

# 2005-2006 NEBRASKA HIGH SCHOOL MOCK TRIAL CASE

## *Pat Christianson vs. William Jennings Bryan Public High School, Eddie(y) U. Cation*

*The Religion Clauses of the First Amendment provide:  
"Congress shall make no law respecting an establishment of religion,  
or prohibiting the free exercise thereof." The first of the two Clauses,  
commonly called the Establishment Clause, commands a separation  
of church and state. The second, the Free Exercise Clause, requires  
government respect for, and noninterference with, the religious  
beliefs and practices of our Nation's people. While the two Clauses  
express complementary values, they often exert conflicting  
pressures. See Locke, 540 U. S., at 718 ("These two Clauses ... are  
frequently in tension."); Walz, 397 U. S., at 668-669 ("The Court has  
struggled to find a neutral course between the two Religion Clauses,  
both of which are cast in absolute terms, and either of which, if  
expanded to a logical extreme, would tend to clash with the other.").*

*Cutter v. Wilkinson, No. 03-9877  
(United States Supreme Court May 31, 2005)  
Justice Ginsberg delivered the opinion of the Court.*

**Sponsored by the Nebraska State Bar Foundation and its  
State Center for Law-Related Education**

# 2005/2006 NEBRASKA MOCK TRIAL CASE MATERIALS

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# NEBRASKA STATE BAR FOUNDATION

P.O. Box 95103  
Lincoln, NE 68509-5103  
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## MEMO

**TO: ALL MOCK TRIAL PARTICIPANTS**  
**FROM: DORIS J. HUFFMAN, EXECUTIVE DIRECTOR**  
**RE: 2005-2006 NEBRASKA HIGH SCHOOL MOCK TRIAL COMPETITION**  
**DATE: AUGUST 25, 2005**

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On behalf of the Nebraska State Bar Foundation, we welcome your participation in the 2005-2006 Mock Trial competition. This year's civil case centers around the Student Council election at William Jennings Bryan (WJB) Public High School. The principal, Dr. Eddie/y, has told Pat Christianson that Pat will be allowed to participate as a candidate for president only if s/he eliminates his/her religious rhetoric from the campaign. Christianson refuses to comply with the school's mandate to purge his/her campaign message of any religious references. Christianson maintains that his/her First Amendment rights have been violated and seeks a resolution by filing a lawsuit.

***Students*** - You will experience what it is like to prepare and present a case before a judge. Working with your team and coaches, you will learn to evaluate information and respond quickly. As you prepare, you will sharpen public speaking and presentation skills.

The greatest benefit is the opportunity to learn how the legal system works. After the competition, you will have gained knowledge that will be helpful as you become an adult. By studying and understanding courtroom procedure, you should become more comfortable with federal and state laws as part of the legal system. Your interaction with some of Nebraska's finest attorneys and judges will give you a glimpse of the different interpretations of trial procedure and different approaches of individual members of the judiciary.

***Teacher Coach, Attorney Coach, or Judge*** - We strongly encourage you to focus on the goal of participation by students rather than stressing competition while preparing your case.

Your contributions of time and talent are making many experiential educational opportunities available annually to over 1,200 Nebraska students. Your participation is an essential key element to the success of this program. You can be proud of the impact you have made on the lives of these students.

**Good luck and have fun!**

## ACKNOWLEDGEMENTS

The Mock Trial Project is administered and funded by the **Nebraska State Bar Foundation** and supported by hundreds of volunteer lawyers each year. The Nebraska State Bar Foundation is a nonprofit corporation that was established in 1963. Its mission is *to serve the citizens of Nebraska and the legal profession through the administration and funding of innovative and creative programs directed toward the improvement of justice and the fulfillment of the American vision of equal justice for all.*

The NEBRASKA STATE BAR FOUNDATION and the NEBRASKA COUNCIL OF SCHOOL ATTORNEYS help provide financial assistance for the winning Nebraska Mock Trial team to attend the National High School Mock Trial Championship.

A special thank you for members of the Nebraska State Mock Trial Case Committee:

**Chair Thomas E. Keefe, Lincoln**  
**Stephen S. Gealy, Lincoln**  
**Alicia B. Henderson, Lincoln**  
**Lory Ann Pasold, Lincoln**

**Kristi Egger-Brown, Lincoln**  
**Michael D. Gooch, Omaha**  
**Joel D. Nelson, Lincoln**  
**John C. Vanderslice, Lincoln**

A special thank you is extended to the **Nebraska Council of School Attorneys**. For the last 12 years, this statewide organization has given \$1,000 annually to the state champion team, which represents Nebraska at national competition.

The Nebraska State Bar Foundation wishes to also gratefully acknowledge the following:

**Christine L. Compston, Ph.D., Historian**  
**Professor James W. Fraser, Ph.D., Chair, Department of Education,**  
**Northeastern University**  
**Professor Marie Ashe, Suffolk University Law School**  
**Amy Miller, Esq., Nebraska Civil Liberties Union, Legal Director**

The following organizations endorse the Nebraska High School Mock Trial Project:

**Defense Counsel Association of Nebraska**  
**Nebraska Association of School Boards**  
**Nebraska Association of Trial Attorneys**  
**Nebraska Council of School Attorneys**  
**Nebraska County Attorneys Association**  
**Nebraska County Judges Association**  
**Nebraska Criminal Defense Attorneys Association**  
**Nebraska District Judges Association**  
**Nebraska State Bar Association**  
**Nebraska State Council for Social Studies**

## **NEBRASKA MOCK TRIAL GOALS**

- To increase student comprehension of the historical, ethical and philosophical bases of the American system of justice.
- To clarify operation of the law, court procedures and the legal system.
- To help students develop basic life and leadership skills such as listening, speaking, writing, reading and analyzing.
- To build bridges of mutual cooperation, respect and support between the community (teachers, students, parents and schools) and the legal profession.
- To heighten appreciation for academic studies and promote positive scholastic achievements.
- To bring law to life for students through active participation in the project.
- To encourage participation, and grow to understand the meaning of good citizenship in our democracy through the system of law. All students who participate are winners.

## **MOCK TRIAL OATH**

**Do you promise that the testimony you are about to give  
will truthfully conform to the facts and rules  
of the Mock Trial Competition?**

# Nebraska Mock Trial Competition

## Code of Ethical Conduct

The purpose of the Nebraska Mock Trial Competition is to stimulate and encourage a deeper understanding and appreciation of the legal system. The purpose is accomplished by providing students the opportunity to actively participate in the learning process. The education of students is the primary goal of the Mock Trial program, and 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 young people of diverse interests and abilities.

**As a means of diligent application of the Nebraska Mock Trial Competition Rules, the Nebraska State Bar Foundation encourages all participants to follow the Code of Ethical Conduct:**

1. Team members promise to compete with the highest standards of deportment, showing respect for their fellow team members, opponents, judges, evaluators, attorney coaches, teacher coaches 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. Members will avoid all tactics they know are wrong or in violation of the Rules, including the use of Invention of Facts. Members will not willfully violate the Rules of the competition in spirit or in practice.
2. Teacher Coaches agree to focus attention on the educational value of the Mock Trial Tournament. They shall discourage 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 Rules and this Code of Ethical Conduct.
3. Attorney Coaches 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 Rules and this Code of Ethical Conduct. Attorney coaches are reminded that they are in a position of authority and thus serve as positive role models for the students.
4. All participants (including 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.

## 2005/2006 Mock Trial Competition Dates

Entry deadline	September 9, 2005
Local and Regional Competition (8-week period in 12 regions)	October 3 - November 23, 2005
Regional winners selected and entered in State Championship	November 23, 2005
State Competition Omaha, Nebraska	December 6-7, 2005
Annual Banquet Omaha, Nebraska	December 6, 2005
State Finals Omaha Doubletree Hotel	December 7, 2005
National Championship Oklahoma City, Oklahoma	May 11-13, 2006

**NEBRASKA HIGH SCHOOL MOCK TRIAL PROBLEMS  
CIVIL LAW**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

Pat Christianson by his/her next friend and parent, Kim Christianson	)	8:05CV666
	)	
	)	
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Statement of the Facts
	)	
William Jennings Bryan Public High School, Eddie(y) U. Cation, individually and in his/her official capacity as Principal	)	
	)	
	)	
	)	
Defendant.	)	

Goldenrod, Nebraska, is a medium-sized town with two public high schools. William Jennings Bryan Public High School (WJB) is the larger of the two and is located near the middle of town.

Pat Christianson is a student who is running for student council president at WJB on a campaign based upon his/her religious beliefs. Pat gave a speech at a school assembly that Dr. Eddie(y) U. Cation, Principal of WJB, believes would entangle the school in the constitutional prohibition against state-sponsored establishment of religion. Dr. Eddie/y, at first, cancelled the election. The principal then decided that the election should take place but that Pat could participate only if Pat changed her/his campaign message to purge it of any religious references.

Pat decided that s/he would not compromise his/her ideals and that s/he would not change his/her campaign message. The principal would not allow Pat to participate in the student elections, so Pat filed this lawsuit asking the court to:

1. enter a temporary restraining order prohibiting the principal from allowing the student elections from proceeding unless Pat Christianson was allowed to participate; and

2. order a hearing at which time evidence could be presented on the issue of whether or not allowing Pat Christianson to participate in the elections with his/her religious message would be a violation of the constitutional prohibition against state-sponsored establishment of religion; and
3. enter a permanent injunction prohibiting William Jennings Public High School from preventing Pat Christianson's participation in the high school student elections with his/her religious message.

The Court has granted the temporary restraining order (TRO) saying that the elections cannot take place until after a full evidentiary hearing and the Court renders a decision about the permanent injunction.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

Pat Christianson by his/her	)	8:05CV666
next friend and parent,	)	
Kim Christianson	)	
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Witnesses, Exhibits,
	)	Stipulations & Legal
William Jennings Bryan Public	)	Authorities
High School, Eddie(y) U. Cation	)	
individually and in his/her official	)	
capacity as Principal	)	
	)	
	)	
	)	
Defendant.	)	

Plaintiff Witnesses

1. Pat Christianson, Plaintiff - a student at William Jennings Bryan Public High School who is running for student council president based upon his/her religious beliefs
2. Sal Lantro - another student at William Jennings Bryan Public High School who is running for student council president on a campaign based upon his/her vegan lifestyle
3. Francis/Frances Godwin - a teacher at William Jennings Bryan Public High School who encourages Pat Christianson to run for office and also participates, along with S. Keptik, a history teacher, as faculty member of the student election oversight committee

Defense Witnesses

4. Dr. Eddie(y) U. Cation - principal of William Jennings Bryan Public High School, who first cancelled the election but then decided that the election should go forward and that Pat Christianson could participate, but only if Pat changed her/his campaign message to purge it of any religious references
5. Sammy/ie Slang - a student at William Jennings Bryan Public High School who complains about the religious content of the campaign and threatens a lawsuit if the school allows Pat Christianson to present her/his religious message in the campaign
6. S. Keptik - a history teacher at William Jennings Bryan Public High School who serves with Francis/Frances Godwin as faculty member of the student election oversight committee and is concerned about Pat Christianson's message in the school election. S. Keptik is also a bit of a religious history buff

## Exhibits

1. Pat Christianson's campaign speech outline
2. Sal Lantro's campaign speech outline
3. The note from Pat Christianson's parents to the principal about the prayer incident in Scopes' science class
4. Elections Policies and Procedures
5. "Meet Me at the Poll" poster
6. Photo of vegan slogan from past campaign
7. WJB Pep Band Policy
8. Pat Christianson's campaign speech approval form
9. Sal Lantro's campaign speech approval form
10. Pat Christianson's signed agreement to follow school election campaign rules
11. Sal Lantro's signed agreement to follow school election campaign rules
12. Pat's campaign speech

Both sides stipulate to the following facts:

## Stipulations

1. All exhibits included in the case are authentic and accurate in all respects. No objections to the authenticity of the exhibits will be entertained.
2. The signatures on the witness statements are omitted due to the electronic delivery of the case.
3. The requirements for venue have been met.
4. Whenever a rule of evidence requires that reasonable notice be given, it has been given.

## LEGAL AUTHORITIES

### U.S. CONSTITUTION - AMENDMENT I PROVIDES:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### CASE LAW:

*Bethel School District No. 403 et al v. Fraser*, 478 U.S. 675 (1986)

*Edwards v. Aguillard*, 482 U.S. 578 (1987)

*Hazelwood School District et al v. Kuhlmeier*, 484 U.S. 260 (1988)

*Lamb's Chapel and John Steigerwald, Petitioners v. Center Moriches Union Free School District et al*, 508 U.S. 384 (1993)

*Rosenberger v. Rector and Visitors of the Univ. of Va.*, 515 U.S. 810 (1995)

*Santa Fe Independent School District v. Jane Doe, Individually and as Next Friend for Her Minor Children, Jane and John Doe, et al*, 530 U.S. 290 (2000)

*Widmar v. Vincent*, 454 U.S. 263 (1981)

Summaries of the above listed cases may be found on the Bar Foundation's website, [www.nebarfnd.org](http://www.nebarfnd.org).

Full text of the cases may be found at <http://straylight.law.cornell.edu/supct/search/index.html>, the Cornell Law School's website.

***A Brief Summary of Between Church and State: Religion and Public Education in a Multicultural America* by James W. Fraser, St. Martin's Press 1999  
By Michael D. Gooch, Mock Trial Case Committee**

For most of Christianity's 2,000-year history, certainly from the time of the Roman emperor Constantine's conversion in the fourth century A.D. until the Protestant Reformation in the sixteenth, church and state were seen as one entity living out God's preordained order for the temporal world. Throughout the colonial era, the different colonies carried on their own versions of church, state, and school. Distance from England and from each other allowed them to continue their different ways.

However, with the Declaration of Independence from England and the creation of the new nation, a new crisis was also created. Massachusetts and Connecticut could have their well-established and state-sponsored Congregational churches, while Pennsylvania had to work out its own complex relationship between Quakers and non-Quakers. The Church of Virginia's affiliation with the Church of England kept the nearest bishop some 3000 miles away. None of these models worked for the new nation created by the rebellion and the union of these thirteen quite different colonies.

Thus the colonists, whom generations of school children have learned came for religious freedom, came for a very narrow kind of freedom. With rare exceptions, such as the Baptist followers of Roger Williams in Rhode Island, the colonists came seeking religious freedom for themselves and the right to persecute - or at least banish - anyone who did not share the colony's faith. In their early years, most colonies enforced uniformity at least as strict as had occurred in their homelands. The colonies came with strict instructions about religious practice. These instructions were not idle words. Massachusetts banished Anne Hutchinson and many others over the years when they differed with the established faith. Governor Peter Stuyvesant moved forcefully against Lutherans, Jews, and Quakers when he discovered them in New Netherlands (later New York), sending Quakers back to Holland.

