is guilty.
- (2) Every crime is made up of parts called elements. The prosecutor must prove each element of the crime beyond a reasonable doubt. The defendant is not required to prove his/her innocence or do anything. If you find that the prosecutor has not proven every element beyond a reasonable doubt, then you must find the defendant not guilty.
- (3) A reasonable doubt is a fair, honest doubt growing out of the evidence or lack of evidence. It is not merely an imaginary or possible doubt, but a doubt based on reason and common sense. A reasonable doubt is just that – a doubt that is reasonable, after a careful and considered examination of the facts and circumstances of this case.

CJI2d 3.3 Defendant Not Testifying

Every defendant has the absolute right not to testify. When you decide the case, you must not consider the fact that he/she did not testify. It must not affect your verdict in any way.

CJI2d 3.5 Evidence

- (1) When you discuss the case and decide on your verdict, you may only consider the evidence that has been properly admitted in this case. Therefore, it is important for you to understand what is evidence and what is not evidence.
- (2) Evidence includes only sworn testimony of witnesses, the exhibits admitted into evidence, and anything else I told you to consider as evidence.
- (3) Many things are not evidence, and you must be careful not to consider them as such. I will now describe some of the things that are not evidence.
- (4) The fact that the defendant is charged with a crime and is on trial is not evidence.
- (5) The lawyers' statements and arguments are not evidence. They are only meant to help you understand the evidence and each side's legal theories. The lawyers' questions to witnesses are also not evidence. You should consider these questions only as they give meaning to the witnesses' answers. You should only accept things the lawyers say that are supported by the evidence or by your own common sense and general knowledge.
- (6) My comments, rulings, questions, and instructions are also not evidence. It is my duty to see that the trial is conducted according to the law, and to tell you the law that applies to this case. However, when I make a comment or give an instruction, I am not trying to influence your vote or express a personal opinion about how you should decide this case.

You must pay no attention to that opinion. You are the only judges of the facts, and you should decide this case from the evidence.

- (7) At times during the trial, I have excluded evidence that was offered or stricken testimony that was heard. Do not consider those things in deciding this case. Make your decision only on the evidence that I let in, and nothing else.
- (8) Your decision should be based on all the evidence, regardless of which party produced it.
- (9) You should use your own common sense and general knowledge in weighing and judging the evidence, but you should not use any personal knowledge you may have about a place, person, or event. To repeat once more, you must decide this case based only on the evidence admitted during this trial.

CJI2d 4.1 Defendant's Statements as Evidence Against the Defendant

- (1) The prosecution has introduced evidence of a statement that it claims the defendant made.
- (2) Before you may consider such an out-of-court statement against the defendant, you must first find that the defendant actually made the statement as given to you.
- (3) If you find that the defendant did make the statement, you may give the statement whatever weight you think it deserves. In deciding this case, you should think about how and when the statement was made, and about all other evidence in the case. You may consider the statement in deciding the facts of the case [and in deciding if you believe the defendant's testimony in court].¹

CJI2d 4.3 Circumstantial Evidence

- (1) Facts can be proved by direct evidence from a witness or an exhibit. Direct evidence is evidence about what we actually see or hear. For example, if you look outside and see rain falling, that is direct evidence that it is raining.
- (2) Facts can be proved by indirect, or circumstantial, evidence. Circumstantial evidence is evidence that normally or reasonably leads to other facts. So, for example, if you see a person come in from outside wearing a raincoat covered with small drops of water that would be circumstantial evidence that it is raining.
- (3) You may consider circumstantial evidence. Circumstantial evidence by itself, or a combination of circumstantial evidence and direct evidence, can be used to prove the elements of a crime. In other words, you should consider all the evidence that you believe.

CJI2d 5.11 Police Witness

You may have heard testimony from a witness who is a police officer. That testimony is to be judged by the same standards you use to evaluate the testimony of any other witness.

¹ Use the bracketed phrase only if the defendant testifies at trial and the prior statement is used to impeach his or her testimony.

CJI2d 12.05 Unlawful Possession of a Controlled Substance

(1) The defendant is charged with the crime of knowingly or intentionally possessing a controlled substance, marijuana. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

- (2) First, that the defendant possessed a controlled substance.
- (3) Second, that the substance possessed was marijuana.
- (4) Third, that the defendant knew that he / she was possessing marijuana.

CJI2d 12.07 Meaning of Possession

Possession does not necessarily mean ownership. Possession means that either:

- (1) the person has actual physical control of the substance, as I do with the pen I'm now holding, or
- (2) the person has the right to control the substance, even though it is in a different room or place.

Possession may be sole, where one person alone possesses the substance.

Possession may be joint, where two or more people each share possession.

It is not enough if the defendant merely knew about the marijuana; the defendant possessed the marijuana only if he / she had control of it or the right to control it, either alone or together with someone else.

