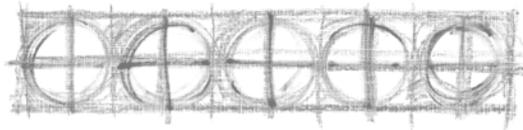


*Mock Trial Competition*

A black and white line drawing of a gavel with a wooden handle and a metal head, resting on an open book. The book is shown from a top-down perspective, with its pages slightly curved. The gavel is positioned diagonally across the right side of the book.

*Law Related Education  
Idaho Law Foundation, Inc.*

*2007*

**Case Materials  
and  
Rules of Competition and Procedure**

# The Idaho Mock Trial Program

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The Law-Related Education Program of the Idaho Law Foundation organized the Idaho Mock Trial Competition in 1987. Each year nearly five hundred high school students compete in regional and state Mock Trial competitions. In addition, up to a thousand students participate in *Mock Trial in the Classroom* activities.

This program offers students the opportunity to experience first-hand the challenge and drama of a courtroom proceeding while practicing communication and analytical skills. Not only do Mock Trial participants gain a greater understanding of our democratic system of law, they also have an opportunity to increase their self-confidence and build teamwork skills as they prepare and present their cases.

## OBJECTIVES

- to better understand the law, court procedures and the legal system;
- to increase proficiency in life-skills such as critical thinking, listening, and speaking;
- to practice teamwork and cooperative learning
- to promote communication and cooperation among the legal community, educators, and students.

## ACKNOWLEDGMENTS

The 2007 Idaho Mock Trial Case has been adapted for use by permission of the Nebraska State Bar Foundation whose volunteers authored the original case. The case was adapted by Eric Sloan, Idaho attorney, and Becky Jensen, Law Related Education Coordinator.

Mock Trial is indebted to the nearly 200 volunteers from the Idaho State Bar and Idaho communities who act as judges, coaches and advisors for the Mock Trial Competition. Special thanks also go to teacher-sponsors from participating high schools who spend untold (but not unappreciated) hours working with Mock Trial students.

The program would not be possible without the work of the Idaho Law Foundation's Law-Related Education Committee and regional competition organizers. These volunteers assist in selecting the case materials, adapting the

case to Idaho law, securing attorney-coaches and judges, and organizing various rounds of competition.

Funding for this program from the IOLTA Program of the Idaho Law Foundation is gratefully acknowledged.

*Competition Coordinators:*

North Idaho (Lewiston): Honorable Carl B. Kerrick

Treasure Valley: Kendra Hooper

Twin Falls: Karen McCarthy

Snake River Valley: Joan Thompson and Lynn MacAusland

# 2007 IDAHO 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.*

# 2007 IDAHO MOCK TRIAL

## Table of Contents

### THE PROBLEM

Statement of Facts .....	1-2
Witnesses, Exhibits, Stipulations and Legal Authorities.....	3-7

### WITNESS STATEMENTS

#### For the Plaintiff

Pat Christianson.....	8-11
Sal Lantro.....	12-15
Francis/Frances Godwin.....	16-20

#### For the Defense

Dr. Eddie(y) U. Cation.....	21-25
Sammy/ie Slang .....	26-28
S. Keptik .....	29-33

EXHIBITS .....	34-47
----------------	-------

FORMS.....	48
------------	----

RULES OF THE COMPETITION.....	57
-------------------------------	----

RULES OF EVIDENCE .....	69
-------------------------	----

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

<b>Pat Christianson by his/her</b>	)	<b>CV-06-456-S-BLW</b>
<b>next friend and parent,</b>	)	
<b>Kim Christianson</b>	)	
	)	
	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Statement of the Facts</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>	)	

Twin Falls, Idaho, 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 IDAHO

Pat Christianson by his/her	)	CV-06-456-S-BLW
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 a 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)

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, Nebraska 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.



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

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

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

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

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

100

101 This seemed silly to me. I did not and do not think anyone could think that my  
102 campaign slogan and campaign message is sponsored by the school. I think the school has

103 shown just how hostile it is towards religious practices.