Exceptions have been important in building the mythic self-image of the United States. Lord Baltimore did establish religious tolerance in his Maryland colony as a means of protecting his own fellow English Catholics. William Penn and his Quakers were far more tolerant than the Presbyterians who shared the land of Pennsylvania with them. And Roger Williams and the Baptists who founded Rhode Island actually spoke as if they believed in religious freedom for all, although for this they were widely distrusted by most of the other colonists who shared what fast became British North America. Yet within little more than a century and a half of Rhode Island's founding, the polity of this small colony became the national model.

At the time of the Constitutional Convention in 1789, no nation known to the framers had separated religion from the state's responsibilities. At the same time, the notion of adopting any one of the churches from the various colonies was fraught with problems, not the least of which was the degree to which such a move would alienate the other colonies and their churches. While there were at least some among the Congregationalists, Presbyterians, and Episcopalians who believed that their church would make an ideal state church for the new nation, not enough representatives of any one party could carry the day. And everyone's second choice - far preferable to the selection of someone else's sect - was a far stronger separation of church and state than the world had yet known.

Thus there was relatively little objection in 1789 when the framers of the Constitution included Article VI stipulating that "no religious test shall ever be required as a qualification to any office or public trust under the United States," or two years later when Congress included in the First Amendment to the new Constitution a fairly hard line on the church-state issue with the sentence: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." In the framers' minds, there were few options. During the debates surrounding the adoption of the Constitution and the Bill of Rights, there was almost no opposition to the radical disestablishment included in the final documents.

Individual states could and did maintain their state churches, as Massachusetts did until 1833. Only with the adoption of the Fourteenth Amendment in 1868 did the protections of the Bill of Rights begin to be applied to the states, and not until 1947 did the Supreme Court specifically apply the Establishment Clause to state legislation.

The United States took a different route [from that taken by England and the rest of Europe] from the moment of the nation's beginning. Full religious freedom and equality came to the new nation as a result of a necessary compromise. While the heirs of the Massachusetts Puritans still hung on tightly to their Congregational polity at the time of the Revolution, they met in the Continental Congress with representatives of New York who were heirs of both the Reformed Dutch and of later English settlers, Presbyterians from the middle colonies, and Anglicans from the South. Since it was clear from the beginning that no one group could get a majority vote for its own faith as the established church of the new and already diverse nation, all factions reluctantly agreed that religious toleration was preferable to the establishment of someone else's church. Everyone wanted religious freedom for themselves, and the only way they saw to get it was to grant it, however grudgingly, to others. Thus religious freedom came to the new United States not by ideology or design but by compromise.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

<b>Pat Christianson by his/her</b>	)	<b>8:05CV666</b>
<b>next friend and parent,</b>	)	
<b>Kim Christianson</b>	)	
	)	
	)	
	)	
<b>Plaintiff</b>	)	
	)	
<b>vs.</b>	)	<b>Deposition of Pat Christianson</b>
	)	
<b>William Jennings Bryan Public</b>	)	
<b>High School, Eddie(y) U. Cation,</b>	)	
<b>individually and in his/her official I</b>	)	
<b>capacity as Principal</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

1           My name is Pat Christianson. I am a senior at William Jennings Bryan Public High  
2 School (WJB). I am running for student council president for the 2005-2006 school year.  
3 I live at 1215 Magna Carta Lane, in Goldenrod, Nebraska. I am a middle child. I have a  
4 younger brother, who is a freshman at WJB, and an older sister who graduated from WJB  
5 last year.

6  
7           I attend the Evangelical Congregation of the Master Church three times a week. I  
8 attend with my entire family on Sunday, of course. I also attend youth activities on  
9 Wednesdays and Fridays. I am born again and sincerely believe in God's saving Grace.

10  
11           I am also an A student, having received only one B so far in three years of high  
12 school. The B was in my freshman year, in general science class. That B was entirely  
13 unfair. During that science class, I encouraged several of my classmates to join me in a  
14 prayer to seek support and encouragement from our Lord, Jesus Christ. When the  
15 teacher, Mr. Scopes, confronted me about what we were doing, I said, we were just  
16 talking. Mr. Scopes accused me of lying and said that he knew we were praying. He said  
17 that he saw one member of the group, who is Catholic, make the sign of the cross at the  
18 beginning of our activity. He also said we could not pray during his class. Mr. Scopes said  
19 that it was especially inappropriate to pray in a science class. I foolishly persisted in  
20 denying that we were praying. I was sent to the principal who admonished me that lying

21 was inappropriate behavior and that I should always tell the truth. I had to bring a note  
22 from my parents indicating that I had discussed the event with my parents. They were  
23 completely supportive of me. They said I should never be ashamed of my faith. They  
24 signed and sent the note back. I have reviewed Exhibit 3, and it is a true and accurate  
25 copy of the note, signed by my parents concerning the situation in Mr. Scopes' class.  
26

27 It is really ironic that I was punished for lying about my religious free exercise  
28 activities on government property. I thought that my friends and I would get into trouble  
29 for practicing our religious beliefs in school. The other kids did not get into trouble. They  
30 were just told to quit praying in Mr. Scopes' classroom. I know that he thought that I was  
31 leading the prayer, which is true.  
32

33 Failing to stand up for my faith is a mistake I have not made since. In this case, Dr.  
34 Cation, the principal, said all I need to do is edit my campaign ideas to hide Jesus and I  
35 will be permitted to run for student council president. I refuse. I will never again deny  
36 the truth as I know it.  
37

38 The B grade came about after the praying incident. I challenged Mr. Scopes about  
39 his claim that evolution adequately explains aspects of our natural world. I raised my hand  
40 and politely explained that everything was created by intelligent design and that there are  
41 too many things which scientists cannot explain. Well, we got into a debate, almost an  
42 argument, about that. On the science midterm exam, I answered his evolution questions  
43 with the truth, not with his unsubstantiated theory. Of course, he graded me according to  
44 his opinions, and I received a B in his class.  
45

46 Francis/Frances Godwin, one of the teachers from school, also attends my church.  
47 S/he suggested that I should run for student council president. S/he explained that this  
48 would give me an opportunity to witness for Jesus at school. S/he said that s/he could not  
49 openly endorse me at school, but s/he would do everything s/he could to help my campaign.  
50 S/he said that the school has a policy of avoiding controversy whenever they can. I said  
51 that Christ did not avoid trouble--He threw out the money changers and openly challenged  
52 the Romans and the Pharisees. Mr./Ms. Godwin said, "That is the Spirit," and we both  
53 laughed at the pun. S/he said that there might be opportunities to work towards  
54 returning prayer to the school and to open the hearts and minds of the students, faculty  
55 and administration. Of course, I immediately spoke to my parents about the idea. Most  
56 importantly, I asked for God's blessing in prayer.  
57

58 Then I entered the race. I was told by the principal that all campaign materials  
59 had to be reviewed by a committee of teachers to ensure that the content is appropriate  
60 for the school. S/he gave me a copy of the school's official policy concerning speech  
61 activities on school property. Exhibit 4 is a true and exact copy of the policy paper I was  
62 given.

63

64 I created a campaign slogan: "Meet Me at the Poll." This is a play on words  
65 associated with the voluntary prayer movement sweeping the country. Many students  
66 across America meet at their school's flag pole to pray before school one day each year. I  
67 also began working on my campaign speech and an outline, which had to be approved before  
68 I could deliver the speech. I have reviewed Exhibit 1, and it is a true and accurate copy of  
69 the outline of the campaign speech I wrote and which I gave at the voluntary student  
70 assembly. The school offered to fund the cost of poster board for my posters and for the  
71 photocopying of my flyers. I did not accept the money. I did use Ms./Mr. Godwin's laptop  
72 to write my speech and my outline. There was no one else in his/her classroom at the time  
73 and s/he was not using it either.

74 On August 26, I showed my outline to Mr./Ms. Godwin and to Ms./Mr. Keptik.  
75 Mr./Ms. Godwin indicated that the outline was very appropriate. Ms./Mr. Keptik said that  
76 the outline was suggestive of a religious revival. Ms./Mr. Keptik started trying to tell me  
77 about the history of the separation of church and state in public schools. Mr./Ms. Godwin  
78 said that s/he would see that the speech was acceptable. That seemed to end the  
79 discussion. Both teachers signed the forms permitting me to give my speech. At that  
80 time, neither teacher had seen the speech itself.

81 I gave my speech at the student assembly. I have reviewed Exhibit 12, which is a  
82 true and exact copy of the speech I wrote after consulting with Mr./Ms. Godwin.  
83 Everything I said in that speech is true. We drew out of a hat to determine the order of  
84 the speeches, and I was very glad to go last. My speech was received with great  
85 enthusiasm and support. I got a standing ovation. Ms./Mr. Keptik had control of the  
86 microphone and did not cut me off. I really believed that the school was making an effort  
87 to accept diverse viewpoints.

88 The next day, I was called into Dr. Cation's office. S/he seemed quite upset with  
89 me. S/he said that s/he had received complaints about my speech. S/he said that the  
90 school must not appear to endorse any person's religious beliefs. S/he said that my  
91 speech was clearly in violation of the policy concerning inappropriate content for speakers  
92 at school sponsored events.

93 S/he said s/he was going to cancel the election but decided instead to bar me from  
94 being a candidate unless I edited out all of the religious content. I told Dr. Cation that I  
95 would consider his/her offer but that I needed time to discuss this with my parents. At  
96 home, I prayed for guidance, spoke with my parents and spoke with Ms./Mr. Godwin. Then  
97 I met with Dr. Cation and informed her/him that I would not recant my speech, would not  
98 edit my campaign slogan, and would not abandon my beliefs. S/he seemed surprised and  
99 told me that I was prohibited from participating as a candidate for student council  
100 president.

101

102 This seemed silly to me. I did not and do not think anyone could think that my

103 campaign slogan and campaign message is sponsored by the school. I think the school has  
104 shown just how hostile it is towards religious practices.

105

106 Really, the school has done nothing to cause reasonable people to think that my  
107 faith or my campaign is endorsed or sponsored by the school. It is just like Mr./Ms.  
108 Godwin said, "the school is a den of iniquity, peopled by heathens in need of God's saving  
109 grace." I should be permitted to campaign. I could be elected student council president.  
110 If I am elected, I will try to persuade the school board to change the science textbooks,  
111 to permit religious freedom to exist in the schools, and to be more tolerant of others. So  
112 help me God.

#### WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

---

Pat Christianson

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2005-2006 Nebraska State High School Mock Trial Competition.

---

Nelson K. Passons, Notary Public  
My Commission Expires: December 31, 2005



21 fond of Sammy/ie Slang since then. Anybody who wrecks perfectly good tots definitely  
22 has something whacked out going on.

23

24         Anyway, back to my brother Pedro and his campaign. Like I said, he had a pretty  
25 cool campaign, radical, and he got to say what he wanted. Exhibit No. 6 is one of the signs  
26 that Pedro put up for his campaign, and I used them for my campaign, too. I mean, just  
27 look at that fat on that dead cow and check out that greenish stuff. What is that?! Like,  
28 Pedro and me—we're just trying to protect people.

29

30         Pedro was telling people in the lunchroom to throw their food on the floor to show  
31 what hideous, violent garbage they give us to eat (except tots, my brother likes tots, too),  
32 and when he put stuff like that in his campaign speech outline, Mr./Ms. Godwin crabbed  
33 about it. Dr. Eddie/y said something about "encouraging insubordination" or "inciting  
34 violence" or something like that—s/he told Pedro to watch it. Whatever. Pedro didn't  
35 back down. He just kept on telling people the way it is and why we all ought to be vegans.  
36 No one edited his speech or told him not to talk about his views, even if they didn't agree  
37 with them. I don't get why they're not letting Pat do the same. Sometimes you just gotta  
38 say what you think.

39

40         Hey, Pedro and I figure that the school is already encouraging violence when they  
41 try to feed us dead animals, most of which suffered a gruesome, violent, bloody death. At  
42 least that's what I hear, plus eating meat just totally grosses me out. O.K. So, back to  
43 Pedro's outline. It got approved, and he talked about throwing food on the floor, but no  
44 one really did it, beyond the normal food fights in the cafeteria. Mashed potatoes fly  
45 pretty far. When Pedro campaigned, no one thought his platform was endorsed by the  
46 school. There is no real reason to believe that people will be confused by Pat's campaign  
47 either.

48

49         So, I don't see what the big deal is with Pat Christianson's speech. Before the  
50 speech, we all had to go see Godwin and Keptik, and they reviewed our speech outlines. I  
51 went in right after Pat Christianson and remember Keptik saying something about "religion"  
52 and Godwin said something about "take care." Everybody knows sometimes those two can  
53 get pretty snippy with each other. They're worse than the students. All of us candidates  
54 said what we wanted; everyone could listen and figure out what they like and what they  
55 don't like. Us students are not so stupid as Dr. Eddie/y and the teachers seem to think we  
56 are. Freedom of speech. Democracy. Isn't that what it's all about? Saying what you feel  
57 like saying, saying what you believe, and forgetting about the stupid stuff that people say  
58 that you don't agree with. Isn't that like the "open exchange of ideas" or something.  
59 Thought I heard something like that in civics class. Hey and didn't some Voltaire guy say  
60 something like "I disapprove of what you say, but I will defend to the death your right to  
61 say it." Doesn't that go both ways? I mean, if the Trekkies can say they want everyone to  
62 wear pointy ears on Fridays in honor of Spock, and the Greenies can talk about planting

63 trees in classrooms and adding skylights to "be at one with Mother Earth," why can't Pat  
64 Christianson talk about God and Jesus and stuff? I mean, when we went on a field trip to  
65 the State Capitol in Lincoln, there were statues of that Moses guy with those stone  
66 tablets from the Bible, and stuff that Abe Lincoln said about God. The teachers didn't  
67 make us hide our eyes or anything, and they didn't stop the tour guide lady when she  
68 "directed our attention" to that stuff. I mean, is the school two-faced or what? I don't  
69 get it.