CJI2d 13.01 Assaulting, Resisting, or Obstructing a Police Officer

(1) The defendant is charged with the crime of resisting a police officer who was performing his / her duties. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant resisted a police officer. The defendant must have actually resisted by what he / she said or did, but physical violence is not necessary.

(3) Second, that the defendant knew or had reason to know that the person the defendant resisted was a police officer performing his / her duties at the time.

CJI2d 15.01 Operating While Intoxicated--OWI

The defendant is charged with operating a motor vehicle while intoxicated by:

- (1) operating a motor vehicle while under the influence of alcohol and / or
- (2) operating a motor vehicle with an unlawful bodily alcohol level.

CJI2d 15.02 Elements Common to Operating While Intoxicated [OWI]

To prove that the defendant operated while intoxicated, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(1) First, that the defendant was operating a motor vehicle on or about July 20, 2013. Operating means driving or having actual physical control of the vehicle.

(2) Second, that the defendant was operating a vehicle on a highway or other place open to the public or generally accessible to motor vehicles.

(3) Third, that the defendant was operating the vehicle in the Township of Flint, County of Genesee, State of Michigan.

CJI2d 15.03 Specific Elements of Operating While Intoxicated [OWI]

(1) To prove that the defendant operated a motor vehicle while intoxicated, the prosecutor must also prove beyond a reasonable doubt that the defendant was either under the influence of alcohol while operating the vehicle or that that defendant operated the vehicle with a bodily alcohol level of 0.08 grams or more per 100 milliliters of blood.

(2) "Under the influence of alcohol" means that because of drinking alcohol, the defendant's ability to operate a motor vehicle in a normal manner was substantially lessened. To be under the influence, a person does not have to be what is called "dead drunk," that is, falling down or hardly able to stand up. On the other hand, just because a person has drunk alcohol or smells of alcohol does not prove, by itself, that the person is under the influence of alcohol. The test is whether, because of drinking alcohol, the defendant's mental or physical condition was significantly affected and the defendant was no longer able to operate a vehicle in a normal manner.

CJI2d 15.03a Operating with Any Amount of Schedule 1 or 2 Controlled Substance

The defendant is charged with the crime of operating a motor vehicle with a controlled substance in his / her body. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(1) First, that the defendant was operating a motor vehicle. "Operating" means driving or having actual physical control of the vehicle.

(2) Second, that the defendant was operating the vehicle on a highway or other place that was open to the public or generally accessible to motor vehicles, including any designated parking area.

(3) Third, that while operating the vehicle, the defendant had any amount of marijuana in his / her body.

CJI2d 15.05 Factors in Considering Operating While Intoxicated [OWI]

As you consider the possible verdicts, you should think about the following:

(1) What was the mental and physical condition of the defendant at the time that [he / she] was operating the motor vehicle? Were the defendant's reflexes, ability to see, way of walking and talking, manner of driving, and judgment normal? If there was evidence that any of these things seemed abnormal, was this caused by drinking alcohol?

(2) You may also consider bodily alcohol content in reaching your verdict. In that regard, were the test(s) technically accurate? Was the equipment properly assembled and maintained and in good working order when the test(s) were given?

(3) Were the test results reliable? Was the test given correctly? Was the person who gave it properly trained? Did the circumstances under which the test was given affect the accuracy of the results?

(4) One way to determine whether a person is intoxicated is to measure how much alcohol is in his / her blood. There was evidence in this trial that a test was given to the defendant. The purpose of this test is to measure the amount of alcohol in a person's blood.

(5) If you find that there were 0.08 grams or more of alcohol per 100 milliliters of the defendant's blood when he / she operated the vehicle, you may find the defendant guilty of operating a motor vehicle with an unlawful bodily alcohol content, whether or not this alcohol content affected the defendant's ability to operate a motor vehicle.

(6) You may infer that the defendant's bodily alcohol content at the time of the test was the same as his / her bodily alcohol content at the time he / she operated the motor vehicle.

(7) In considering the evidence and arriving at your verdict, you may give the test whatever weight you believe that it deserves. The results of a test are just one factor you may consider, along with all other evidence about the condition of the defendant at the time he / she was operating the motor vehicle.

CJI2d 15.16 Reckless Driving Causing Death

(1) The defendant is charged with the crime of reckless driving causing death. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant drove a motor vehicle on a highway or other place open to the public or generally accessible to motor vehicles, including a designated parking area.

(3) Second that the defendant drove the motor vehicle in willful or wanton disregard for the safety of persons or property. "Willful or wanton disregard" means more than simple carelessness but does not require proof of an intent to cause harm. It means knowingly disregarding the possible risks to the safety of people or property.

(4) Third, that the defendant's operation of the vehicle caused the victim's death. To "cause" the victim's death, the defendant's operation of the vehicle must have been a factual cause of the death, that is, but for the defendant's operation of the vehicle the death would not have occurred. In addition, operation of the vehicle must have been a proximate cause of death, that is, death or serious injury must have been a direct and natural result of operating the vehicle.