104

105 Really, the school has done nothing to cause reasonable people to think that my  
106 faith or my campaign is endorsed or sponsored by the school. It is just like Mr./Ms.  
107 Godwin said, "the school is a den of iniquity, peopled by heathens in need of God's saving  
108 grace." I should be permitted to campaign. I could be elected student council president.  
109 If I am elected, I will try to persuade the school board to change the science textbooks,  
110 to permit religious freedom to exist in the schools, and to be more tolerant of others. So  
111 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 2007 Idaho State High School Mock Trial Competition.

---

Nelson K. Passons, Notary Public  
My Commission Expires: December 31, 2007

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

<b>Pat Christianson by his/her</b>	)	<b>CV-06-456-S-BLW</b>
<b>next friend and parent,</b>	)	
<b>Kim Christianson</b>	)	
	)	
	)	
	)	
<b>Plaintiff</b>	)	
	)	
<b>vs.</b>	)	<b>Deposition of Sal Lantro</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           Hey everyone. I'm Sal Lantro. I'm a vegan and am a senior at William Jennings  
2 Bryan Public High School (WJB). My grandma, mom, step dad, and older brother live with  
3 me. Our address is 2918 Harvest Road—we live on a small acreage. Good healthy food is  
4 my religion.

5  
6           I am running for student council president for the 2007 school year, along with Pat  
7 Christianson and some other kids. And now, mostly, I'm wondering what all this fuss is  
8 about. Gosh. I mean my brother Pedro ran for student council president a couple years  
9 ago, so I thought I'd try it, too. His platform was way cool. He had pictures of like dead  
10 animals and stockyards and digital pictures of our own real school lunches (which are  
11 pretty gross, except for the tater tots). I LOVE those things and sure hope they are  
12 cooked in vegetable oil because I'm NOT changing my diet. There's no animal by-products  
13 in them, I'm sure. One time I even got everyone's leftover tots and put them in my pocket  
14 to save to eat in class. Really, they're even good cold except the cafeteria wouldn't let me  
15 bring a catsup bottle along. Anyway, that turned out to be a bad experience because in  
16 Math Sammy/ie Slang wanted some. Well, nothing against him/her, except s/he is kind of  
17 weird. I hadn't eaten anything ALL DAY (almost, except for breakfast and my veggie  
18 school lunch), so I didn't want to give him/her any. So what does that jerk do? S/he  
19 KICKS my pocket and smashes all my tots. Gross. Plus then I couldn't eat them because I  
20 didn't want hash browns, I wanted tots, and that made me really ticked. I haven't been so

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, 2006, 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 2007 Idaho State High School Mock Trial Competition.

---

Nelson K. Passons, Notary Public  
My Commission Expires: December 31, 2007



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 2006 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 2007 Idaho State High School Mock Trial Competition.

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Nelson K. Passons, Notary Public  
My Commission Expires: December 31, 2007



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 Twin Falls 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 Boise State University in 1993. Then I shifted to the  
24 administrative side. Some days I really miss the classroom. I earned my Ed.D. from BSU  
25 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 Twin Falls. 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 but only seniors  
51 are eligible to run for president of the student council. The winning candidates are  
52 afforded opportunities to meet with the administrators and the school board to try to  
53 influence 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 16, 2006, and students started classes on  
57 Tuesday, August 22. Student council candidates were required by Friday, August 25, 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,

---

Dr. Eddie(y) U. Cation

SIGNED AND SWORN to before me at 8:00 a.m. on this day of this round of the 2007 Idaho State High School Mock Trial Competition.

---

Nelson K. Passons, Notary Public  
My Commission Expires: December 31, 2007



My docs say I can only take so much. I've been compensating for that with this new med. I forget what they call it but I've been taking it for about 3 years. I'm good now. Can you believe I still hear Godwin preaching at me in the hallway! Godwin's a SICKO! S/he's been on my case ever since s/he caught me smoking behind the dumpsters. It was the first time I'd ever lit up and I only did it 'cause I thought it would help my image as a rock star. What's the deal?!

Yeah, I give everyone the biz. Why shouldn't I? They all gave it to me first. Especially that self-righteous hypocrite--Pat the Rat. Dang! Give me a break! Pat and I used to be best friends--way back in elementary school. We played together, rode our bikes together, roller skated, climbed trees, camped in each other's yards and practiced our instruments together. You name it, Pat and I did it. Then s/he just got weird, something snapped and that was it. "Salvation" this... and "born again" that. Nothing was the same again. I just can't believe how Pat has turned against me.