70

71 So then, on Monday, August 29, 2005, we had the assembly where we gave our  
72 speeches. Really, Pat Christianson's speech didn't make us have a riot or anything. And not  
73 even all of the students were there. It was optional, and I remember walking to the  
74 auditorium thinking there were a lot of kids in study hall. Kind of made me wonder why I  
75 spent so much time working on posters and my speech if only about 75% would hear what I  
76 had to say. I guess it's kind of like voting in real life. From what my mom says, not too  
77 many people really know where the candidate stands on issues that are important to them,  
78 they just pick a name they like or remember who someone else told them to vote for. So  
79 anyway, back to the speech. Pat just talked for 5 minutes or so (that's what Mr./Ms.  
80 Keptik said we had for a time limit), and I remember Pat saying stuff about some rules so  
81 we would get along better in school, like not cussing and cheating and stealing. I think  
82 wrecking people's property in their pockets falls under the stealing thing, so I'm ok with  
83 those rules. Seemed a little touchy-feely to me, about caring for each other and all.  
84 Seems to me like we ought to care about the poor animals, too. I know the kids in this  
85 school. I know what they think about stuff. I was kind of surprised by the support Pat  
86 got for his/her speech. I suspect that Pat orchestrated the crowd's reaction. All in all, I  
87 guess it was an ok speech. Pat might've got more clapping than I got, but we do have a lot  
88 of carnivores in this school. Can I help it? Plus, not everyone likes beans as much as I do.

89

90 Hey, let me tell you more about my speech. My campaign slogan had to do with that.  
91 You know how it goes. It's a classic, I tell you. "Beans, beans, the musical fruit. The more  
92 you eat, the more you \_\_\_\_\_. The more you \_\_\_\_\_, the better you feel. So let's have beans  
93 for every meal." The cheerleaders got kind of ticked off when I suggested that they  
94 come up with some new dance moves to go along with it, and we could do it at games. I  
95 even showed them some of my cool dance moves. Sometimes those cheerleaders are kind  
96 of high and mighty. Whatever. Plus, I ticked off the prissy people who don't like  
97 flatulence. Natural bodily function, I say. Hey, I'm just trying to look out for everyone's  
98 health and cholesterol levels, plus everyone knows that you need lots of protein and fiber  
99 and stuff. Well, so that's about all I have to say. What's the big whoop is my deal with  
100 this whole thing.

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

---

Sal Lantro

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2005-2006 Nebraska State High School Mock Trial Competition.

---

Nelson K. Passons, Notary Public  
My Commission Expires: December 31, 2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

<b>Pat Christianson by his/her</b>	)	<b>8:05CV666</b>
<b>next friend and parent,</b>	)	
<b>Kim Christianson</b>	)	
	)	
<b>Plaintiff</b>	)	
	)	
<b>vs.</b>	)	
	)	
	)	<b>Deposition of</b>
<b>William Jennings Bryan Public</b>	)	<b>Francis/Frances Godwin</b>
<b>High School, Eddie(y) U. Cation,</b>	)	
<b>individually and in his/her official</b>	)	
<b>capacity as Principal</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

1           *Good Morning! My name is Frances/Francis Godwin. I've been teaching biology and*  
2 *chemistry at WJB High for 10 years and have been a Christian my whole life. I graduated*  
3 *from Creighton University in 1995 with a B.S., and I'm currently working on my masters*  
4 *degree in biology. I used to be an assistant basketball coach and sponsor of the WJB*  
5 *Christian Club, but in recent years my children, Bobbi, Sue, and Ivan, and church activities*  
6 *have kept me so busy that I had to give up the coaching and club. My family and I live at*  
7 *8551 Providence Circle in Goldenrod.*

8  
9           *My faith was tested many times when I was younger, but I ultimately grew stronger*  
10 *with God's grace when I started teaching. I've seen the bad influences kids must deal with*  
11 *these days -- like drugs, promiscuity and music that objectifies women -- and realized that*  
12 *it takes a strong spiritual anchor to resist these evil influences. That's why I see no*  
13 *problem with the religious message that Pat Christianson has in his/her campaign slogan.*  
14

15           *Sometimes it's tough to be a Christian and a public school teacher. I tell my*  
16 *students about things my family and I have done with our church...like a mission trip we*  
17 *took 3 years ago to teach for a summer in Ecuador. But I've always got to be careful not*  
18 *to say what I'm really thinking: that they should seek Jesus to give their lives a divine*  
19 *purpose! That's really frustrating because many of them need His light in their dark lives*  
20 *RIGHT NOW! Sammy/ie Slang is a good example. That kid is really hurting over*  
21 *something, but doesn't know how to cope, so s/he just lashes out at others instead. I've*  
22 *tried to make small talk with Sammy/ie after class, but there is a lot of resentment ever*

23 since I caught him/her smoking on school grounds. I just hope my day-to-day example and  
24 witness will lead kids like Sammy/ie in the right direction.

25

26 Each morning I take a silent moment at my desk to pray for my students and ask  
27 for patience and strength as a teacher. I wish we had a school-wide moment of silence at  
28 the beginning of the school day, so that the students would have a chance to pray or  
29 meditate or just think about the day ahead. Pat and I have discussed this issue once or  
30 twice at church gatherings, and I know Pat and a lot of other students agree with me. Pat  
31 just might implement this idea as student president. But I've never done anything to push  
32 the prayer issue at school.

33

34 And no, I don't tell my biology students that the world was created in six days. We  
35 discuss different theories about the origin of the universe. I tell them about the  
36 scientific basis for my belief in intelligent design, but always emphasize that their view is  
37 just as valid as mine. I just wish some of the non-Christian science teachers were also  
38 balanced in their approach.

39

40 Pat attends our church, and we see each other at services and social activities. Our  
41 families shared a raft on a trip down the Colorado River last summer as part of a church  
42 retreat. Pat is a great kid...respectful to the adults and other kids, a good sense of humor,  
43 and the first one to lend a hand with chores around the church or at an older church  
44 member's home. I know Pat has the spirit of Jesus Christ in him/her, and it's so  
45 refreshing to watch the Lord do His work through Pat!

46

47 One Sunday in August, at the beginning of the 2005 school year, Pat and I saw each  
48 other at an ice cream social in the community hall after church services. I mentioned to  
49 Pat that the Student Council president campaign was coming up and that the school badly  
50 needed a candidate who lived by the right values - not just on Sunday, but every day as we  
51 walked the halls of our school. Pat is well-liked by many students and is a natural leader,  
52 but like many kids, he/she just needs some prompting to reach his/her potential.

53

54 I told Pat this would be a great opportunity to be a powerful witness to the other  
55 students, especially compared to some of the other past candidates who, in my opinion,  
56 really didn't have what it takes to be a good leader. For instance, a couple of years ago  
57 there was a kid named Pedro who ran on a radical vegan platform - no meat, cheese or  
58 honey in the lunch room. Pedro put posters up that said, "Meat is Murder" and "Bring Down  
59 the Cafeteria!" Some of my colleagues -- like Scopes, another science teacher -- thought  
60 it was funny or that Pedro was just exercising free speech. I even saw Keptik slap Pedro  
61 on the back and say, "Keep being true to yourself." It made me sick to see the way that  
62 poor kid's delusions were encouraged. Fortunately, the vegan platform has yet to find  
63 strong support at WJB High. After all, God put animals on this earth to eat...and who  
64 doesn't enjoy a juicy T-Bone every now and then?!

65

66           It's true that Dr. Cation asked Pedro to knock off the really obnoxious parts of his  
67 campaign - like throwing a breaded-chicken patty on the floor of the cafeteria - but he  
68 was allowed to continue with his vegan message and signs all the way through the  
69 campaign. And now they want to stop Pat from expressing Christian ideas? Who's being  
70 hypocritical here?

71

72           Anyway, back to this year's election. After Pat and I spoke at the ice cream social,  
73 I don't remember any more discussions about student council until the first day of school  
74 when we ran into each other in the hallway outside my classroom. One of us said  
75 something about the upcoming election and our earlier discussion. I know some people are  
76 saying that a teacher was the driving force behind Pat's campaign, and they mean me.  
77 That's simply not true. Sure, I proposed the idea to Pat in my role as a family friend and  
78 member of this community. But as a teacher, I didn't do anything but lend general  
79 encouragement, just like I do for my students who want to try out for the wrestling team,  
80 or the chess club, or the orchestra.

81

82           On two occasions, I let Pat and some of Pat's supporters use my classroom after  
83 school hours to make campaign posters. By the way, I distinctly remember Pat saying that  
84 there were no school funds used to buy the markers and poster board. While Pat chose  
85 not to use school supplied poster board and markers, the school did provide them to other  
86 candidates. On one of those days, I let Pat use my laptop computer to type something. It  
87 may have been the speech for the assembly, but then again maybe it was just some notes.  
88 I really don't remember. I was grading papers while the students were working in my  
89 classroom. They would show me the posters when they were done, and I gave my opinions,  
90 but I didn't tell them what to put on them. I saw Pat's posters and flyers before the  
91 election. Sure, Pat asked for my advice, as a family friend and a mentor from church, and  
92 I made some suggestions about his/her speech. I did not censor or edit the speech. I  
93 have reviewed Exhibits 1 and 12, and those are the same ones I saw during the campaign.  
94 The second time they used my classroom, I went out to get myself a bite to eat, and  
95 brought back burgers and fries for the students. That came out of my pocket, not the  
96 school's. The laptop is something I use both at school and at home, and I honestly don't  
97 remember whether I paid for it myself or if the school did. Maybe the school reimbursed  
98 me for part or all of it; I just don't remember.

99

100           Dr. Cation and I discussed the fact that Pat was running for student council  
101 president. It was just one conversation in the teacher's lounge about a week before the  
102 assembly. Dr. Cation said something about hoping that Pat didn't come on too strong with  
103 a religious message. That disappointed me because I've always thought Dr. Eddie/y had a  
104 good moral compass. I can't remember exactly how I responded, but I remember saying  
105 something about how a religious message was a heck of a lot better than the messages  
106 these kids get all the time from television, the radio, and the t-shirts you see in our school

107 hallways every day. I mean, Eminem is okay, but Moses isn't? Does that make any sense?  
108 I also told Dr. Eddie/y that Pat's campaign was paying for its own supplies. Dr. Eddie/y  
109 just kind of shrugged and walked out.

110

111 And the assembly itself? All I can say is that Pat presented the speech calmly and  
112 sincerely, and many of the kids stood and cheered at the end. I was sitting in a chair  
113 behind the candidates, alongside Keptik, and saw the whole thing. None of Pat's supporters  
114 booed the other candidates or were disrespectful in any way. Nobody threw anything, and  
115 I've never received any complaints from students about the way Pat and his/her  
116 supporters have conducted themselves. Well, I guess I did hear that Sammy/ie Slang was  
117 causing trouble after the assembly. Pretending to be offended - give me a break. This is  
118 just another cry for attention, like when Sammy/ie falsely accused Pat of cheating in  
119 class.

120

121 Keptik whispered something to me after Pat was done speaking at the assembly and  
122 seemed kind of concerned. Guess that wasn't too big of a surprise - Keptik made sarcastic  
123 comments about Pat when we met to go over the speech outlines. Something about a  
124 "theocracy" and "born-againers." Keptik said some other stuff, too, that I don't  
125 remember - the usual seven-syllable words and quotes from old dead guys. I told Keptik,  
126 "I would take care of it," just to clam him/her up. Sometimes doing nothing is the most  
127 effective way to deal with things. I didn't say anything to Keptik or Dr. Eddie about  
128 knowing Pat through church and my encouragement of the campaign. It's really none of  
129 their business.

130

131 The outlines of all the candidates looked acceptable to me. I hope Pat wins and  
132 believe strongly in his/her message, but the other kids have a right to state their beliefs,  
133 too.

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

---

Francis/Frances Godwin

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2005-2006 Nebraska State High School Mock Trial Competition.

---

Nelson K. Passons, Notary Public  
My Commission Expires: December 31, 2005



19 school's Social Studies curriculum. I have been the principal here for 5 years now. Prior to  
20 that, I was the vice principal at Little Bluestem High School for four years.

21

22 When I started teaching, I resumed my education. I earned my masters degree in  
23 educational administration from the University of Nebraska at Omaha in 1993. Then I  
24 shifted to the administrative side. Some days I really miss the classroom. I earned my  
25 Ed.D. from UN-L in 1995.

26

27 The topic of my dissertation/thesis was the role of religion in the public schools.  
28 It was my published position that religion should play absolutely no part in public education.  
29 I know that this is different from when the country began, but we are a much more  
30 secular society and a more multicultural society than we were 200 years ago. This means  
31 that government and especially the schools cannot endorse a particular faith. If we start  
32 down that path, whose religion will we use? A Protestant religious exercise could alienate  
33 Jews, Catholics, Muslims, and others. It is just better to have nothing to do with religion  
34 in the school setting. There are plenty of alternative places and times appropriate for  
35 religious exercises.

36

37 I attend the Free Union Church here in Goldenrod. I have been a church elder, and  
38 I am active in my church and attend every Sunday.

39

40 This school year started off with a test of my beliefs, both for the school and for  
41 my personal faith. At the beginning of every school year, we hold elections for student  
42 council. Students are allowed to run for the various offices as a candidate of one of the  
43 extracurricular groups permitted on campus, or as an independent candidate. This year  
44 there were four candidates for president. Pat Christianson was the candidate for the  
45 Disciples Club. Sal Lantro was running for student council president on a campaign based  
46 upon his/her vegan lifestyle. Jessie Young was running as an anti-war candidate. Billie  
47 Wilder was the candidate from the Chess Club.

48

49 Student Council elections are always held during the second week of school.  
50 Freshmen, sophomores, juniors and seniors may run for elected positions, with only seniors  
51 eligible to run for president of the student council. The winning candidates are afforded  
52 opportunities to meet with the administrators and the school board to try to influence  
53 school policies for the year.

54

55 Our school year at William Jennings Bryan Public High School began this year with  
56 teachers reporting on Wednesday, August 17, 2005, and students started classes on  
57 Tuesday, August 23. Student council candidates were required by Friday, August 26 to  
58 submit a brief outline of campaign speeches, indicating their names and their party  
59 affiliations, if any. Faculty sponsors of the student election (Godwin and Keptik) are in

60 charge of verifying each candidate's registration form and generally monitoring the  
61 election.

62

63 Students running for a student government office must sign an agreement  
64 regarding the rules of the election. I have reviewed Exhibit 4, and it is a true and  
65 accurate copy of the Elections Policies and Procedures for the election of student council  
66 members. The school board implemented these rules after we had problems with an  
67 election from several years ago. Pat Christianson filed to run for student council  
68 president. S/he signed the same campaign agreement as every other candidate. I have  
69 reviewed Exhibit 10, and it is a true and accurate copy of the agreement signed by Pat  
70 Christianson.

71

72 Our school has faculty sponsors for all non-instructional activities, including clubs  
73 and athletics. We have two faculty sponsors for student government. S. Keptik and  
74 Frances/Francis Godwin are the sponsors. They are responsible for discussing the  
75 agreement and the rules with any potential candidate. They supervise the student  
76 assembly. They mediate any electoral disputes that arise. I retain overall authority to  
77 ensure that everything that happens at my school is done properly.