**STATE OF MICHIGAN
IN THE 7TH CIRCUIT COURT**

PEOPLE OF THE STATE
OF MICHIGAN,
Plaintiff,

Case No. 14-000135-FH

v.

JUDGE

CARY PRIOR,
Defendant.

School Name
PROSECUTING ATTORNEY

School Name
ATTORNEY FOR DEFENDANT

VERDICT FORM²

Count I: Open Intoxicant

Not Guilty _____ (Go to Count II)

Guilty _____ (Go to Count II)

Count II: Possession of Marijuana

Not Guilty _____ (Go to Count III)

Guilty _____ (Go to Count III)

Count III: Operating While Intoxicated

Not Guilty _____ (Go to Count IV)

Guilty _____ (Go to Count IV)

² Please return the verdict form to the Genesee County Bar Association with the results of your school's verdicts.

Count IV: Resisting Arrest

Not Guilty _____ (Go to Count V)

Guilty _____ (Go to Count V)

Count V: Reckless Driving Causing Death

Not Guilty _____ (Stop)

Guilty _____ (Stop)

EXHIBITS









Submitted into Evidence: Kione Lewis, Badge 027
Date: July 19, 2013 Time: 0025 hrs

STATEMENTS

STATEMENT OF DEPUTY SKYLAR PRESTON

AFFIDAVIT OF SKYLAR PRESTON

Prosecution Witness

1. My name is Skylar Preston. I am employed at the Genesee County Sheriff's Department as a deputy. I have been a deputy since 1990.
2. On July 20, 2013, I was on patrol. My shift was 1600 hours to midnight. On the day in question, I was on Westbound I-69 area patrolling.
3. At approximately 2349 hours, I received a 911 dispatch regarding a two vehicle accident at the intersection of Dye Road and Lennon in Flint Township. I was on Westbound I-69 between Bristol Road and Miller Road exits. I came off I-69 on Miller Road and made my way to the intersection of Lennon and Dye.
4. I was the first to arrive at the scene. The light at the intersection was blinking red in both directions. This means it was a four way stop. If vehicles arrive at the intersection at the same time then the vehicle on the right goes first. The light turns to blinking red in all directions each night at 2200 hours.
5. I saw a silver 2010 Chevy Silverado. It appeared that the Silverado was driving east on Lennon.
6. There was a white 2006 convertible Mercedes Benz 550 in the northbound lane on Dye Road. The convertible top was down in the vehicle but windows appeared to be up.
7. Both vehicles were facing the Northeast corner. I requested ambulance and another patrol unit for assistance.
8. I walked up to the Mercedes first because I did not see anyone in the driver's seat. The Mercedes had damage to its driver side door. The driver's side window was smashed. Upon further inspection, I found an individual lying in the road. The male individual was later identified as Charlie Michaelson.
9. I checked Mr. Michaelson's pulse and did not find one. I did see a dicing pattern on the left side of Mr. Michaelson's face which is usually indicative of a left sided intersection type collision. A dicing pattern is from flying pieces of glass that typically leaves a pattern of right-angled superficial cuts.
10. When I turned around from Mr. Michaelson, I noticed that Officer Kione Lewis from the Flint Township Police Department was with the individuals in the Silverado and an ambulance had arrived.
11. The paramedic began examining Mr. Michaelson while I walked over to the Silverado. There were two individuals outside the vehicle that I could see. The individuals were later identified as Cary Prior and Robbie Williams. Further, I noticed another additional

individual who remained in the Silverado in the front passenger side. The front seat passenger was later identified as Imani Conteh. I requested an ambulance for Conteh as he/she appeared to be injured. Conteh did appear as if he/she was sitting in the passenger seat as opposed to be dragged over from the driver's seat. Conteh was wearing flip flops.

12. When I examined Conteh, he/she did not have a seatbelt over his/her shoulder. The airbag was deployed. Upon examination of the seatbelt after Conteh was removed from the vehicle by the paramedic, it appeared that the seatbelt was frayed at the "D" ring and the lap belt was the only safety harness on Conteh.
13. Officer Lewis was talking with the other two individuals, Prior and Williams. When I walked up to them, Prior indicated that he/she was not driving. Williams was quiet. I observed the shoes worn by Prior and Williams. Prior was wearing what appeared to be Nike Air Monarch IV shoes. I have a pair that matches those shoes. Williams had a pair of black Skechers.
14. A paramedic came over to check on Williams. Officer Lewis was still talking with Prior. I went to the white Mercedes to check it out.
15. When I arrived at the Mercedes, I observed a marijuana blunt in the ashtray that appeared to have been smoked as the end of the blunt was burnt. I examined the vehicle further and found a bottle of Smirnoff Vodka in the back seat that was half empty. It appears that the seatbelt was not worn by Mr. Michaelson. There were no signs of fraying of the seatbelt.
16. I talked with Cree Childress who was driving North on Dye Road behind Michaelson. Childress indicated that Michaelson was swerving side to side within his lane then came to the light on Dye and Lennon. Childress mentioned that Michaelson did not come to a full stop before entering the intersection. Childress called 911 to report the vehicle at the time of the collision.
17. Childress could not see who was driving the other vehicle. The other vehicle did not stop when it came to the light which was flashing red for all drivers.
18. After the vehicles collided, Childress stated that Michaelson was thrown out of the vehicle as if he did not have a seatbelt.
19. Even after the accident, Childress could not identify the driver of the Silverado.
20. After talking with Childress, I heard Prior yelling at Officer Lewis. As I was walking over to the Silverado, I noticed Prior pulling away from Officer Lewis' grasp. Prior began to run away when both Officer Lewis and I ran after him/her. Officer Lewis was able to grab Prior. Prior began fighting with Officer Lewis when I yelled that I would use the Taser. Prior failed to stop and I tased him/her. After Prior stopped resisting arrest,