I think its partly 'cause of that HUGE problem in Godwin's class last year. We were taking that final exam and I KNOW Pat was cheating. I saw her/him keep looking down at some white piece of paper that was tucked under her/his right sleeve. I wasn't gonna get messed up because someone else was cheating so I told Godwin. By the time I told Godwin and Godwin asked Pat about it, it was too late. S/he must have trashed the cheat sheet somehow.

Mr. Righteous Pat LIED about cheating. What a FREAK!!! S/he should try living the way s/he tells everyone else to live. Pat hides behind the religion to make everyone think s/he is so good. I know Godwin believed Pat over me. All I know is what I saw. So, I'm offbeat and I say what's on my mind. But I don't CHEAT.

I saw Pat and Godwin talking and praying together later. I know Godwin favors pat because of all that religious stuff Pat's always pushing. So, here's the deal. I saw Pat and Godwin on school time, using a school computer and school poster boards and markers to prepare for Pat's campaign. If that's not the worst, then I get stuck playing at that assembly so Pat can spread more of that holy religious junk. I showed 'cause I thought I had to or I would lose my credit. I think I HAD to be there if I wanted to graduate--look at my pep band contract. It was Cruze's way or the highway. So I did it. I coulda used the study hall time. I shoulda just got up and left right in the middle of Pat's speech, but Cruze woulda TOTALLY lost it. I heard all the gossip afterwards but it wasn't just gossip. I KNOW that Pat & Godwin set it all up. I know Godwin gave me a lower essay grade on the test 'cause I squealed on Godwin's pet. Pat the pet...Pat the pet...RAT.

So I'm taking no prisoners. This crap's gotta stop. NO MORE FORCED RELIGION IN SCHOOL! I've got a lot of friends behind me. I'm gonna sue this school if Pat keeps shoving that religious stuff on me.

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 2007 Idaho State High School Mock Trial Competition.

---

Nelson K. Passons, Notary Public  
My Commission Expires: December 31, 2007



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-school students. And yes, I am well aware that Abraham Lincoln in  
27 his 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-school  
33 students who should be paying close attention to their esteemed professors instead of  
34 meeting in their little cliques, holding hands, praying and disrupting the sanctity of the  
35 classroom, should be told about the important history of the separation of church and  
36 state.

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

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

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

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

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

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

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

100 establishment of Religion by law was right and necessary; that the true religion  
101 ought to be established in exclusion of every other; and that the only question to  
102 be decided was, which was the true religion. . . . We are teaching the world the  
103 great truth that Governments do better without kings and nobles than with them.  
104 The merit will be doubled by the other lesson: the Religion flourishes in greater  
105 purity without, than with the aid of Government" (*Letter to Edward Livingston, July*  
106 *10, 1822*).

107

108 I could not have said it better myself.

109

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 2007 Idaho 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, 2003	
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 208/555-3999 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)

11/22/03  
Date

Pat is an honest child who lives in faith on a daily basis. We support what s/he did. K.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.





2006-07 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 26<sup>th</sup>, 2006, 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, 2006 at 10 a.m. in the school auditorium. Proper attire is encouraged.

Pat Christianson  
Student Candidate's Signature

Karen Frances Adwin  
Teacher's Signature

S. Keptik  
Teacher's Signature

*Concerns about content S.K.*

Campaign Speech Approval Form

On August 26<sup>th</sup>. 2006, 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, 2006 at 10 a.m. in the school auditorium. Proper attire is encouraged.

*Sal Lantro*

\_\_\_\_\_  
Student Candidate's Signature

*Thomas Francis Bolvin*

\_\_\_\_\_  
Teacher's Signature

*S. Keptch*

\_\_\_\_\_  
Teacher's Signature

EXHIBIT 10

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, 2006  
Date

EXHIBIT 11

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 Lantro  
Signature of Candidate

8/26/06  
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 that 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 entryway 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.

# FORMS

**DAILY SHEET  
IDAHO MOCK TRIAL COMPETITION**

Team Color:

Date:

Time:

Location:

**PLAINTIFF:**

TEAM MEMBERS:

Teacher:

Attorney-Coach:

Student Attorneys:

1.

2.

3.