78

79 I should have known that things would not go right. I know that participatory  
80 democracy can be messy, but why does it have to get messy in my school? I can only add  
81 that I hope that all of the students at William Jennings Bryan Public High are learning  
82 from this time consuming and costly lawsuit. It is just a waste of time and money. On  
83 August 29, the date of the school assembly for election speeches, I was away from the  
84 school, taking my child, Faith, for on-campus visits at several universities. She will  
85 graduate at the end of this school year and is making applications for admission.

86

87 I had confidence in Keptik and Godwin to handle the student elections while I was  
88 gone. When I got back, I learned from Sammy/ie Slang that the student assembly had a  
89 serious problem. S/he told me that s/he had been ordered to attend the assembly as part  
90 of the pep band. S/he did not know that there was to be a revival and group religious  
91 activity. The pep band is an extracurricular activity and membership is voluntary. Still,  
92 the pep band attends many school related functions.

93

94 I immediately met with Keptik and Godwin to investigate the facts. I learned that  
95 Pat had provided an outline of his/her campaign speech as required by the rules. I have  
96 reviewed Exhibit 1, which is a true and accurate copy of his/her outline. It is hard to  
97 believe that Keptik and Godwin did not nip this thing in the bud when they saw the outline.  
98 It is full of religious innuendo.

99

100 Anyway, I obtained a copy of and reviewed Exhibit 12. This is a true and accurate  
101 copy of his/her speech. I cannot believe that Keptik did not cut off the microphone when

102 it became clear what was happening. I would have censored that speech on the spot.

103

104 I spoke with the each member of the School Board by telephone. They expressed  
105 their complete confidence in my ability to handle the incident. Several members said they  
106 would pray for me and for the school. Then I arranged for a meeting with Pat. When I  
107 confronted Pat with Exhibit 12, s/he did not deny that this was the speech s/he had  
108 presented at the student assembly. I told Pat that I was considering canceling the  
109 election since I could not have the school endorse religion. S/he told me that s/he  
110 strongly believed that her/his platform was appropriate. S/he reminded me of an election  
111 several years ago involving a vegan candidate who actually advocated throwing food on the  
112 floor in the cafeteria. That incident is what really triggered the current revision of the  
113 student council election rules.

114 Anyway, I said that an alternative to his/her exclusion from the election would be  
115 for him/her to tone down the religious character of his/her campaign. Pat left without  
116 indicating whether s/he would agree to change the content of his/her campaign. The next  
117 day, we met and Pat said, "No, it is not acceptable to require me to change my beliefs and  
118 my message without a good reason." S/he accused me of being hostile to religion. My final  
119 decision was and is that s/he cannot be a candidate unless s/he agrees to abide by the  
120 same rules as everyone else. The rules are clear that a candidate cannot advocate  
121 inappropriate or controversial positions. Imagine how our diverse student body would feel,  
122 being required to listen to his/her personal religious beliefs, with the imprimatur of the  
123 school behind it. That is where things stand. S/he filed this lawsuit and here we are.

124

125 I hope the Court has the good sense to remember that I am the principal and that  
126 I run the school. It is hard to imagine a federal judge coming in to this school every  
127 morning to handle things.

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

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Dr. Eddie(y) U. Cation

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2005-2006 Nebraska State High School Mock Trial Competition.

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Nelson K. Passons, Notary Public  
My Commission Expires: December 31, 2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

Pat Christianson by his/her next friend and parent, Kim Christianson	)	8:05CV666
	)	
	)	
Plaintiff	)	
	)	
vs.	)	Sworn Statement of Sammy/ie Slang
	)	
	)	
William Jennings Bryan Public High School, Eddie(y) U. Cation,, individually and in his/her official capacity as Principal	)	
	)	
	)	
Defendant.	)	

1           Sammy/ie Slangs my name...yeah play sax in the band...cuz itsa cool gig... i blow what  
2 i want...ms cruz a band teacher is like the ONLY teacher who turned me on to HiPHoP  
3 jaZZ.....i was GONE...TOTALLY!!! then it was miles davis and the bird...WoW... then she  
4 startd talkin bout the lord...thats cool cuz we were at the mall...but at school??? .i dont  
5 wanna hear it THERE! Snot cool... oh yeah..les see - where do I live? My pop an me live in  
6 an apartment on Normal Street—702B in Goldenrod.

7  
8           like i was sayin...that principal of ours..."mr ed"...izza a horses u-no-what..snot cool  
9 more lika mule!! All mr ed duz is give me THE BIZ...like what mr ed did to that guy who  
10 ran for the vegans a coupla years ago by tearing down all of those slaughtered cow  
11 pics...and whats wrong with a couple of dead chickns hung in effigy to make the vegan  
12 point? theres millions of em slaughtered everday!!! mr ed dont sho for nuthin...wait til i hit  
13 it BIG... then mr ed wont be givin me no more greef...

14  
15           mr ed and all those judgmental bible thumpers...they'll be pea-green when I hit the  
16 top of the charts! PRAISE THE LORD???..gimme a break!!...howbout some budism nsted  
17 of all that jesus stuff...theyre the worst of the MAN tryin to push that crap on me...don't  
18 budists come back better nsted of bein skewered in the fire of eternal damnation? I don't  
19 know...keep it ALL away from me...im haven a hardnuf time with the SAT...

20  
21           my docs say i can only take so much...ive been compnsatin for that with this new  
22 med... iforget what they call it but ive ben takin it now for about 3 years...itllall come back

23 around...im good now...not nearly as forgetful but i still hear godwin preechn at me in the  
24 hallway...KEEPIM/ERAWAY FROME- godwinkOs a SICKO! s/hes been on my case ever  
25 since s/he caught me smokn behind the dumpsters...

26

27 yeah... i give EVERYONE the bizz...why shouldnt i...they all deserve it...specially that  
28 self ritious hypocrit pat the rat...DANG!!! GIVE ME A BREAK.... pat and i used to be best  
29 friends-way back in elementary school...we playd together, rode our bikes together, roller  
30 skated, climbed trees, camped in each other's yards, practiced our instruments  
31 together...you name it, pat and i didit....then s/he just got weird, somethin snapped and  
32 that was it...jeesus this and jesus that...never was the same agin...i just cant believe how  
33 pats turned against me...And its really bad since Pat beat me out for first chair in the  
34 band. . .But challenges are cumin up and I'm gonna WIN IT BACK!!!!!! BACK FROM PAT,  
35 BACK FROM PAT. . . I'MGONNATAKEITBACKFROMPAT!!!

36

37 ...and then we had that HUGE problem in godwins class last year...we were taking  
38 that final exam and i KNOW pat was cheatin...i saw her/him keep lookin down at some  
39 white piece of paper that was tucked under her/his right sleeve...by the time I told godwin  
40 and godwin asked pat about it, it was too late...musta trashed the cheat sheet somehow...

41

42 pat just LIED about it...LIAR LIAR PANTS ON FIRE HANGIN ON THE TELPHONE  
43 WIRE ....m...o...m....a... THATS THE WAY YOU GOT THAT WAY...U moma...U moma...what a  
44 FREAK!!! pat hides behind the lord to be ok .. i KNOW godwin favored pat over me...we all  
45 know whosmarter...i may complain a lot but im not a brownnosin goldnchild...i say whats on  
46 my mind..& i don't CHEAT...i saw pat and godwin talkin and prayin together...they set me up!  
47 i know thats how I got such a raw deal on that test...godwin favors pat because of all that  
48 religous stuff pats always pushin...

49

50 so heres the deal...they were on school time using a school computer using school  
51 poster boards and markers...i saw it all...then...im stuck playin at that assembly so pat can  
52 spread more of that holi jesus junk...i showed cuz i thought i had to or i wooda lost my  
53 credit...i think i HAD to be there if i wanted to graduate...look at my pep band contract...it  
54 was cruzi's way or the hiway...so i didit...I shur cuda used the study hall time...i shuda just  
55 got up and left right in the middle of pat's speech, but cruzie wuda TOTALLY lost it. i  
56 herd all the gossip afterwards...& it wasnt just gossip...i KNOW that pat & godwin set  
57 itallup...just like they set ME up last year! I know godwin gave me a lower essay grade cuz i  
58 squeeled on godwinkos pet...pat the pet...pat the pet...pat the pet...RAT...

59

60 ...so im takin no prisoners...this craps gotta stop...NO MORE FORCD JEESUS IN  
61 SCHOOL. ..ive got all my friends behind me...im gonna sue this school if pat keeps shovin  
62 that religous stuff on me...or else...I dont know what i might do...

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

---

Sammy/ie Slang

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2005-2006 Nebraska State High School Mock Trial Competition.

---

Nelson K. Passons, Notary Public  
My Commission Expires: December 31, 2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

<b>Pat Christianson by his/her</b>	)	<b>8:05CV666</b>
<b>Next friend and parent,</b>	)	
<b>Kim Christianson</b>	)	
	)	
	)	
	)	
<b>Plaintiff</b>	)	
	)	
<b>vs.</b>	)	<b>Deposition of S. Keptik</b>
	)	
<b>William Jennings Bryan Public</b>	)	
<b>High School, Eddie(y) U. Cation,</b>	)	
<b>individually and in his/her official</b>	)	
<b>capacity as Principal</b>	)	
	)	
	)	
	)	
<b>Defendant.</b>	)	

1           The purpose of this statement/deposition is to provide some enlightenment to  
2 those who insist upon following the ways of those more naive than I, namely Francis Godwin  
3 and the like. I am S. Keptik. I reside with my spouse and our golden retriever, Shay - who  
4 really runs the house - at 7228 Olympus Lane on the outskirts of Goldenrod.

5           Let me first explain my background so you may gain a better understanding as to  
6 the accuracy and validity of the conclusions set out hereafter. I graduated from the  
7 University of Nebraska-Lincoln in 1990 with a B.S. in biology and chemistry and a minor in  
8 American history. I have since that time completed my masters in chemistry. I have been a  
9 tenured history teacher at William Jennings Bryan Public High School for fifteen years.  
10 My real aspiration was to teach at Harvard; however, my ex-spouse thwarted any chance I  
11 had of that when he/she wasted two precious years of my life with divorce proceedings. I  
12 would have been distributing my curriculum vitae to the powers that be out east; however,  
13 I spent that time in court. An inestimable opportunity was stripped from me, and I remain  
14 here eking out a penurious existence. One of the "rays of light" in my life, so to speak, is  
15 my new spouse. S/he, as did I, grew up in the Catholic Church and wanted to solemnize our  
16 marriage with a traditional ceremony; however, the Church would not allow it.

17           The separation of church and state is a necessity and has been historically proven

18 to be the most effective way of maintaining tranquility in the school system. Reasonable  
19 minds would concur that such is required. Ulysses S. Grant was correct in 1875 when he  
20 said to a group in Des Moines, Iowa "[l]eave the matter of religion to the family, altar, the  
21 church, and the private school, supported entirely by private contributions." I  
22 acknowledge that some significant historical figures have brought "religion" into matters  
23 of daily life. Samuel Adams, in a speech to the Continental Congress on July 4, 1776, did  
24 say "[w]e have this day restored the Sovereign, to whom alone men ought to be obedient";  
25 however, he was speaking to adults with much the same beliefs as himself, not to a bunch  
26 of impressionable high-schoolers. And yes, I am well aware that Abraham Lincoln in his  
27 Presidential Proclamation in 1863 said, "But we have forgotten God. We have forgotten  
28 the gracious hand which preserved us in peace and multiplied and enriched and  
29 strengthened us, and we have vainly imagined, in the deceitfulness of our own hearts, that  
30 all these blessings were produced by some superior wisdom and virtue of our own." I, for  
31 one, am more than satisfied with my own wisdom and virtues and feel no need to rely on  
32 opinions, which may have limited Mr. Lincoln. I reiterate, the self-same high-schoolers  
33 who should be paying close attention to their esteemed professors instead of meeting in  
34 their little cliques, holding hands, praying and disrupting the sanctity of the classroom,  
35 should be told about the important history of the separation of church and state.

36 I was fully aware of the episode in Professor Scopes' biology class a few years ago.  
37 He is a fine, upstanding teacher, and I value his opinions nearly as much as I do my own. It  
38 is evident that Pat Christianson has some difficulty following rules.

39  
40 Based on my knowledge and experience, I can say with certainty that history  
41 repeats itself. Thus, I should not have been surprised when Pat Christianson brought  
42 his/her speech outline to the mandatory pre-assembly review. Granted, it was a bit  
43 sketchy, talking about vagaries like "commandments" and "pray" rather than "truth,"  
44 "justice," and "doing what is right"; however, the underlying message and intent was clear.  
45 I thought to myself, "here we go again, the whole 'God thing.'" Having such concerns about  
46 the need to keep separate the church and the school system, I tactfully asked Pat  
47 Christianson to make sure s/he took care to not get into beliefs and dogma. Pat  
48 Christianson assured me that s/he wouldn't, and I trusted him/her. I should have  
49 suspected Frances/Francis Godwin and Pat Christianson were in cahoots, to use the  
50 vernacular. I made constructive comments to Pat Christianson about ways to change  
51 his/her campaign speech. All Godwin had to say about Pat Christianson's outline was "I'll  
52 take care of it." As if that would satisfy Dr. Cation and the school's stringent  
53 requirements. At the time, however, I was much too busy with other more important  
54 matters to waste any effort to modify Pat Christianson's drivel. Looking back, Godwin's  
55 vague assertion was surprising when you consider the number of comments s/he had about  
56 other candidates' outlines, which I found to be completely appropriate and acceptable for  
57 the venue.

58 Over the course of the last eight years, while I have performed the duties of  
59 chairperson, presiding over the Student Council campaign, there have been few platforms  
60 which have risen above mediocrity. My particular favorite was the vegan candidate's  
61 campaign two years ago. I believe his name was Pedro Lantro, and his sibling is running this  
62 school year. Having reviewed Godwin's statement concerning my comments to that former  
63 candidate, I most certainly disagree. To think that I would act with such familiarity with a  
64 student, so as to slap him on the back, is simply inconceivable. I did, however, quote  
65 Shakespeare to him, "[t]his above all: to thine own self by true." Hamlet, Act I, scene 3.