Officer Lewis was able to handcuff him/her. Prior was placed at the back of Officer Lewis' vehicle.

21. When Michaelson's body was in the Coroner's Office, I examined the body and found no bruising indicating that a seatbelt was used.
22. Charlie Michaelson's blood results came back. His blood alcohol content was 0.08 and the presence of marijuana.
23. Charlie Michaelson was 68 years old and a retired accountant. He lost his wife approximately a month ago from a long term battle with cancer. He has two children and five grandchildren.

Skylar Preston

Skylar Preston, Badge #11458

**THIS IS FOR INFORMATIONAL PURPOSES ONLY BASED ON TESTIMONY OF
DEPUTY SKYLAR PRESTON.**

DO NOT USE THIS SHEET AS AN EXHIBIT.

The seatbelt was frayed at the D ring.



STATEMENT OF OFFICER KIONE LEWIS

AFFIDAVIT OF KIONE LEWIS

Prosecution Witness

1. My name is Kione Lewis. I am employed at the Flint Township Police Department as a patrol officer. I have been a police officer since 1998.
2. On July 20, 2013, I was on patrol. My shift typically was 1500 hours to 2300 hours but I was assigned overtime due to another patrol officer calling in sick.
3. At approximately 2345 hours, I received a 911 dispatch regarding a white Mercedes convertible swerving in his lane on Dye Road just north of Miller. I was at the Flint Township Police Department at that time. I drove West on Norko. When I approached Dye Road, I did not see any white convertible South of my location. I turned right onto Dye Road and drove towards Lennon. When I approached Lennon, I observed a white convertible and Silverado in the middle of the intersection. It appears that the vehicles collided.
4. At the time, I arrived I noticed Deputy Preston at the white Mercedes. Then he began to walk away from the Mercedes. I exited my vehicle and approached the Silverado to find out how the occupants were.
5. When I arrived at the Silverado, two individuals were outside of the vehicle. I identified them as Cary Prior and Robbie Williams.
6. Williams was holding his/her arm and I asked whether he/she needed medical attention and he/she said yes. I requested an ambulance to come to the scene.
7. As we were waiting for the ambulance, I asked Prior and Williams who was driving the vehicles. Prior denied driving the Silverado and Williams did not respond. I explained to Prior and Williams that I was going to put them in handcuffs for our protection while I investigate this matter. I attempted to handcuff Prior who slipped from my grasp and began to run. I told Prior to stop but he/she did not. I chased down Prior and was able to tackle him/her. Prior kept resisting and Deputy Preston threatened to use the taser on him/her. Prior kept resisting and Deputy Preston taser him/her.
8. Once I was able to handcuff Prior, I read him/her his/her rights. I asked Prior why he/she ran. Prior indicated that he/she was scared because the other driver was thrown from his vehicle and he/she thought that the police would charge him/her with murder.

9. I asked Prior what happened but he/she asked for a lawyer. Since I smelled alcohol on his/her breath, I asked Prior to take a preliminary breath test (PBT). He/she denied.
10. Once I put Prior into my patrol vehicle, I searched the Silverado. I found a bottle of Jack Daniels that was half gone, an empty can of Budweiser, and a three-fourths full bottle of Patron. Each beverage was within reach of the driver's seat.
11. Upon further search, I found three burnt marijuana joints in the ashtray that was between the driver and passenger as well as a prescription bottle full of marijuana joints. I found the prescription bottle containing eight marijuana joints under the driver's seat.
12. The driver side and passenger side airbags were both deployed. The seatbelt on the front passenger side was frayed and broke at the D clip.
13. I took Prior to the police department. I took his/her shoes to see if there were any signs of the brake and gas pedals on the soles of his/her shoes. I found the imprinted pattern of the gas pedal on Prior's right shoe.
14. After gathering the evidence, I sought a Warrant compelling a blood draw in order to determine whether Prior was under the influence of marijuana and alcohol at the time of the accident. Judge Sophia Cortez authorized the warrant.
15. At 0145 hrs on July 21, 2013, a nurse from the county jail withdrew blood from Prior. When we received the results, Prior's blood alcohol content was 0.05 and there was marijuana in his/her system.
16. Cary Prior is twenty-five years old. He/she is unemployed. Prior is approximately six foot and weighs about 157 pounds. Cary Prior was previously convicted of Operating While Intoxicated (OWI) on two previous occasions in the past seven years.