Pat Christianson:

Sal Lantro:

Francis/Frances Godwin:

Alternate:

Alternate:

**DEFENSE:**

TEAM MEMBERS:

Teacher:

Attorney-Coach:

Student Attorneys:

1.

2.

3.

Dr. Eddie(y) U. Cation:

Sammy/ie Slang:

S. Keptik:

Alternate:

Alternate:

# IDAHO HIGH SCHOOL MOCK TRIAL COMPETITION SCORE SHEET

P = Petitioner/Plaintiff: \_\_\_\_\_  
(Team Color)

D= Defense/Respondent: \_\_\_\_\_  
(Team Color)

COURT ROOM: \_\_\_\_\_

ROUND: (CIRCLE ONE) 1 2 3

Using a scale of 1 to 10, rate the Plaintiff and Defense in the Categories below.  
Do NOT use fractional points nor award zero points.

	Not Effective 1-2	Fair 3-4	Good 5-6	Excellent 7-8	Outstanding 9-10
SCORE SHEET	PLAINTIFF			DEFENSE	
<b>OPENING STATEMENTS</b>					
<b>Prosecution/ Plaintiff</b>	<u>Direct Examination</u>				
<b>First Witness:</b>			<u>Cross-Examination</u>		
	<u>Witness Presentation</u>				
<b>Prosecution/ Plaintiff</b>	<u>Direct Examination</u>				
<b>Second Witness:</b>			<u>Cross-Examination</u>		
	<u>Witness Presentation</u>				
<b>Prosecution/ Plaintiff</b>	<u>Direct Examination</u>				
<b>Third Witness:</b>			<u>Cross-Examination</u>		
	<u>Witness Presentation</u>				
<b>Defense/Defendant</b>	<u>Direct Examination</u>				
<b>First Witness</b>			<u>Cross Examination</u>		
	<u>Witness Presentation</u>				
<b>Defense/Defendant</b>	<u>Direct Examination</u>				
<b>Second Witness</b>			<u>Cross Examination</u>		
	<u>Witness Presentation</u>				
<b>Defense/Defendant</b>	<u>Direct Examination</u>				
<b>Third Witness</b>			<u>Cross Examination</u>		
	<u>Witness Presentation</u>				
<b>CLOSING ARGUMENTS</b>					
<b>OVERALL TEAM COURTROOM DECORUM</b>					
<b>SUB-TOTAL: add scores in each column</b>					
<b>DEDUCTION FOR RULES/TIMING VIOLATIONS</b>					
<b>TOTAL SCORE: Sub-total less deductions</b>					

**NO TIED SCORES ARE ALLOWED.**

Please deliver scoresheet to competition staff before debriefing!

**DO NOT SEPARATE COPIES!!!**

WHITE - Coordinator Copy

YELLOW - Defense Copy

PINK - Prosecution/Plaintiff Copy

\_\_\_\_\_ Date

\_\_\_\_\_ Judge's Name (Printed)

## SCORING RUBRIC FOR MOCK TRIAL

Teams will be rated on a scale of 1-10. The evaluator is scoring STUDENT PERFORMANCE in each category. The evaluator is NOT scoring the legal merits of the case.

On a scale of 1-10 (with 10 being the highest), rate the performance of the two teams in the categories on the score sheet. Each category is to be evaluated separately. DO NOT GIVE FRACTIONAL POINTS.

<u>POINT</u>	<u>PERFORMANCE</u>	<u>CRITERIA: Evaluating Student Performance</u>
1-2	Not Effective	Unsure of self, illogical, uninformed, not prepared, speaks incoherently, ineffective in communication.
3-4	Fair	Minimally informed and prepared. Performance is passable, but lacks depth in terms of knowledge of task and materials. Communication lacks 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. Grasps major aspects of the case, but does not convey mastery of the case. 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 7-8 point performance. Thinks well on feet, is logical, keeps poise under duress. Can sort out essential from nonessential facts and use time effectively to accomplish major objectives. Demonstrates the unique ability to utilize all resources to emphasize vital points of the trial.