66 To return to the matters at hand, as the guidelines mandate, Godwin and I each  
67 filled out the memorandum with respect to each candidate's outline. On the memorandum  
68 concerning Pat Christianson's outline I specifically recall writing "concerns about content."  
69 Dr. Cation would know what I meant, and we share the same view of religion in the school  
70 system. I specifically hand delivered mine to Dr. Cation's secretary, Shirley. She said  
71 that she would get it to Dr. Cation when s/he came back to the office. I do not know what  
72 Godwin did with the memoranda as I am not his/her keeper. On Monday, immediately prior  
73 to the school assembly, I checked in with Shirley to see if Dr. Cation had any response to  
74 my memorandum on Pat's outline. Shirley said she had no further information, so I  
75 assumed that Dr. Cation was on top of the situation and had taken the appropriate steps to  
76 correct the situation, if s/he saw fit.

77  
78 At the assembly, I was in charge of the sound system, as Godwin lacks the  
79 necessary skills to successfully operate sound equipment, which involves more than an  
80 ON/OFF switch. All of the candidates were allowed five minutes to present their speech  
81 to the attending student body. Pat Christianson was the last to speak. I have no idea why.  
82 I was not in charge of the order of the proceedings. I believe Shirley, Dr. Cation's  
83 secretary, may have done that, as there were sample ballots available at the assembly to  
84 familiarize the students with the candidates, listing their names and party. When Pat  
85 Christianson gave his/her speech, I admit I felt somewhat uncomfortable about the  
86 content, which was certainly more detailed than the vague outline with which I was  
87 presented on Friday; however, I did not shut off the microphone. My understanding of the  
88 situation was that this scenario did not constitute school endorsed speech, so I allowed  
89 Pat to finish.

90  
91 I leave you with words that James Madison wrote. He said, in part,

92 "Notwithstanding the general progress made within the two last centuries in favour  
93 of this branch of liberty, and the full establishment of it in some parts of our  
94 country, there remains in others a strong bias towards the old error, that without  
95 some sort of alliance or coalition between Government and Religion neither can be  
96 duly supported. Such, indeed, is the tendency to such a coalition, and such its  
97 corrupting influence on both the parties, that the danger cannot be too carefully  
98 guarded against. . . . It was the belief of all sects at one time that the

99 establishment of Religion by law was right and necessary; that the true religion  
100 ought to be established in exclusion of every other; and that the only question to  
101 be decided was, which was the true religion. . . . We are teaching the world the  
102 great truth, that Governments do better without kings and nobles than with them.  
103 The merit will be doubled by the other lesson: the Religion flourishes in greater  
104 purity without, than with the aid of Government" (*Letter to Edward Livingston, July*  
105 *10, 1822*).  
106  
107 I could not have said it better myself.

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

\_\_\_\_\_  
S. Keptik

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2005-2006 Nebraska State High School Mock Trial Competition.

\_\_\_\_\_  
Nelson K. Passons, Notary Public  
My Commission Expires December 31, 2005

**Outline - Student Council Campaign Speech  
Submitted by Pat Christianson**

1. Run with Confidence
2. 10 Commandments to Live By
3. Pray for Guidance
4. Meet Me at the Poll

CANDIDATE SPEECH OUTLINE - SAL LANTRO

Clever Slogan: Very Vegan, All Awesome

-- Reasons to vote for me: 1) Healthy, wealthy (if not in \$, then in vitamins), and way wise; 2) Because I like tots and you should, too.

--Only two rules/regulations to follow: #1 No kicking in class - major detentions result; and #2 of course, no

meat or meat-like looking things because they gross people out.

-- OK - one more rule - Three rules total - Tots and Beans as an option with all school lunches, every meal.

(close up)

--Lastly, new motto for cafeteria. Involves poetry and dance, and an added bonus of aromatherapy. Teach to student body, suggest dance moves.

**William Jennings Bryan Public High School  
Report to Parent(s) - Student Discipline**

Date: November 21, 2002	
Name of Student	Pat Christianson
Student Action Requiring Discipline	Pat Christianson was found by Science teacher Mr. Scopes to be leading group prayer in the classroom. When asked about the activity by Mr. Scopes, Pat denied any such activity had taken place.
Disciplinary Action Taken	Conference with student, report to parents
Name of Administrator	Dr. Eddie/y U. Cation, Principal <i>If you have any questions regarding this report, you may contact me at 402/555-3999 during school hours.</i>

**Parental Acknowledgement of Student Discipline Report**

I/We acknowledge receipt of the report from William Jennings Bryan Public High School regarding my/our child who is a student at the school.

*Kim Christianson*  
Signature of Parent(s)

*11/22/02*  
Date

*Pat is an honest child who lives in faith on a daily basis. We support what she did.  
A.C.*

**WILLIAM JENNINGS BRYAN HIGH SCHOOL (WJB) STUDENT COUNCIL  
ELECTIONS POLICIES AND PROCEDURES**

**A. Student Council Election Oversight Committee**

1. The Student Council Election Oversight Committee will be composed of two (2) teachers appointed by the school principal no later than the first class day of the fall semester each year; all terms of appointment are for one academic year.
2. The Student Council Election Oversight Committee will:
  - i. organize and administer all Student Council elections;
  - ii. review speech outlines of all presidential candidates;
  - iii. monitor the voluntary assembly where all presidential candidates give their speeches; and
  - iv. certify the election results.

**B. Candidates**

1. Every candidate must be a full-time student at WJB for the semester in which he or she plans to run for office.
2. Every candidate for Student Council office must be in good academic and disciplinary standing with WJB and must remain in this status during his or her term of office.
3. Every candidate for president of the Student Council must be a senior class member for the semester in which he or she plans to run for office.

**C. General Student Council Elections Procedures**

1. Every candidate for Student Council office must sign an agreement that he or she will abide by WJB Elections Policies and Procedures.
2. Every candidate for President of the Student Council must submit to the Election Oversight Committee an outline of each candidate's speech to be given at the voluntary assembly.
3. Campaigning for all offices may only begin on the day of the voluntary assembly for presidential candidates' speeches.
4. Campaign materials may be distributed only on school property, or posted on authorized bulletin boards, and may not be affixed to any other surface, or left in classrooms.

5. No campaign materials that are deemed disruptive, inappropriate, scurrilous, obscene or offensive will be allowed.
6. Campaign material must be submitted to the Elections Oversight Committee at least 24 hours prior to distributing or posting. The material(s) will be on file with the Committee in case of any alleged violations of election rules.
7. All campaign materials must be removed within 24 hours of closing of the polls on Election Day.





2005-2006 PEP BAND POLICY

All students enrolled in Wind Ensemble, Symphonic Band or Concert Band have been assigned to either the Red or White Pep Band. A list is attached of those assignments and the schedule of events at which each of those pep bands are required to perform.

EXPECTATIONS:

1. All performance and conduct expectations outlined in the "Band Policies" handout apply to pep-band performances.
2. If a student is unable to attend one of the performances required in the attached schedule, he or she must find a substitute and inform the faculty member, in writing, of that substitution.
3. All students are permitted to play at any performance of the other pep band; however, no class credit will be given for those performances. They will simply count toward the student's requirements for the Varsity Band letter.
4. Attendance will be taken 5 minutes before the pep band performance begins. If a student is not in his or her designated place at that time with his or her instrument in working condition with his or her pep band folder, then that student will be counted absent and will not receive any credit for his or her attendance.
5. Each student must attend 20 night or weekend pep band performances in order to receive a passing grade in Wind Ensemble, Symphonic Band or Concert Band.
6. All students should attend in-school pep band performances. Any unexcused absence from an in-school pep band performance will be handled on an individual basis. (See general "Band Policies" handout for consequences for truancies.)

I hereby understand the above policies and agree to abide by them:

Student Signature: \_\_\_\_\_

Parent Signature: \_\_\_\_\_

Campaign Speech Approval Form

On August 26th, 2005, the Election Oversight Committee of William Jennings Bryan High School met with the student candidate (signed below). Upon review of the outline of the campaign speech, the Committee has found the speech to comply with all election rules set forth within the Election Policies and Procedures. The speech may be given by the candidate on August 29, 2005 at 10 a.m. in the school auditorium. Proper attire is encouraged.

Pat Christianson  
Student Candidate's Signature

Frances/Francis Godwin  
Teacher's Signature

S. Keptik Concerns about content *SK*  
Teacher's Signature

## Campaign Speech Approval Form

On August 26th, 2005, the Election Oversight Committee of William Jennings Bryan High School met with the student candidate (signed below). Upon review of the outline of the campaign speech, the Committee has found the speech to comply with all election rules set forth within the Election Policies and Procedures. The speech may be given by the candidate on August 29, 2005 at 10 a.m. in the school auditorium. Proper attire is encouraged.

Sal Lantoro  
Student Candidate's Signature

Frances/Francis Godwin  
Teacher's Signature

S. Keppik  
Teacher's Signature

**Agreement - Student Council  
Elections Policies and Procedures**

I have read the William Jennings Bryan High School Student Council  
Elections Policies and Procedures and agree to abide by them.

Pat Christianson  
Signature of Candidate

Aug. 26, 05  
Date

**Agreement - Student Council  
Elections Policies and Procedures**

I have read the William Jennings Bryan High School Student Council Elections Policies and Procedures and agree to abide by them.

Sal Lantoro  
Signature of Candidate

8/26/05  
Date

My name is Pat Christianson. I am a candidate for Student Council President. I am running with confidence in God's grace.

Let me tell you a little something about me. I am a senior at WJB High School. My older sister graduated from here last year, and my younger brother is an incoming freshman this year. I am a good student with a strong academic record. I also participate in the band, although sometimes the music that is chosen makes me a little uncomfortable. Also, I belong to the chess club. I am not really that interested in athletics; however, I support our teams. Finally, I belong to Computers for Africa, which is a really great program.

Why do I want to be Student Council President? This campaign is not about me personally; it is about the message I bring, a message which can transform our school. We have an opportunity at WJB High School to do something great. Together we can improve the culture at our school. There is too much superficial materialism here. People are jealous of each other. There is too much bullying. We must learn to get along. There are ten rules I live by. These rules can make your lives worth living and make our school a great place in which to learn. I will try to see that these rules are posted in the lobby of the school so everyone can be reminded of them every day. Let me give you a couple of examples.

1. We hear too much swearing in and around school. The third commandment basically tells us not to swear. We are smart. We are high school students. Bad language is not necessary. It just makes sense that we should treat each other with courtesy.

2. There are kids attending this school who are without both parents in their home. Some kids have parents who are mean to them. There are some kids who have parents that love and care for them. We can make all our home lives better by following the fifth commandment, which is "honor your parents."

3. We must lock our lockers because a few people are willing to steal things from the rest of us - the ones who are not willing to steal. We should recognize that our property belongs to us. Most of us are generous by nature; we share what we have when we can. But the eighth commandment insists that we must not steal. That is a good rule.

4. Finally, we know that sometimes we are jealous of something someone else has. You know what I mean: you have nice clothes, you have a nice car, you get good grades and so on. Well the tenth commandment tells us not to be jealous of what others have. We should work hard and earn what we get. We should appreciate any good luck our friends have, not resent it.

These rules are given to us by God. We must practice them in our school, in our classroom and in our homes.

As your class president, I will try to have these rules posted in the entry way into the school where we can be reminded of their truth every day. I will seek to live my life according to these commandments. Following these rules can reduce or even eliminate some of the mean

things that happen here at WJB High. We will have a better school and be better people if we adopt these rules.

If we open our hearts to the love of God, He will make us whole. We must be allowed to pray together in school. We must care for each other. I pray for this school and for you all. I know that God will guide me as your student council president.

We must respect our differences. We must not be intolerant. We must come together as one WJB High School community. People can disagree without being mean to one another.

There has been a movement sweeping across the United States. Students from many different denominations meet annually at the flag pole at their school to pray. We must institute that practice here. My campaign slogan is based on this idea. Meet me at the polls, vote for me as senior student council is like the idea of meeting me at the flag pole.

Meet me at the polls.

# NEBRASKA HIGH SCHOOL MOCK TRIAL RULES

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## I. RULES OF THE COMPETITION

The Rules of the Competition are based on the rules of the National High School Mock Trial Competition. Some additions or modifications have been made for Nebraska.

### THE PROBLEM

#### **Rule 1. Rules**

All trials are governed by the Nebraska High School Mock Trial Rules of the Competition, the Rules of Procedure, and the Federal Rules of Evidence (Mock Trial Version). Questions or interpretations of these rules are within the discretion of the mock trial coordinators, whose decisions are final.

#### **Rule 2. The Problem**

The problem is an original fact pattern, which may contain any or all of the following: statement of facts, indictment, stipulations, witness statements/affidavits, jury charges, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered.

#### **Rule 3. Witness Bound by Statements**

Each witness is bound by the facts contained in her/his own witness statement, the statement of facts, if present, and/or any necessary documentation relevant to her/his testimony.

- If, on direct examination, an attorney asks a question which calls for an invention of facts, the question is subject to objection under Rule 4.
- If, on cross-examination, an attorney asks a question which calls for an invention of facts, the witness may or may not respond, so long as any response is consistent with the witness' statement or affidavit. The question is not subject to objection. See Rule 4 for further clarification.
- A witness is not bound by facts contained in other witness statements.

#### **Rule 4. Invention of Facts**

Inventions of facts are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial. The purpose of this rule is to keep the case as even as possible by not allowing either side to create an advantage for their side by inventing facts. In real trials this rule is not necessary because all of the facts are within the knowledge of the witnesses. Since mock trials use created fact situations, all of the necessary facts may not be within the knowledge of the witnesses. Therefore, for mock trials we need a rule to prevent inventions of facts that are not included in the case materials.

When an attorney objects to an invention of facts, the judge will rule in open court to clarify the course of further proceedings. The decision of the presiding judge regarding invention of facts or evidentiary matters is final.

#### **Direct and Redirect Examination**

Attorneys shall not ask questions calling for an invention of facts and witnesses shall not provide answers that involve an invention of facts. Attorneys for the opposing team may refer to Rule 4 in a special objection, such as: "Objection, Your Honor. The question calls for an invention of facts."

#### **Cross and Recross Examination**

An invention of facts may only be allowed on cross or recross examination and only if the question being asked calls for facts that are not included in the case materials. If a witness is asked a question calling for an invention of facts, the witness may respond:

1. "I do not know the answer to that question because that information is not contained in the Nebraska Mock Trial case materials." OR

2. With any answer which is consistent with the witness' affidavit and other substantive issues of the case.

An answer that is contrary to the witness' affidavit may be impeached.

#### **Rule 5. Gender of Witnesses**

All witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any student may portray the role of any witness of either gender. In certain years the Nebraska case may have a specific gender witness role. This may be portrayed by any student on the team.

#### **Rule 6. Voir Dire**

Voir dire examination of a witness is not permitted. This is the preliminary questioning of a witness or juror to determine competency, prejudices, biases, or personal knowledge.