Kione Lewis

Kione Lewis, Badge #024

STATEMENT OF TONY CRAWFORD

AFFIDAVIT OF TONY CRAWFORD

Prosecution Witness

1. My name is Tony Crawford. I am 27 years old. I work at Flint Truck & Bus on Bristol Road. I am a line worker.
2. On July 20, 2013, I had a barbeque with some friends. The barbeque started about 6:30 p.m. I reside at 10236 Riverworth Drive, Flint, Michigan.
3. People came to my house throughout the night. We ate about 7:00 p.m. There were hot dogs, hamburgers, brats, potato salad, beans, and other food. There was also alcohol at the barbeque. The alcohol consisted of Budweiser, Jack Daniels, Patron, and Smirnoff.
4. At approximately 10:30 p.m., Cary Prior, Robbie Williams and Imani Conteh came to my house. They were acquainted with my roommate, Sam. I did not know them that well.
5. Cary and Robbie joined my roommate and me in playing euchre. Imani watched. While we were playing, I observed Cary and Robbie drinking Jack Daniels with water in highball glasses. They each had three glasses. On the second game, Cary suggested making the card game more interesting. He/she grabbed the Patron and suggested that each team that lost a point had to take a shot for every point that the other team won. My roommate and I skunked Cary and Robbie. They each took ten shots of Patron during that game.
6. Imani did not drink at my house.
7. Cary stated that they had to go. Robbie grabbed a Budweiser and Cary grabbed the bottle of Patron. I asked for his/her keys because of the amount that they had to drink. Cary stated that Imani would drive.
8. I watched Imani enter the driver's side of the Silverado. The Silverado was parked for some time then I saw movement inside the vehicle as if someone was moving over. Cary opened the front passenger door and walked around to the driver's door. He/she stood there for a minute with the door opened. I went to the backyard in order to be with my other guests. I did not see whether he/she sat in the driver's seat or not.

Tony Crawford

Tony Crawford

STATEMENT OF BRETT SAXTON

AFFIDAVIT OF BRETT SAXTON

Prosecution Witness

1. I am 45 years old. I am a teacher at Flint Area Community High School. I teach driver's education and special education.
2. At approximately 11:40 p.m., I was driving behind a Silverado vehicle on Lennon going East towards Dye Road. I observed the vehicle turning onto Lennon from Riverworth Drive at an excessive speed. I had to stop in order to avoid being hit.
3. The speed limit on Lennon is 45 miles per hour. I was driving that speed. The Silverado was driving in excess of 45 miles per hour because it pulled away from me quickly.
4. The vehicle was swerving from the eastbound lane into the westbound lane.
5. When it approached the intersection of Lennon and Dye, the Silverado did not slow down to stop. I noticed a white Mercedes convertible approaching the intersection. It appeared that the Mercedes was stopping. The light was flashing red in our direction.
6. I noticed that the white Mercedes was driving through the intersection as the Silverado approached it. I closed my eyes because it was inevitable that there was going to be an accident. I heard the impact. When I opened my eyes, I saw the driver of the Mercedes in mid-air, flying out of the vehicle. It did not appear that the driver of the Mercedes wore a seatbelt. The Silverado drove to the NE corner of the intersection. The Mercedes went the same way.
7. When I approached the intersection, I saw an individual about 5'11 or 6' weighing approximately 150 -170 get out of the driver's seat. He/she had a bottle in his/her hand. The individual then leaned into the vehicle. When he/she came back out, there was nothing in his/her hand.
8. I stayed in my vehicle until the police officer was done talking to the individuals from the Silverado. I told the officer what I observed and that the person who ran away from him/her was the person who exited the driver's seat.