**Dispute Resolution Form—Outside the Bar  
(See Rule 6.3)**

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

Courthouse where competition is being held: \_\_\_\_\_

Color of schools competing: \_\_\_\_\_

Name of teacher or attorney filing dispute: \_\_\_\_\_

Team color of teacher or attorney filing dispute: \_\_\_\_\_

Nature of dispute: (Explain briefly why you are filing this dispute. When complete, give this form to the Competition Coordinator.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Coordinator**

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

If received, the response is attached to this form.

The decision of the Dispute Resolution Panel is

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I have notified all pertinent parties of this decision.

Dispute Resolution Panel Members:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date and Time \_\_\_\_\_

# **Rules of Competition and Procedures**

## INDEX

	<u>Page</u>
<b>1. ADMINISTRATION</b>	
Rule 1.1. Purpose of the Competition .....	57
Rule 1.2. Rules .....	57
Rule 1.3. Code of Conduct .....	57
Rule 1.4. Master Scorekeeper/Procedures Official .....	58
Rule 1.5. Emergencies.....	58
<b>2. THE PROBLEM</b>	
Rule 2.1. Witnesses Bound by Statements.....	58
Rule 2.2. Fair/Unfair Extrapolations.....	59
Rule 2.3. Contradiction of Prior Statement.....	59
Rule 2.4. Gender of Witnesses.....	59
<b>3. TEAMS</b>	
Rule 3.1. Team Eligibility .....	60
Rule 3.2. Team Composition.....	60
Rule 3.3. Team Presentation and Participation .....	60
Rule 3.4. Team Duties.....	61
<b>4. THE TRIAL</b>	
Rule 4.1. Pairings .....	61
Rule 4.2. Uneven Numbers of Teams at Competition .....	61
Rule 4.3. Courtroom Setting .....	62
Rule 4.4. Trial Sequence .....	62
Rule 4.5. Witness Participation.....	62
Rule 4.6. Time Limits .....	62
Rule 4.7. Supplemental Material/Costuming .....	63
Rule 4.8. Trial Communication.....	63
Rule 4.9. Viewing a Trial.....	63
Rule 4.10. Videotaping/Photography .....	63
Rule 4.11. Jury Trial.....	63
Rule 4.12. Standing During Trial.....	64
Rule 4.13. Objections During Opening Statement/ Closing Argument .....	64
Rule 4.14. Argumentative Questions .....	64
Rule 4.15. Lack of Proper Predicate/Foundation .....	64
Rule 4.16. Procedure for Introduction of Exhibits .....	64
Rule 4.17. Use of Notes .....	65
Rule 4.18. Demonstrative Exhibits .....	65
Rule 4.19. Redirect/Recross .....	65
Rule 4.20. Scope of Closing Arguments .....	65
Rule 4.21. The Debrief.....	65

**5. JUDGING AND TEAM ADVANCEMENT**

Rule 5.1. Finality of Decisions..... 65

Rule 5.2. Composition of Judging Panels ..... 66

Rule 5.3. Score Sheets/Ballots ..... 66

Rule 5.4. Completion of Score Sheets..... 66

Rule 5.5. Scoring Deductions..... 66

Rule 5.6. Team Advancement ..... 66

Rule 5.7. Tied Scores ..... 67

**6. DISPUTE RESOLUTION**

Rule 6.1. Dispute Resolution Panel..... 67

Rule 6.2. Timekeeping Discrepancies..... 67

Rule 6.3. Reporting a Rule Violation/Inside the Bar ..... 67

Rule 6.4. Reporting a Rule Violation/Outside the Bar..... 68

**II. IDAHO MOCK TRIAL RULES OF EVIDENCE**

**Article One. General Provisions**

Rule 101. Scope..... 70

Rule 102. Purpose and Construction ..... 70

Rule 105. Limited Admissibility ..... 70

Rule 106. Remainder of or Related Writings or  
Recorded Statements ..... 70

**Article II. Judicial Notice**

Rule 201. Judicial Notice of Adjudicative Facts..... 70

**Article III. Presumptions in Civil Actions and Proceedings**

Rule 301. Presumptions in General Civil Actions  
& Proceedings ..... 71

**Article IV. Relevancy and its Limits**

Rule 401. Definition of “Relevant Evidence” ..... 71

Rule 402. Relevant Evidence Generally Admissible ..... 71

Rule 403. Exclusion of Relevant Evidence on Grounds of  
Prejudice, Confusion or Waste of Time ..... 71