### **THE TRIAL**

#### **Rule 7. Team Eligibility**

Each team competing in the Nebraska High School Mock Trial Project must be comprised of students from one school who are registered in grades 9-12 in a Nebraska public or private school. Schools may enter as many teams as they can effectively organize and properly supervise. [Special permission may be granted for two schools to register a combined team. Contact the State Mock Trial Coordinator.]

Participation by an ineligible team member shall result in forfeiture of each trial in which the ineligible team member participated

To be a part of the competition, schools must register their teams by completing and mailing the Official Mock Trial Entry Form to the State Coordinator, along with a check for **\$35 PER TEAM** (made payable to the **Nebraska State Bar Foundation**) no later than September 10, 2004. Also by September 10, 2004, each school should forward to the Regional Coordinator, a school activities calendar for September, October and November.

#### **Rule 8. Team Composition**

Teams may consist of a *minimum* of *six* and a *maximum* of *eight* students. Only **SIX** members may participate in any given trial. The duties of the two alternate team members may be assigned at the discretion of the coaches. Team members from one team within a school may not be members of another team. Student timekeepers may be provided, but are not considered "official timekeepers" unless so designated by the trial judge.

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

Teams must be prepared to present both the Plaintiff and Defense sides of the case, using **SIX** team members per trial. For each trial, teams shall use three students as attorneys and three students as witnesses.

In the event of an emergency that would cause a team to participate with less than six members, the team must notify the Regional Coordinator for their county as soon as possible. If the Regional Coordinator agrees that an emergency exists, he or she will decide whether the team will forfeit a trial or take appropriate measures to continue a trial round with less than six members. Trials may be rescheduled at the discretion of the Regional Coordinator. If the Regional Coordinator is unavailable, the presiding judge will make these decisions. A team proceeding with fewer than six team members may have points deducted from their point totals at the discretion of the scoring judges.

A team that forfeits a trial shall be given zero points, zero judges' ballots and a loss on their trial record. A team that was to have competed against a forfeiting team shall receive a win on their trial record.

The starting time of any trial may not be delayed longer than 15 minutes, unless agreed to by both teams and the presiding judge.

#### **Rule 10. Team Duties**

Each of the three attorneys shall conduct one direct examination and one cross examination. In addition, one attorney shall present the opening statement and a different attorney shall present the closing argument.

Opening Statements must be given by both sides at the beginning of the trial.

The attorney who will cross-examine a particular witness is the only one permitted to make objections during the direct examination of that witness, and the attorney who questions a particular witness on direct examination is the only person who may make objections during cross-examination of that witness.

Each team must call three witnesses. Witnesses shall be called only by their own team. Witnesses shall be examined by both teams. Witnesses may not be recalled by either team.

#### **Rule 11. Swearing of Witnesses**

Witnesses shall be sworn, either individually or as a group, by the presiding judge, using the following oath:

*"Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?"*

#### **Rule 12. Trial Sequence and Time Limits**

The trial sequence shall be as follows:

1. Plaintiff's opening statement
2. Defense's opening statement
3. Plaintiff's direct examination and Defense's cross-examination of Plaintiff's three witnesses
4. Defense's direct examination and Plaintiff's cross-examination of Defense's three witnesses
5. Plaintiff's closing argument
6. Defense's closing argument
7. Prosecution may reserve a portion of its closing argument time for rebuttal if it does so at the beginning of its closing argument. The Plaintiff's rebuttal, if any, is limited to the scope of the Defense's closing argument.

#### **Time Limits**

1. Each team shall have a total of 10 minutes for Opening Statement & Closing Argument. For example, a 3 minute opening and a 7 minute closing.
2. Each team shall have a total of 25 minutes for Direct and Redirect Examination.
3. Each team shall have a total of 20 minutes for Cross and Recross Examination.

Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial may not be transferred to another part of the trial, except as allowed by this rule.

#### **Rule 13. Timekeeping**

Time limits are mandatory and shall be enforced by the presiding judge. Time for objections, extensive questioning from the judge, or administering the oath shall NOT be counted as part of a team's allotted time. Time does not stop for introduction of exhibits. Each team may have its own timekeeper for the benefit of the team.

**Rule 14. Time Extensions and Scoring**

The presiding judge has sole discretion to grant time extensions. If time has expired and an attorney continues without permission from the presiding judge, the scoring judges may determine individually whether or not to deduct points in a category because of the overrun in time.

**Rule 15. Prohibited Motions**

No motions may be made. For example, a motion for directed verdict, acquittal, or dismissal of the case at the end of the Plaintiff's case may not be used. A motion for a recess may be used only in the event of an emergency. Should a recess be called, team members are to remain in place and shall not communicate with any observers, timekeepers, coaches, or instructors regarding the trial.

**Rule 16. Sequestration**

Teams may not invoke the rule of sequestration of witnesses (exclusion of witnesses from the courtroom).

**Rule 17. Bench Conferences**

Bench conferences may be granted at the discretion of the presiding judge, but should be made from the counsel table in the educational interest of handling all matters in open court.

**Rule 18. Supplemental Material/Illustrative Aids**

During the trial teams may refer only to materials included in the mock trial case packet. No physical evidence, illustrative aids, enlargements, props or costumes are permitted unless authorized specifically in the case materials.

**Rule 19. Trial Communication**

Teacher sponsors, attorney coaches, non-participating team members, and observers shall not talk to, signal, communicate with, or coach their teams during trial. This rule remains in force during any recess time that may occur. Team members participating in the trial may, among themselves, communicate during the trial; however, no disruptive communication is allowed. Signaling of time by the teams' timekeepers shall not be considered a violation of this rule.

Non-participating team members, teacher sponsors, attorney coaches, and observers must remain outside the bar in the spectator section of the courtroom. Only team members participating in the particular trial may sit inside the bar.

**Rule 20. Viewing a Trial**

*Local and Regional Trials*

Check with the Mock Trial Coordinator for your county regarding persons not associated with the competing teams viewing a trial. Coordinators may choose one of the following options:

- A. All trials are open to the public. Trials may be videotaped only by the competing schools or local media,  
OR
- B. Only team members, alternates, attorney-coaches, teacher-sponsors, observers or other persons directly associated with the competing teams may view a trial. Videotaping is allowed only by the competing teams IF both teams agree to permit it.

### *State and National Championships*

Team members, alternates, attorney-coaches, teacher-sponsors, and any other persons directly associated with a mock trial team, except those authorized by the State Coordinator or the National Board, are not allowed to view other teams in competition, so long as their team remains in the competition.

### **Rule 21. Videotaping/Photography**

*Local and Regional Trials* -- See Rule 20.

*State and National Championships* -- Any team has the option to refuse participation in videotaping, tape recording, still photography, or media coverage, except that media coverage will be allowed by the two teams in the championship round.

## **JUDGING**

### **Rule 22. Decisions**

All decisions of the judging panel are FINAL.

### **Rule 23. Composition of Panel**

The judging panel shall consist of one presiding judge and two scoring judges, all of whom shall complete individual score sheets. No mock trial shall proceed without three judges, unless one mock trial judge is unavoidably, unexpectedly absent. [Contact your coordinator if a mock trial judge is absent.]

If one mock trial judge is unavoidably, unexpectedly absent, the other two judges may proceed to score the trial and determine a winner by mutual agreement. If the two judges cannot agree on a winner, then the two teams shall retry the case at a mutually agreeable later date. Any mock trial with less than two judges shall be rescheduled by the two participating schools at a mutually agreeable later date.

The state championship trial may have a panel of six to twelve jurors (mock trial judges) at the discretion of the State Coordinator.

### **Rule 24. Score Sheets/Ballots**

The term "ballot" will refer to the decision made by a presiding or scoring judge as to which team made the best presentation in the trial. The term "score sheet" is used in reference to the form on which speaker and team points are recorded. Score sheets are to be completed individually by all three judges. Scoring judges are not bound by the rulings of the presiding judge. The team that earns the highest points on an individual judge's score sheet is the winner of that ballot. The team that receives the majority of the three ballots wins the trial.

Whether or not teams receive copies of the score sheets from their trials is up to the discretion of the local coordinators.

### **Rule 25. Courtroom Decorum**

Mock trials are meant to simulate real trials in a courtroom atmosphere. Participants should act and dress accordingly. Check with your local coordinator for guidelines.

### **Rule 26. Pre-trial Conferences**

Each mock trial should begin with a pretrial conference held in open court with all participants, coaches and spectators present. Mock trial attorneys may ask the presiding judge to mark exhibits and clarify rules of procedure or rules of evidence. Roster forms should be presented to all three judges.

## **DISPUTE RESOLUTION**

### **Rule 30. Reporting a Rule Violation Occurring During The Trial**

Alleged rule violations that involve students competing in a trial and occur during the trial should be brought to the attention of the presiding judge by a student attorney through an objection at the time of the alleged violation. The presiding judge shall rule on the objection and the trial shall continue. Any alleged rule violation known, or through the exercise of reasonable diligence should have been discovered during the trial and which is not brought to the attention of the judge, is waived.

If an alleged material rule violation could not reasonably have been discovered until after the trial has concluded, the alleged violation should be brought to the attention of the presiding judge immediately at the conclusion of the trial. The scoring judges will be excused from the courtroom and the presiding judge will provide the student attorney with a dispute form on which the student will record in writing the nature of the alleged rule violation. The student attorney may communicate with co-counsel and student witnesses before preparing the form. At no time in this process may teacher sponsors, attorney coaches or observers communicate with the students.

### **Rule 31. Dispute Resolution Procedure**

The presiding judge will review the written dispute form and determine whether the dispute should be heard or denied. If the dispute is denied, the judge will record the reasons for this, announce his/her decision in open court, retire to complete his/her score sheet and turn the dispute form in with the score sheets. If the presiding judge feels the grounds for the dispute merit a hearing, the form will be shown to opposing counsel for their written response. After the team has recorded its response and transmitted it to the judge, the judge will ask each team to designate a spokesperson. After the spokespersons have had time (not to exceed three minutes) to prepare their arguments, the judge will conduct a hearing on the dispute, providing each team's spokesperson three minutes for a presentation. The spokespersons may be questioned by the judge. At no time in this process may teacher sponsors, attorney coaches or observers communicate with the students. After the hearing the presiding judge will adjourn the court and retire to consider his/her ruling on the dispute. That decision will be recorded in writing on the dispute form, with no further announcement.

### **Rule 32. Effect of Violation on Score**

If the presiding judge determines that a material rule violation has occurred, the judge will inform the scoring judges of the dispute and provide a summary of each team's argument. The scoring judges will consider the rule violation before reaching their final decisions. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring judges.

### **Rule 33. Reporting of Alleged Rule Violation /Outside the Bar**

Disputes that involve people other than student team members and occur outside the bar during a trial round may be brought by teacher sponsors or attorney coaches exclusively. Such disputes must be made promptly to the appropriate local coordinator who will ask the complaining party to complete a dispute form. The form will be taken by the coordinator. The coordinator will (a) notify all pertinent parties; (b) allow time for a response, if appropriate; and (c) rule on the charge. The coordinator will notify all pertinent parties of his/her decision.

## II. RULES OF PROCEDURE

The Nebraska Rules of Procedure are based on the Rules of the National High School Mock Trial Competition.

### A. BEFORE THE TRIAL

Local coordinators will schedule trials once the school activities forms are completed by the individual teams. Twelve teams will compete at the state championship - one from each of twelve regions.

#### **Rule 34. Team Roster**

*Before beginning a trial the teams must exchange copies of the Team Rosters. The form shall identify the gender of each witness so that references to such parties shall be made in the proper gender. Copies of the Team Rosters shall be made available to all three judges during the pretrial conference.*

#### **Rule 35. Stipulations**

The attorney assigned the Prosecution/Plaintiff's opening statement shall offer any stipulations into evidence prior to beginning the opening statement.

#### **Rule 36. The Record**

The stipulations, indictment and charge to the jury shall not be read into the record.

### B. BEGINNING THE TRIAL

#### **Rule 37. Jury Trial**

The case shall be tried to a jury; arguments are to be made to judge and jury. Teams may address the scoring judges as the jury.

#### **Rule 38. Standing During Trial**

Based on the Rule 4.16 of the National High School Mock Trial Competition Rules all attorneys shall stand when addressing the court or the jury, including opening statements, closing arguments, direct and cross-examination, and for the making of objections. Direct and cross-examination may be conducted from counsel table, a podium, or with leave of the court, from any place in the well of the court. Counsel shall obtain permission from the court before approaching a witness.

#### **Rule 39. Objection During Opening Statement/Closing Argument**

No objections may be raised during opening statements or closing arguments.

If a team believes an objection would have been proper during the opposing team's closing argument, one of its attorneys may, following the closing argument, raise her/his hand to be recognized by the judge and say, "If I had been permitted to object during closing arguments I would have objected to the opposing team's statement that \_\_\_\_\_." The presiding judge shall not rule on this "objection." Judges shall weigh the "objection" individually for purposes of determining their scores. No rebuttal by opposing team shall be heard.

### C. PRESENTING EVIDENCE

#### **Rule 40. Argumentative Questions**

An attorney shall not ask argumentative questions. However, the Court may, in its discretion, allow limited use of argumentative questions on cross-examination.

#### **Rule 41. Lack of Proper Predicate/Foundation**

Attorneys shall lay a proper foundation prior to moving for the admission of evidence. After motion has been made, the exhibits may still be objected to on other grounds.

#### **Rule 42. Procedure for Introduction of Exhibits**

As an example, the following steps effectively introduce evidence.

1. All evidence shall be pre-marked as exhibits.
2. Ask for permission to approach the bench. Show the presiding judge the marked exhibit. "Your honor, may I approach the bench to show you what has been marked as Exhibit No. \_\_\_?"
3. Show the exhibit to opposing counsel.
4. Ask for permission to approach the witness. Give the exhibit to the witness. "I now hand you what has been marked as Exhibit No. \_\_\_ for identification."
5. Ask the witness to identify the exhibit. "Would you identify it please?"  
Witness answers with identification only.
6. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No. \_\_\_ into evidence at this time. The authenticity of this exhibit has been stipulated."
7. Presiding Judge: "Is there an objection?"  
If proper foundation has not been laid, opposing counsel should object at this time.
8. Opposing Counsel: "No, your Honor," or "Yes, your Honor proper foundation has not been laid for Exhibit No. \_\_\_."
9. Presiding Judge: "Is there any response to the objection?"
10. Presiding Judge: "Exhibit No. \_\_\_ is/is not admitted."

#### **Rule 43. Use of Notes**

Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial. Attorneys may consult with each other at counsel table verbally or through the use of notes.