Brett Saxton
Brett Saxton

STATEMENT OF CARY PRIOR

AFFIDAVIT OF CARY PRIOR

Defense Witness

1. I am twenty five years old. I work at Flint Truck & Bus.
2. On July 20, 2013, I went to a friend's barbeque with Robbie Williams and Imani Conteh around 8 p.m. The barbeque was at 10236 Riverworth Drive, Flint, Michigan.
3. I did not see Tony Crawford until about 10:30 p.m. He/she owns 10236 Riverworth Drive, Flint, Michigan. I am friends with Sam who is Tony's roommate. When we originally went over to the house, we stayed in the house while the barbeque was outside. We talked with Sam who lost his/her grandmother.
4. At about 10:30 p.m., we went outside to the barbeque. We started playing euchre when Tony brought out a bottle of Patron. He/she suggested that we play for drinks. If we lose a point then we take a shot. We did. We lost by 2 points.
5. After finishing the game, Robbie wanted to leave. We went to my Silverado. Imani did not drink anything; therefore, he/she drove. I did not drive the vehicle. Robbie and I sat in the back.
6. Imani was speeding on Lennon. He/she came up to the corner and did not stop. I told him/her to slow down and stop but he/she did not.
7. When we came to the corner of Dye and Lennon, there was a White convertible arriving at the corner at the same time. Imani kept going because we would have been the first to stop. The convertible blew through the stop sign and we collided. The Silverado hit the driver side door. The driver side window on the convertible smashed. I saw the driver fly out of the vehicle. It did not appear that the driver was wearing a seatbelt.
8. When the Silverado stopped, I immediately released the seatbelt and got out of the truck. I wanted to make sure that Imani was okay. When I came around the driver's side window, Imani looked dazed and was holding his/her arm. Robbie and I thought it would be better to move Imani to the passenger seat which had more room in it.
9. Robbie and I went to the driver's side of the vehicle when the police officer arrived. At first, Deputy Preston came to the scene but he/she focused on the convertible. About five minutes later, Officer Lewis came to the scene and he/she came over the Silverado.
10. Officer Lewis asked who was driving and I told him/her that it was Imani. Officer Lewis checked on Imani and requested an ambulance. Officer Lewis asked why Imani was in the passenger seat if he/she was driving. I explained that we moved him/her over because he/she looked uncomfortable with the steering wheel and pedals. Robbie did not talk.

11. Officer Lewis stated that he/she was going to handcuff me as Deputy Preston walked up. I was not going to be blamed for something that I did not do. I was scared that they were going to try and pin the other driver's death on me. I ran. Officer Lewis and Deputy Preston followed. My heart was racing so bad, I was in fear for my life. One of the officers tackled me then the other tasered me. I was in pain.
12. The officers did not read me my rights. Officer Lewis asked why I ran. I told him/her that I was afraid that they were going to pin the other driver's death on me.
13. I asked for a lawyer. They stopped questioning. Officer Lewis claims to have smelled alcohol on my breath and wanted to take a PBT. I refused. Not only were they trying to pin the other driver's death on me but accuse me of being a drunk driver. They placed me in one of the patrol vehicles.
14. After Officer Lewis searched my vehicle, he/she indicated that they found alcohol within reach of the driver. Also, he/she claims to have found a bottle with marijuana under the driver's seat. At the time of the accident, I was not driving. The alcohol was mine but not the marijuana.
15. I did not drink in the vehicle. Sam gave me the alcohol before we left the party.
16. I am approximately 5'11" and weight about 150 pounds. I was convicted of OUIL on two previous occasions in the past ten years but I learned my lesson.

Cary Prior
Cary Prior

STATEMENT OF ROBBIE WILLIAMS

AFFIDAVIT OF ROBBIE WILLIAMS

Defense Witness

1. I am twenty-seven years old. I work at Flint Truck & Bus Plant. I have been friends with Cary Prior since elementary school. We lived next door to each other since then.
2. On July 20, 2013, Cary picked me up at home. Imani Conteh was already in the vehicle in the front passenger seat. I got into the back seat behind Conteh. We went to 10236 Riverworth Drive, Flint, Michigan.
3. Our friend Sam lives at 10236 Riverworth Drive, Flint, Michigan. We arrived between 8 p.m. and 8:30 p.m. Sam lost a grandparent and we sat in her bedroom just remembering her grandmother. Cary and Sam were pretty close while in high school. Tony, Sam's roommate, does not like their friendship.
4. At about 10:30 p.m., we went outside and joined the other people at the barbeque. Tony Crawford was playing cards. He/she invited us into the next game. Imani never played euchre before and decided to sit out. Cary and I played. Tony had the idea to play for shots. Each point you lost, you had to take a shot of Patron. Cary and I were already drinking Jack Daniels with water.
5. Cary and I lost by four points. We took ten shots of Patron each. We decided it was time to go. Since we were drinking and Imani was not, Imani decided to drive. We went to the vehicle and Imani got into the vehicle.
6. Once we were on the road, Imani was driving fast. I asked him/her to slow down because I was getting sick but he/she did not. When we approached the intersection of Lennon and Dye, I saw a white convertible nearing the intersection. Imani kept going. He/she stated that he/she got to the intersection first.
7. Next thing that I know, we collided. I saw the man in the white convertible fly out of the car. I don't think he had on his seatbelt.
8. Cary asked that I help move Imani into the passenger seat because Imani appeared to be hurt. I helped. Cary pulled from the passenger side and I lifted from the driver's side.
9. After we helped Imani into the passenger side of the vehicle, Deputy Preston arrived. He/she checked on the white convertible and driver first. Officer Lewis then arrived and came to our truck.
10. Cary and I were standing outside the driver's side of the truck when Officer Lewis approached us. He/she first looked at Imani and requested an ambulance. After that,

Officer Lewis began asking us who drove. I was scared because a man just got thrown from his vehicle. I was quiet and could not make eye contact with Officer Lewis. Officer Lewis noticed that I was holding my arm and asked if I needed assistance. I said yes.