Rule 404. Character Evidence Not Admissible to Prove  
Conduct; Exceptions; Other Crimes..... 71

Rule 405. Methods of Proving Character..... 72

Rule 406. Habit; Routine Procedure ..... 72

Rule 407. Subsequent Remedial Measures ..... 72

Rule 408. Compromise and Offers to Compromise..... 72

Rule 409. Payment of Medical and Similar Expenses ..... 72

Rule 410. Inadmissibility of Pleas, Plea Discussions and  
Related Statements ..... 72

Rule 411. Liability Insurance ..... 73

<b>Article V. Privileges</b>	
Rule 501. General Rule .....	73
<b>Article VI. Witnesses</b>	
Rule 601. General Rule of Competency.....	73
Rule 602. Lack of Personal Knowledge.....	73
Rule 603. Oath or Affirmation .....	73
Rule 604. Interpreters.....	73
Rule 607. Who may Impeach.....	74
Rule 608. Evidence of Character and Conduct of Witnesses.....	74
Rule 609. Impeachment by Evidence of Conviction of Crime .....	74
Rule 610. Religious Beliefs or Opinions.....	75
Rule 611. Mode and Order of Interrogation and Presentation .....	75
Rule 612. Writing Used to Refresh Memory .....	75
Rule 613. Prior Statements of Witnesses .....	75
<b>Article VII. Opinions and Expert Testimony</b>	
Rule 701. Opinion Testimony by Lay Witness.....	76
Rule 702. Testimony by Experts.....	76
Rule 703. Bases of Opinion Testimony by Experts .....	76
Rule 704. Opinion on Ultimate Issue.....	76
Rule 705. Disclosure of Facts or Data Underlying Expert Opinion.....	76
<b>Article VIII. Hearsay</b>	
Rule 801. Definitions .....	76
Rule 802. Hearsay Rule.....	77
Rule 803. Hearsay Exceptions, Availability of Declarant Immaterial .....	77
Rule 804. Hearsay Exceptions; Declarant Unavailable .....	78
Rule 805. Hearsay within Hearsay.....	79
Rule 806. Attacking and Supporting Credibility of Declarant.....	79
<b>Article X. Contents of Writing, Recordings, and Photographs</b>	
Rule 1002. Requirement of Original.....	79
<b>Article XI. Miscellaneous Rules</b>	
Rule 1103. Title .....	79

## **RULES OF COMPETITION**

### **A. ADMINISTRATION**

#### **Rule 1.1 Purpose of the Competition**

Though designed as a competition, the primary purpose of the Idaho High School Mock Trial Competition is to educate students about the law and the legal system. Students, teachers and coaches are urged to place greater emphasis on the experience of learning rather than winning.

It is important to remember that our judicial system, just as this competition, is run by people and, therefore, subject to individual interpretations. Unexpected obstacles in the course of a trial are the rule, rather than the exception. Being prepared to deal with the unexpected obstacles that will inevitably arise is an important part of being prepared for the competition.

#### **Rule 1.2. Rules**

The Idaho Mock Trial Competition is governed by the rules set forth below. These rules are designed to ensure excellence in presentation and fairness in judging all competition trials.

Questions or interpretations of these rules are within the discretion of the Dispute Resolution Panel whose decision is final.

The trial proceedings are governed by the Mock Trial *Simplified Rules of Evidence*. Other more complex rules may not be raised in the trial.

#### **Rule 1.3. Code of Conduct and Rules of Ethics**

The rules of competition, as well as proper rules of courthouse and courtroom decorum and security, must be followed. The Law Related Education Program and its representatives possess discretion to impose sanctions, up to and including forfeiture or disqualification, for any misconduct, flagrant rule violation or breach of decorum occurring before, during and after the competition, which affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge or the mock trial program.

Just as real attorneys are held to codes of ethical conduct, mock trial participants are also expected to demonstrate ethical behavior. This includes but is not limited to:

- a) making false statements to the judge or not correcting false information that has been presented; offering evidence the participant knows to be false;
- b) counseling or assisting a witness to testify untruthfully;
- c) knowingly disobeying an obligation under the rules of the competition;
- d) asserting personal knowledge of facts in issue except when testifying as a witness;
- e) stating a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused;
- f) seeking to influence a judge by means prohibited by the competition rules;
- g) engaging in conduct that disrupts the competition; or

- h) making a statement that the participant knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge.
- i) in trial, knowingly alluding to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence.