#### **Rule 44. Redirect/Recross**

Redirect and recross examinations are permitted, provided they conform to the restrictions in Rule 611(b) in the Federal Rules of Evidence (Mock Trial Version).

### **D. CLOSING ARGUMENTS**

#### **Rule 45. Scope of Closing Arguments**

Closing arguments must be based on the actual evidence and testimony presented during the trial.

### **E. DEBRIEFING/CRITIQUE**

#### **Rule 46. Debriefing/Critique**

The judging panel is allowed 15 minutes for debriefing. Presiding judges shall limit debriefing sessions to the 15 minutes total time allotted.

## **III. FEDERAL RULES OF EVIDENCE (Mock Trial Version)**

In American trials complex rules are used to govern the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. If it

appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the evidence will probably be allowed by the judge. The burden is on the mock trial team to know the Nebraska High School Mock Trial Rules of Evidence and to be able to use them to protect their client and fairly limit the actions of opposing counsel and their witnesses.

For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the National High School Mock Trial Rules of Evidence, and its numbering system. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure. Text in italics or underlined represents simplified or modified language.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate. The Mock Trial Rules of Competition and these Nebraska High School Mock Trial Rules of Evidence govern the Nebraska High School Mock Trial Championship.

### ***Article I. General Provisions***

#### **Rule 101. Scope**

*These Nebraska High School Mock Trial Rules of Evidence govern the trial proceedings of the Nebraska High School Mock Trial Competition.*

#### **Rule 102. Purpose and Construction**

*These Rules are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.*

### ***Article II. Judicial Notice***

#### **RULE 201. Judicial Notice of Adjudicative Facts**

- (a) Scope of Rule. This rule governs only judicial notice of adjudicative facts.
- (b) Kinds of Facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either
  - (1) generally known within the territorial jurisdiction of the trial court or
  - (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
- (c) When Discretionary. A court may take judicial notice, whether requested or not.
- (d) When Mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.

(e) Opportunity to be Heard. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

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

(g) Instructing Jury. In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

#### **Article IV. Relevancy and its Limits**

##### **Rule 401. Definition of "Relevant Evidence"**

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

##### **Rule 402. Relevant Evidence Generally Admissible: Irrelevant Evidence Inadmissible**

All relevant evidence is admissible, except as otherwise provided in these Rules. Irrelevant evidence is not admissible.

##### **Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time**

Although relevant, evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice, if it confuses the issues, if it is misleading, or if it causes undue delay, wastes time, or is a needless presentation of cumulative evidence.

##### **Rule 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes**

(a) Character Evidence Generally. Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

(1) Character of Accused. Evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the same;

(2) Character of Victim. Evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;

(3) Character of Witness. Evidence of the character of a witness, as provided in rules 607, 608, and 609.

(b) Other Crimes, Wrongs, or Acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that upon request by the accused, the prosecution in a

criminal case shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.

**Rule 405. Methods of Proving Character**

(a) Reputation or opinion. -- In all cases where evidence of character or a *character trait* is admissible, proof may be made by testimony as to reputation or in the form of an opinion. On cross-examination, *questions may be asked regarding relevant, specific conduct*.

(b) Specific instances of conduct. -- In cases where character or a character trait is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

**Rule 406. Habit; Routine Practice**

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

**Rule 407. Subsequent Remedial Measures**

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

**Rule 408. Compromise and Offers to Compromise**

Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as providing bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct investigation or prosecution.

**Rule 409. Payment of Medical or Similar Expenses**

Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

**Rule 411. Liability Insurance (civil case only)**

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of

evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

## **Article V. Privileges**

### **Rule 501. General Rule**

*There are certain admissions and communications excluded from evidence on grounds of public policy. Among these are:*

- (1) communications between husband and wife;*
- (2) communications between attorney and client;*
- (3) communications among grand jurors;*
- (4) secrets of state; and*
- (5) communications between psychiatrist and patient.*

## **Article VI. Witnesses**

### **Rule 601. General Rule of Competency**

Every person is competent to be a witness.

### **Rule 602. Lack of Personal Knowledge**

A witness may not testify to a matter unless *the witness has personal knowledge of the matter*. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses. (See Rule 3.0.)

### **Rule 607. Who may Impeach**

The credibility of a witness may be attacked by any party, including the party calling the witness.

*Comment: One way to impeach a witness through the use of a prior inconsistent statement is to first ask the witness whether s/he has ever given a prior statement, indicating the time, place and circumstances of the statement. If the witness does not unqualifiedly admit the prior inconsistent statement, the witness can be impeached. If the prior statement was a signed and sworn statement of the witness, the attorney should introduce the statement and ask the witness whether that is his/her statement and whether the statement was made under oath, at a time much closer to the events in controversy, and contained all that the witness could then remember. The attorney may then want to (1) leave the matter and point out on closing argument the contradiction between the statement and the witness' testimony (both of which were under oath); (2) ask the witness why his/her testimony is different today under oath than it was when it was under oath and much nearer in time to the events; or (3) ask the witness whether s/he was lying under oath when s/he gave his/her statement or lying under oath today.*

### **Rule 608. Evidence of Character and Conduct of Witness**

(a) Opinion and reputation evidence of character. -- The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence, or otherwise.

(b) Specific instances of conduct. -- Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be asked on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

Testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination with respect to matters related only to credibility.

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

(a) General Rule. For the purpose of attacking the credibility of a witness,

(1) evidence that a witness other than an accused has been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused; and

(2) evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.

(b) Time Limit. Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) Effect of Pardon, Annulment, or Certificate of Rehabilitation. Evidence of a conviction is not admissible under this rule if

(1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or

(2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(d) Juvenile Adjudications. Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and

the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) Pendency of Appeal. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

#### **Rule 610. Religious Beliefs or Opinions**

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

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

(a) Control by Court. -- The Court shall exercise reasonable control over *questioning* of witnesses and presenting evidence so as to (1) make the *questioning* and presentation effective for ascertaining the truth, (2) to avoid needless *use* of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of cross-examination. -- The scope of cross examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.

(c) Leading questions. -- Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness' testimony). Ordinarily, leading questions are permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used.

(d) Redirect/Recross. -- After cross examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross examination. Likewise, additional questions may be asked by the cross examining attorney on recross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.

#### **Rule 612. Writing Used to Refresh Memory**

If a written statement is used to refresh the memory of a witness either while or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross-examine the witness on the material and introduce into evidence those portions that relate to the testimony of the witness.

#### **Rule 613. Prior Statements of Witnesses**

Examining witness concerning prior statement. -- In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

Extrinsic evidence of prior inconsistent statement of witness. -- Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate.

## ***Article VII. Opinions and Expert Testimony***

### **Rule 701. Opinion Testimony by Lay Witness**

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

### **Rule 702. Testimony by Experts**

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

### **Rule 703. Bases of Opinion Testimony by Experts**

The facts or data upon which an expert bases an opinion may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the field in forming opinions or inferences, the facts or data need not be admissible in evidence.

### **Rule 704. Opinion on Ultimate Issue**

(a) Opinion or inference testimony otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.

(b) In a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused.

### **Rule 705. Disclosure of Facts or Data Underlying Expert Opinion**

The expert may testify in terms of opinion or inference and give reasons therefor without prior disclosure of the underlying facts or data, unless the Court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

## ***Article VIII. Hearsay***

### **Rule 801. Definitions**

The following definitions apply under this article:

(a) Statement. -- A "statement" is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.

(b) Declarant. -- A "declarant" is a person who makes a statement.

(c) Hearsay. -- "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

*An example of hearsay is a witness testifying that s/he heard another person saying something relating to the facts of the case. The reason that hearsay is untrustworthy is because the opposing side has no way of testing the credibility of the person who allegedly made the out of court statement. For example, Smith testifies, "Some of the other tenants told me that Jones often failed to keep his apartments in good repair." This would not be admissible to prove that Jones often failed to keep his apartments in good repair, which was the matter asserted in the out of court statement. However, it might be admissible to prove that Smith had some warning that Jones did not keep his apartments in good repair, if that were an issue in the case, since it would not then be offered for the truth of the matter asserted.*

*Why should the condition be added that the out of court statement is only hearsay when "offered for the truth of the matter asserted"? The answer is clear when we look to the primary reasons for the exclusion of hearsay, which are the absence in hearsay testimony of the normal safeguards of oath, confrontation, and cross-examination, all of which test the credibility and accuracy of the out of court speaker.*

*For example, if Jones testified in court, "My best friend Smith told me that Bill was driving a car 80 miles per hour," and that out-of-court statement was offered to prove the truth of the matter asserted (i.e., that Bill was driving 80 miles per hour), we would be interested in the credibility of Smith, his/her opportunity and capacity to observe Bill, the accuracy of her reporting, and his/her tendency to lie or tell the truth. The lack of an oath, confrontation, and cross-examination would make the admission into evidence of Smith's assertion about Bill unfair to the opposing party. If the statement was offered, however, to show that Smith could speak English, then its value would hinge on Jones' credibility (who is under oath, present and subject to cross-examination) rather than Smith's, and it would not be hearsay.*

*Another example: While on the stand, the witness says, "the salesman told me that the car had never been involved in an accident." This statement would not be hearsay if offered to prove that the salesman made such a representation to the witness. (The statement is not offered to prove the truth of the matter asserted.) However, if offered to prove that the car had never been in an accident, it would not be allowed because it would be hearsay.*

*Possible Objection: "Objection, Your Honor. The question calls for hearsay."*

*Response to Objection: "Your Honor, the testimony is not offered to prove the truth of the matter asserted, but only to show. . ."*

(d) Statements which are not hearsay. -- A statement is not hearsay if:

(1) Prior statement by witness. -- The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is (A) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or

(2) Admission by a party-opponent. -- The statement is offered against a party and is (A) the party's own statement in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made

during the existence of the relationship, or (E) a statement by a co-conspirator of a party during the course in furtherance of the conspiracy.

## **Rule 802. Hearsay Rule**

Hearsay is not admissible, except as provided by these rules.

## **Rule 803. Hearsay Exceptions, Availability of Declarant Immaterial**

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) Present sense impression. -- A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited utterance. -- A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then existing mental, emotional, or physical conditions. -- A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purposes of medical diagnosis or treatment. -- Statements made for the purpose of medical diagnosis or treatment.

(5) Recorded Recollection. -- A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly.

(6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) Records, reports, statements, or data compilations made by a public official or agency of facts required to be observed and recorded pursuant to a duty imposed by law, unless the sources of information or the method or circumstances of the investigation are shown by the opposing party to indicate a lack of trustworthiness.

(8) Public Records and Reports. Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth

(A) the activities of the office or agency, or

(B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or

(C) in civil actions and proceedings and against the Government in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

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

(18) Learned Treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

(21) Reputation as to character. -- Reputation of a person's character among associates or in the community.

(22) Judgment of Previous Conviction. Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

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

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

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or

(2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or

(3) testifies to a lack of memory of the subject matter of the declarant's statement; or

(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b) (2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

**(b) Hearsay exceptions.** The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

**(1) Former testimony.** Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

**(2) Statement under belief of impending death.** In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be impending death.

**(3) Statement against interest.** A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

**(4) Statement of personal or family history.** (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

**(6) Forfeiture by wrongdoing.** A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

#### **Rule 805. Hearsay within Hearsay**

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statement conforms with an exception to the hearsay rule provided in these rules.

**ARTICLE X - Contents of Writing, Recordings and Photographs** - Not applicable.

#### **ARTICLE XI - Other**

##### **Rule 1103. Title**

These rules may be known and cited as the Nebraska High School Mock Trial Federal Rules of Evidence.



## TRIAL SCORING & DEDUCTION OF POINTS

**TRIAL SCORING:** Trial winners are determined by which team earns the most judges' ballots. Do **NOT** add the two performance judge's team totals together to determine the trial winner.

Each of the performance judges should total their scores separately. If an individual judge's team totals are the same for both teams, that judge should indicate on the line ***If my total scores are tied, the win goes to \_\_\_\_\_***, which of the teams s/he feels gave the best overall performance. The team which earns the greatest number of points on a judge's score sheet (or receives the judge's vote if the numbers were tied) wins that judge's ballot. **TO WIN A TRIAL, A TEAM MUST WIN AT LEAST TWO JUDGES' BALLOTS.**

In other words, if each of the performance judges has awarded the greatest number of points to the same team, that team is the winner. If the performance judges have made a "split" decision (i.e., each awarded the most points to a different team) then the presiding judge must determine the winner based on which team gave the best overall performance.

### Example A:

Judge Smith's	Team #1	<u>83</u> points &	Judge Jones'	Team #1	<u>80</u> points &
Score sheet shows:	Team #2	<u>76</u> points	Score sheet shows:	Team #2	<u>78</u> points

In Example A, **Team #1 is the clear winner** because **both** performance judges gave them a greater number of points than the judges gave to Team #2 -- 83 and 80 versus 76 and 78.

### Example B:

Judge Smith's:	Team #1	<u>83</u> points &	Judge Jones'	Team #1	<u>79</u> points &
Score sheet shows	Team #2	<u>76</u> points	Score sheet shows:	Team #2	<u>80</u> points

In Example B, Judge Smith has chosen Team #1 as the winner. Judge Jones has chosen Team #2 as the winner. Even though one team has more total points than the other, it is the number of judges' ballots NOT the total points which determines a trial winner. Therefore, this is a situation in which the performance judges have given a "split" decision. The presiding judge must determine the winner based upon overall team performance. In example B the team which earns the presiding judge's vote/ballot is the trial winner.

**DEDUCTION OF POINTS:** Performance Judges may, at their discretion, consider subtracting points from an individual's score because of rule violations. For example, if a team violates its time limits, the performance judges **MAY** decide to reduce the points given to each of the three attorneys, or reduce the point total of the attorney who appeared to be the greatest cause of the time limit violation.

Other rule violations for which performance judges may wish to deduct points may be brought to the judges' attention during a dispute settlement (see Rules 30-33). For example, if it is brought to the judges' attention that a team member was improperly coached by a teacher or attorney-coach during the trial round, the judges may wish to reduce the points given to that particular team member.

**Whatever rule violations are brought to the attention of the judges, it is entirely within the judges' discretion whether or not they will deduct points from any participant's score. The decision of the judges is final.**

**PRESIDING JUDGE'S SCORE SHEET**

Date: \_\_\_\_\_ Round: \_\_\_\_\_

Plaintiff: \_\_\_\_\_

Defense: \_\_\_\_\_

Indicate your decision regarding which team made the best overall performance independent of the decisions of the performance judges. If the decisions of the performance judges are split, your decision as to the best overall performance will be used to decide which team wins the trial. If the two performance judges agree regarding which team gave the better performance, your score sheet will not be used in the calculation of the winner, but at the regional or state championships your score sheet may decide pairings and round advancement.