11. Cary told Officer Lewis that Imani was driving the vehicle. Deputy Preston then came over and began looking at Cary and my shoes. Cary began to get nervous. I could tell because he/she was beginning to shift his/her feet from side to side. Officer Lewis looked at the truck and I told Cary to not do anything stupid but he/she ran. Officer Lewis and Deputy Preston took off after Cary. Officer Lewis tackled Cary. Despite being tackled, Deputy Preston tasered Cary. I did not understand the need for that.
12. Cary was placed in the back of a patrol car with handcuffs on. After that, Officer Lewis searched the truck and found marijuana and alcohol. The alcohol was brought from the party. I had no knowledge of the marijuana.
13. I have been convicted third degree retail fraud which is a felony as well as providing false information to a police officer.

Robbie Williams

Robbie Williams

STATEMENT OF IMANI CONTEH

AFFIDAVIT OF IMANI CONTEH

Defense Witness

1. I am twenty-six years old. I work at McDonald's near the Flint Truck and Bus Plant. I have known Cary Prior and Robbie Williams since high school.
2. On July 20, 2013, I went to see a friend with Cary Prior and Robbie Williams. Our friend lost her grandmother and wanted to talk. We all grew up together. We spent some time in the house remembering Sam's grandmother then about 10:30 ish we went outside where we met Tony Crawford.
3. Tony was playing euchre which I never played before. Robbie and Cary played the next game with Tony and Sam. Tony decided to wager shots of Patron in order to make it more interesting. I do not drink alcohol. Robbie and Cary played. They lost by a few points.
4. As we were leaving Sam's house at 10236 Riverworth Drive, Flint, Michigan, Cary handed me the keys to drive. I got into the driver's seat and started the vehicle. Cary put some alcohol in the driver's seat and got in the vehicle.
5. I do not remember anything else until I woke up at the hospital.
6. I had a bruise on my right shoulder and cuts on my left arm. Doctors told me that the seatbelt left a bruise on my right shoulder and the cuts on my left arm are from the airbag most likely.
7. I would not have allowed Cary or Robbie to drive that night since they were both drinking at Tony's house.

Imani Conteh

Imani Conteh

STATEMENT OF CREE CHILDRESS

AFFIDAVIT OF CREE CHILDRESS

Defense Witness

1. I am 47 years old. I work at ABC Accounting in Grand Blanc, Michigan.
2. On the night of July 20, 2013, I was driving to my mother's house on Dye Road, north of Corunna when I observed a white Mercedes convertible in front of me.
3. The Mercedes was swerving side to side in his lane at a slow speed. When I was close to the vehicle, I was driving about 25 miles per hour. The speed limit in that section is 45 miles per hour. I called 911 just after we crossed the railroad tracks. The driver appeared to be grabbing a bottle and taking a drink. The bottle did not look like a bottle of water.
4. The light at the intersection of Dye and Lennon was blinking red in both ways. I treat that as a four way stop.
5. When the Mercedes came to the intersection of Dye and Lennon, the car slowed down and continued through the intersection. At that time, a Silverado came through the intersection and collided with the Mercedes. At the rate of speed that the Silverado was driving, it appeared that the Silverado would have beaten the Mercedes to the corner and the Mercedes should have stopped for the Silverado.
6. I observed the driver of the vehicle fly out of the car and land on the ground. The impact was loud. I called 911 again to notify them of the accident.
7. If I would have to guess, it would be my opinion that the Silverado was going about 45 mph; while the Mercedes was going 25 mph.

Cree Childress _____

Cree Childress

DEBRIEFING THE MOCK TRIAL

The debriefing may well be the most important part of the Mock Trial. It should bring into focus the role play which has taken place, relating the events of the Mock Trial to the American court system and its role in maintaining the rule of law. The videotapes that Circuit Court will provide will assist with debriefing.

The following outline is meant only to serve as a guide and can of course be adjusted to meet the specific needs and interests of your group. The participants should first be asked how they each felt in their roles and whether they perceive their mock trial to have been realistic. The group should then discuss the procedures of a trial, the participants in a trial, and the American court system.