All participants (including teachers sponsors and attorney coaches) will sign a code of conduct agreement prior to their participation in the competition.

**Rule 1.4. Master Scorekeeper/Procedures Official**

An attorney or judge will be designated at each regional and state mock trial competition to be the Master Scorekeeper/Procedures Official. This person will:

- act as a member of the dispute resolution panel;
- be available to consult with presiding judges on questions of rules upon request;
- be responsible, in coordination with the regional coordinator, for all score keeping computations; and
- be responsible for monitoring and enforcing all mock trial procedures in accordance with the Mock Trial Handbook.

**Rule 1.5. Emergencies**

Within reasonable consideration of weather, road conditions, etc., the starting time of any trial will not be delayed for longer than ten minutes. Incomplete teams will have to begin without their other members, or with alternates. At least one attorney and any witness are needed to begin the trial. After ten minutes, teams without at least one attorney and one witness to start the trial will forfeit the match.

**B. THE PROBLEM**

**Rule 2.1. Witnesses Bound by Statements**

The Witness Statements included in the case materials comprise the sole source of information for testimony. Witnesses may testify to any matter directly stated or reasonably implied in their statements.

Each witness is bound by his/her individual witness statement. These witness statements, or affidavits, should be viewed as signed statements made to the police or attorneys by the witnesses as identified. Witnesses can be impeached if they contradict the material contained in their witness statements.

Witness affidavits are subject to all of the human errors of judgment people may make in similar situations, including distortion and varying perceptions.

A witness is not bound by facts contained in other witness affidavits or the pleadings.

It is virtually impossible to provide witnesses with detailed answers to every conceivable question that lawyers may ask. The witness statements are not intended as a complete life history and, for the most part, information not in the statements will be irrelevant and should be subject to objection. If an attorney's question solicits unknown information, the witness may supply an answer of his/her choice, **so long as it does not contradict other information contained in the statement and does not materially affect the witness' testimony.**

**If a witness invents an answer that is likely to affect the outcome of the trial, the opposition may object.** The judge will decide whether to allow or exclude the testimony. (See Simplified Rules of Evidence) **Judges will be instructed that testimony not reflecting information in the casebook which bolsters a witness, and is generally immune from impeachment, should be ruled inadmissible.**

### **Rule 2.2. Fair/Unfair Extrapolations**

**Fair extrapolations which are consistent with facts contained in the witness statements and do not materially affect the witness' testimony are permitted.** It is important for the witnesses to exercise caution in such extrapolations in order to avoid (a) initiation of a dispute over a rules violation which could be brought to the attention of the judges and (b) impeachment of the witness' credibility by the use of his or her prior written statement which was, presumably, all the witness could recall, under oath, at a time much closer to the events in controversy. Just as in our judicial system, lawyers must deal with the facts that exist.

Attorneys for the opposing team may refer to Rule 2.2 in a special objection, such as “unfair extrapolation” or “This information is beyond scope of the problem.”

Possible rulings by a judge include:

- a) no extrapolation has occurred;
- b) an unfair extrapolation has occurred;
- c) the extrapolation was fair; or
- d) ruling is taken under advisement.

### **Rule 2.3. Contradiction of Prior Statement**

If an attorney believes that a witness has contradicted a prior statement (or affidavit), that testimony may be impeached during cross-examination of the witness through correct use of the statement.

The witness statements or affidavits may be introduced into evidence during the trial as a prior inconsistent or prior consistent statement in concert with the applicable rules of evidence.

### **Rule 2.4. Gender of Witnesses**

*Unless otherwise stated,* 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.

## C. TEAMS

### **Rule 3.1. Team Eligibility**

Any public or private school in Idaho may sponsor up to two teams. Students in grades 9-12 may participate.

Each team in the competition must have its own sponsoring teacher. However, this does not preclude one teacher from training both teams so long as both teachers are present during competition.

Each school must submit a complete official registration form and pay the entry fee for each team before being considered a competition participant.