The criteria for BEST OVERALL PERFORMANCE are, among other things, whether ALL team members:

- complied with all rules of the competition and spirit of fair play;
- were poised and spoke clearly and distinctly;
- observed courtroom decorum;
- used their time effectively and stayed within their allotted time; and
- were courteous of their opponent.

**PERFORMANCE EVALUATION**

In my opinion, the team which gave the BEST OVERALL PERFORMANCE is the:

CIRCLE ONE:            Prosecution    OR    Defense

COMMENTS (optional):

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\_\_\_\_\_  
Judge's Signature

\_\_\_\_\_  
Date

**PERFORMANCE JUDGE'S SCORE SHEET**

Date: \_\_\_\_\_ Round: \_\_\_\_\_

Plaintiff: \_\_\_\_\_

Defense: \_\_\_\_\_

Name of School

Name of School

Rate the performance of each team member on a scale of 1 to 10, recording one score in each box.

**Do NOT use fractions.** 1-2= not effective 3-4= fair 5-6= good 7-8= excellent 9-10= outstanding

Ballot		Plaintiff	Defense
Opening statements		(_____)	(_____)
Plaintiff first witness	Direct Examination	(_____)	
	Cross Examination		(_____)
	Witness Performance	(_____)	
Plaintiff second witness	Direct Examination	(_____)	
	Cross Examination		(_____)
	Witness Performance	(_____)	
Plaintiff third witness	Direct Examination	(_____)	
	Cross Examination		(_____)
	Witness Performance	(_____)	
Defense first witness	Direct Examination		(_____)
	Cross Examination	(_____)	
	Witness Performance		(_____)
Defense second witness	Direct Examination		(_____)
	Cross Examination	(_____)	
	Witness Performance		(_____)
Defense third witness	Direct Examination		(_____)
	Cross Examination	(_____)	
	Witness Performance		(_____)
<b>CLOSING ARGUMENTS</b>		(_____)	(_____)
<b>TEAM TOTALS</b> (add scores in each column)		(_____)	(_____)

Please deliver ballot to coordinator before critique.

Tiebreaker (in case of tie, circle the party that won this round.)

PLAINTIFF

DEFENSE

\_\_\_\_\_  
(Signature of Judge)

## SUGGESTIONS FOR SCORING MOCK TRIALS

### Nebraska High School Mock Competition

POINTS	PERFORMANCE	CRITERIA FOR EVALUATING STUDENT PERFORMANCE
1-2	Not Effective	Unsure of self, illogical, uninformed, not prepared, speaks Incoherently, definitely ineffective in communication.
3-4	Fair	Minimally informed and prepared. Performance is passable but lacks depth in terms of knowledge of task and materials. Communications lack clarity and conviction.
5- 6	Good	Good, solid, but less than spectacular performance. Can perform outside the script but with less confidence than when using script. Logic and organization are adequate, but not outstanding. Grasps major aspects of the case, but does not convey mastery of same. Communications are clear and understandable, but could be stronger in fluency and persuasiveness.
7-8	Excellent	Fluent, persuasive, clear and understandable. Organizes materials and thoughts well and exhibits mastery of the case and materials.
9-10	Outstanding	Superior in qualities listed for "Excellent" rating. Thinks well on feet, is logical, keeps poise under duress. Can sort out essential from the nonessential and use time effectively to accomplish major objectives. Demonstrates the unique ability to utilize all resources to emphasize vital points of the trial.

#### Factors to Consider in Scoring:

**OPENING STATEMENTS** - Provided a case overview; mentioned the key witnesses stated the relief requested; and provided a clear and concise description of their case.

**DIRECT EXAMINATION** - Used properly phrased questions (who, what, where, when, how); used proper courtroom procedure; demonstrated understanding of issues and facts; proper introduction of evidence; defended objections in clear, concise terms; used time effectively; and complied with all rules of the competition and spirit of fair play.

**CROSS EXAMINATION** - Used leading questions; properly impeached witnesses; raised proper objections and stated reasons clearly; knew Rules of Evidence and did not overuse objections; courteous of opponent; and complied with rules of competition and spirit of fair play.

**WITNESSES** - Credible; understood facts; responded spontaneously; poised and observed courtroom decorum.

**CLOSING ARGUMENTS** - Summarized the evidence; emphasized the supporting points of their own case and damaged the opponent's; concentrated on the important, not the trivial; applied the applicable law; and responded to the judge's questions with poise.

## CONSTRUCTIVE CRITIQUES

An important aspect of the educational process of mock trials is the critique provided by the presiding and performance judges at the conclusion of the trial. The comments and suggestions on this page are meant to assist judges in their roles as educators about the law and our legal system.

**Please read these comments and try to give students positive suggestions that will help them 1) do better next time, and 2) understand how our justice system works.**

For many students the critique is the most valuable part of the competition. They learn from hearing *specifically* what they did wrong, as well as from hearing your approval of what they did well.

Humor is a welcome tension reliever during the critique.

Your comments should bear in mind the educational goals of the mock trial project.

Remember that you are helping *educate, guide and nurture* these young people. Treat them with the respect you expect to receive from them.

Encourage questions during the critique.

Be realistic about the legal system. It is not perfect.

Let students see you as a real human being. Share your interests, concerns, and satisfactions.

Remember you are a role model for the students and an ambassador for your profession.

Maintain eye contact.

Keep your critique to the time suggested (15 minutes for the entire panel).

Let your personality come across. Let students know that not all attorneys use the same methods and techniques. Differences of opinions regarding style of trial presentations are common.

### POSITIVE APPROACHES FOR SUGGESTIONS TO STUDENTS

"Perhaps an alternative way of handling the questioning of that witness would have been to..."

"Your opening statement was good, but it may have been even better if you had..."

"I cannot recall hearing evidence about ..., which would have helped your client's case. If you did include such evidence I suggest that next time you make it somehow stand out stronger by..."

### **DO NOT:**

Criticize students for their dress.

Expect high school students to understand all that law students or lawyers understand.

Talk down to students.

**DISPUTE RESOLUTION FORM -- INSIDE THE BAR**  
*(See Rules 30 & 3.)*

DATE \_\_\_\_\_ PLACE OF TRIAL \_\_\_\_\_

SCHOOLS COMPETING \_\_\_\_\_

NAME OF STUDENT ATTORNEY FILING DISPUTE \_\_\_\_\_

SCHOOL OF STUDENT ATTORNEY FILING DISPUTE \_\_\_\_\_

**NATURE OF DISPUTE.** Explain briefly why you are filing this dispute. When finished, give this form to the PRESIDING JUDGE.

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**PRESIDING JUDGE**

*I have read this dispute form and determined that the dispute should be DENIED.*

My reasons for denying this dispute are \_\_\_\_\_

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**OR**

*I have read this dispute form and determined that the dispute should be HEARD. I will now present this form to opposing counsel and ask for their written response on the reverse side of this form.*

**SIGNATURE OF PRESIDING JUDGE** \_\_\_\_\_

**DATE & TIME** \_\_\_\_\_

**DISPUTE RESOLUTION FORM -- INSIDE THE BAR**

*(Page Two)*

Opposing sides' RESPONSE TO DISPUTE.

**NAME OF STUDENT ATTORNEY RESPONDING** \_\_\_\_\_

**SCHOOL OF STUDENT ATTORNEY** \_\_\_\_\_

**RESPONSE TO DISPUTE.** Write a brief response to the opposing side's dispute claim. When finished, return this form to the presiding judge.

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**PRESIDING JUDGE** (please print) \_\_\_\_\_

The respective teams have submitted a dispute and a response to the dispute in writing. Both sides have now had an opportunity to argue the dispute in an open hearing in my presence. After reviewing the dispute, the response, the oral arguments, and the relevant mock trial rules, I have reached a decision in this matter. My decision is:

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**SIGNATURE OF PRESIDING JUDGE** \_\_\_\_\_

**DATE AND TIME** \_\_\_\_\_

DISPUTE RESOLUTION FORM -- OUTSIDE THE BAR

(See Rule 33)

Date \_\_\_\_\_ Place of trial \_\_\_\_\_

Schools Competing \_\_\_\_\_

Name of TEACHER OR ATTORNEY COACH filing dispute \_\_\_\_\_

School of Teacher or Attorney Coach filing dispute \_\_\_\_\_

**NATURE OF DISPUTE:** Explain briefly why you are filing this dispute. When complete, give this form to the COORDINATOR FOR YOUR COUNTY.

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**COORDINATOR** (please print)

I received this Dispute Resolution Form on \_\_\_\_\_ (date) and have notified all pertinent parties of the nature of the dispute. I   DID     DID NOT   feel that a response was necessary for me to make a decision. (circle one)

If received, the response is attached to this form.

My decision in the dispute is

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I have notified all pertinent parties of my decision.

**COORDINATOR'S SIGNATURE** \_\_\_\_\_

**DATE & TIME** \_\_\_\_\_

**2005/2006 MOCK TRIAL COORDINATORS & REGIONS**

**REGION 1**

**Coordinator:** **Honorable G. Glenn Camerer**, County Court  
Scotts Bluff County Courthouse  
1725 10th St.  
Gering, NE 69341-2446  
**(308) 436-6648**  
Fax: (308) 436-6759

Counties: Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan and Sioux

**REGION 2**

**Coordinator:** **Neleigh N. Korth**  
PO Box 29  
Ogallala, NE 69153  
**(308) 284-2091**  
Fax: (308) 284-0886  
[nkorth@kc911.net](mailto:nkorth@kc911.net)

Counties: Arthur, Dawson, Grant, Hooker, Keith, Lincoln, Logan, McPherson and Thomas

**REGION 3**

<b>Coordinators:</b>	<b>Honorable Edward D. Steenburg</b> P.O. Box 358 Ogallala, NE 69153 <b>(308) 284-3693</b> Fax: (308) 284-6825 <a href="mailto:jsteeenburg@courts.state.ne.us">jsteeenburg@courts.state.ne.us</a>	<b>Karen Wilson</b> Clerk Magistrate P.O. Box 222 Grant, NE 69140-0222 <b>(308) 352-4415</b> Fax: (308) 352-4700
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Counties: Chase, Dundy, Frontier, Furnas, Gosper, Hayes, Hitchcock, Perkins and Red Willow

**REGION 4**

**Coordinator:** **Honorable Mark D. Kozisek**  
Brown County Courthouse  
P.O. Box 105  
Ainsworth, NE 69210-0105  
**(402) 387-2162**  
Fax: (402) 387-0918  
[mkoz@threeriver.net](mailto:mkoz@threeriver.net)

Counties: Boyd, Brown, Cherry, Holt, Keya Paha, and Rock

**Coordinator:** **Tami K. Schendt**  
431 South 10<sup>th</sup> Street  
Broken Bow, NE 68822  
**(308) 872-6327**  
Fax: (308) 872-6988  
[custeratty@yahoo.com](mailto:custeratty@yahoo.com)

Counties: Blaine, Custer, Garfield, Greeley, Howard, Loup, Sherman, Valley, and Wheeler

#### REGION 5

**Coordinators:** **Honorable Teresa K. Luther**  
Hall County Courthouse  
111 W. 1st Street  
Grand Island, NE 68801-6016  
**(308) 385-5666**  
Fax: (308) 385-5669  
[tluther@hcgj.org](mailto:tluther@hcgj.org)

**Nicole M. Mailahn**  
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Kearney, NE 68848-1060  
**(308) 234-5579**  
FAX: (308) 234-9305  
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Counties: Buffalo & Hall

**Coordinator:** **Nicholas D. Valle**  
422 N. Hastings, #105  
Hastings, NE 68901-5108  
**(402) 463-9819**  
Fax: (402) 463-0288  
[al70545@alltel.net](mailto:al70545@alltel.net)

Counties: Adams, Clay, Franklin, Harlan, Kearney, Nuckolls, Phelps, and Webster

#### REGION 6

**Coordinators:** **Honorable Donna Farrell Taylor**  
PO Box 65  
Neligh, NE 68756-0065  
**(402) 887-4650**  
Fax: (402) 887-4160  
[judgetaylor7jdcc@yahoo.com](mailto:judgetaylor7jdcc@yahoo.com)

**Honorable John E. Samson**  
PO Box 1237  
Fremont, NE 68025-1237  
**(402) 727-2780**  
Fax: (402) 727-2773

**Honorable Kenneth Vampola**  
428 North Broad  
Fremont, NE 68025  
**(402) 727-2755**  
Fax: (402) 727-2762  
[judgevamp@aol.com](mailto:judgevamp@aol.com)

Counties: Antelope, Burt, Cedar, Cuming, Dakota, Dixon, Dodge, Knox, Madison, Pierce, Stanton, Thurston, Washington and Wayne

**REGION 7**

**Coordinator:**       **Honorable Robert R. Steinke**  
Platte County Courthouse  
P.O. Box 1188  
Columbus, Nebraska 68602-1188  
**(402) 563-4956**  
Fax: (402) 562-6718  
[Kay -- 563-4953]  
[judgers@megavision.com](mailto:judgers@megavision.com)

Counties: Boone, Colfax, Merrick, Nance, and Platte

**Coordinators:**       **Honorable Michael J. Owens**  
Box 201  
Aurora, NE 68818-0201  
**(402) 694-6334**  
Fax: (402) 694-6619  
[judgeowens@hamilton.net](mailto:judgeowens@hamilton.net)

**Honorable Linda C. Senff**  
P.O. Box 27  
Central City, NE 68826-0027  
**(402) 946-2812**  
Fax: (402) 946-2332

Counties: Butler, Hamilton, Polk, Seward and York

**REGION 8**

**Coordinator:**       **Honorable Robert O'Neal**  
1210 Golden Gate Drive, Suite 2165  
Papillion, NE 68046-2890  
**(402) 593-5920**  
Fax: (402) 593-2221  
[boneal@sarpy.com](mailto:boneal@sarpy.com)

Counties: Cass, Otoe, and Sarpy

**REGION 9**

**Coordinators:**       **Honorable Vicky L. Johnson**  
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Fax: (402) 821-3179

**Kelly J. Werts**  
PO Box 126  
Humboldt, NE 68376-0126  
**(402) 862-2321**  
Fax: (402) 862-3290

Counties: Fillmore, Gage, Jefferson, Johnson, Nemaha, Pawnee, Richardson, Saline and Thayer

**REGION 10**

**Coordinators:** **Honorable John A. Colborn**  
575 South 10<sup>th</sup> Street  
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