- I. What are the major parts of a trial?
 - A. Jury Selection
 1. How are jurors selected?
 2. Why might an attorney prefer that a particular juror not serve in his case?
 - a. How may an attorney challenge such a juror?
 - B. Opening Statement
 1. What is its purpose?
 - a. To inform the jury of the nature of the case.
 - b. To acquaint the jury with the essential facts.
 2. What should the opening statement include?
 - a. Name of case.
 - b. Name of attorney.
 - c. Name of client.
 - d. Name of opponent.
 - e. Facts and circumstances of the case.
 - f. Simple and concise statement.
 - g. What the attorney will prove in the case.
 - C. Direct Examination
 1. What is its purpose?
 - a. To present enough evidence to warrant a favorable verdict.
 - b. To present facts with clarity and understanding.
 - c. To present your witness to the greatest advantage.
 - d. To establish your witness's credibility.
 2. How does one conduct a direct examination?
 - a. Clear and simple questions.
 - b. Elicit information through questions and answers.
 - c. Never ask a question to which you don't know the answer.
 3. How does one get evidence before the court?
 - a. Through the testimony of witness.
 - b. Through the introduction of real evidence (photographs, murder weapon, etc.).

D. Cross Examination

1. What is the purpose?
 - a. To negate your opponent's case.
 - b. To discredit the testimony of his witness.
 - c. To discredit real evidence which has been presented.
2. What is its scope?
 - a. Can usually only ask questions relating to testimony made during direct examination.
 - b. Attempt to explain, modify, or discredit that which has been introduced as evidence.
3. How does one conduct cross-examination?
 - a. Use narrow, leading questions.
 - b. Do not have witness repeat statements unless you are leading somewhere.
 - c. Do not ask questions to which you do not know the answer.

E. Redirect and Re-Cross examination

1. If either attorney wishes, he can conduct redirect or re-cross examination.
2. This is most often done to either reestablish or again discredit statements by the witnesses.

F. Closing Argument

1. What is its purpose?
 - a. To synthesize for the jury all the facts and evidence of the case.
 - b. To state clearly, simply and logically the case for your client
 - c. To stress all the equities in the case, while advocating your clients' position.

G. Judge's charge to the jury

1. What is its purpose?
 - a. To indicate to the jurors the law in the case.
 - b. To summarize the arguments made for either side.
 - c. To explain possible alternative judgments to the jury.
2. What should it contain?
 - a. Summary of the charges.
 - b. Summary of the law.
 - c. Summary of the arguments for each side.
 - d. Summary of the alternatives available to the jury.

H. Jury retires to determine verdict

1. What does a jury do?
 - a. Each juror discusses his reaction to the arguments presented.
 - b. Jury discusses the validity of these arguments.
 - c. To reach a verdict bases upon their judgment and the law in the case.
2. How many votes are necessary for a verdict?
 - a. Depends upon jurisdiction in which case is heard.
 - b. Usually a unanimous verdict is required.
 - c. If there is a hung jury (one which neither finds the defendant innocent nor the number of votes necessary to find him guilty) an entire new trial may be held.

I. Clerk reads verdict

J. Judge determines sentence

1. What does the judge consider in determining the sentence?
 - a. Minimum and maximum sentence according to law.
 - b. The nature of the crime.
 - c. Defendant's prior record, if any.
 - d. Defendant's reputation in the community.
 - e. Defendant's responsibilities in the community.
2. What kind of sentence can a judge impose?
 - a. Must conform to the limits prescribed by law.
 - b. Can, however, suspend the sentence or put the defendant on probation.

II. Review the major participants in a trial

A. Clerk

1. Has charge of clerical side of court business.
2. Keeps records, seals and care of papers pertaining to judicial process.

B. Judge

1. Umpire between opposing attorneys.
2. Rules on objections of attorneys.
3. Sees that the trial moves along.
4. Charges jury as to the law.
5. Decides sentence.

C. Attorneys

1. Plaintiff's or Prosecuting Attorney's duty to overcome burden of proof and "sell" his/her case to the jury.
2. Defendant's attorney must anticipate Plaintiff's/Prosecuting Attorney's case and not allow him/her to overcome the burden of proof.

D. Foreman

1. Acts as chairman and spokesman of the jury.
2. Presides over discussions in the jury room.
3. Delivers verdict to the court.

E. Witnesses

1. Deliver testimony regarding relevant issues before the court.
2. Serve to either validate or discredit allegations made by other witnesses.

III. Questions about the actual case

- A. What was the charge against the defendant?
- B. What issues were raised in the case?
- C. What were the arguments of each attorney?
- D. Why did they make these arguments?
- E. What evidence was presented for each side?
- F. What facts, evidence or arguments were not presented?
- G. What was the decision of the court?
- H. Why was that decision reached?
- I. Can the losing party appeal his case to a higher court?

IV. Questions about our trial system

- A. Does our judicial system insure that the defendant receives a fair trial?**
- B. What provisions in our system insure that the defendant receives a fair trial?**
- C. Are some part of the trial more important than others?**
- D. What is the importance of the sequence of events of a trial?**
- E. Are some trial participants more important than others?**
- F. In what ways can this procedure be improved?**
- G. What changes, if any, would you recommend in our judicial system?**