### **Rule 3.2. Team Composition**

**A team will consist of a maximum of nine and a minimum of six students,** a teacher sponsor and an attorney coach. Teams may choose their own attorney coach or may ask the Law Related Education Coordinator to assist them in finding a coach. Teachers who choose their own coach may contact the Law Related Education Coordinator to find out if their attorney is in good standing with the Idaho State Bar.

There must be two or three attorneys, 3 witnesses, a bailiff and two alternates (optional). Each team will indicate which members of the team will be actively participating in each round by listing student names on their daily sheet. Only students who are attorneys, witnesses or bailiffs will be considered active participants in each round. Alternates will be considered inactive participants and will be treated as spectators for the purposes of mock trial rules and procedures.

Alternates (inactive participants) may substitute for other students during a competition in an emergency. The competition coordinator must be informed if an alternate takes the place of an active participant.

**Teams competing at semi-finals and finals must compete with the same team members as from the regional competition.**

### **Rule 3.3. Team Presentation and Participation**

Teams must prepare both a plaintiff and a defense case and should be ready to present both sides. During each of the competitions, teams will have an opportunity to present both plaintiff and defense at least one time. Competition staff will determine which team represents which side in the championship round.

Team members are to evenly divide their speaking duties. Each of the attorneys will have at least two speaking parts.

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

A team may use its members to play different roles in the plaintiff and the defense rounds. For example, an attorney for the plaintiff may become a witness for the defense; a bailiff may become an attorney; or an alternate may become a witness or attorney. It is **not** permissible to have two entirely different teams - one for plaintiff and one for defense.

### **Rule 3.4. Team Duties**

- Each team must ensure that the Idaho Law Foundation has received a completed and accurate registration form and appropriate payment.
- Each team must submit a participant list to the state LRE Coordinator and regional mock trial coordinator two weeks before the regional and/or state competitions.
- Each team must submit a completed *Daily Sheet* when checking in at the competition. Each team must bring six extra copies (two per round) for regionals and four extra copies for state to give to the judges and the opposite team before the round begins.
- Both teams must provide the physical evidence as listed under evidence in the case materials. No other physical evidence will be allowed.
- Each team must fill out competition-provided nametags for all team members—including alternates and teacher and attorney coaches.
- Bailiffs will keep the evidence and swear in witnesses 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?” Bailiffs may keep time for the team, however, bailiffs are not considered “official timekeepers” in the tournament. Bailiffs must sit with their team and if time signals are given, they must be given visually (e.g. holding up a sign) and should not disrupt the court.
- Each team is responsible for educating their spectators (including parents and friends) about the rules of the competition, including rules regarding spectator contact during the round.

## **D. THE TRIAL**

### **Rule 4.1. Pairings**

Competition staff will make every attempt to ensure that the same teams do not meet one another for both rounds, or that teams from the same school do not meet each other during a competition, however, various factors such as uneven numbers of teams or few teams participating may necessitate this. Pairing decisions are at the sole discretion of the competition staff and may not be disputed.

### **Rule 4.2. Uneven Numbers of Teams at a Competition**

In the event there is an uneven number of teams competing in a competition, competition staff has the following alternatives: 1. Recruit a practice team to fill in. The practice team will not have the opportunity to advance to the next level of competition. 2. Give a bye to one randomly-selected team during each round of competition. If a team is given a bye, they will be assigned a score equivalent to an average of the scores of all the winning teams who competed during that round.

### **Rule 4.3. Courtroom Setting**

The Plaintiff/Prosecution shall be seated at the table closest to the jury box. The defense team will sit at the table on the opposite side of the room. Where possible, all active (participating) members of the team will sit in front of the bar (the wall) that divides the spectators from the active participants. If there is not adequate space/seating in front of the bar, the first row of the spectator section will be reserved for witnesses. No inactive participants (alternates) may sit with the witnesses during the competition. No team shall rearrange the courtroom without prior permission from the competition staff.

### **Rule 4.4. Trial Sequence**

The following trial sequence will be followed:

1. The Plaintiff Bailiff calls the court to order.
2. The judges enter and ask everyone to be seated.
3. The presiding judge announces the case, "The Court will now hear the case of (Name) v. (Name)," and asks if both sides are ready to present their case.
4. The judge will make any introductory remarks.
5. Plaintiff's Opening Statement
6. Defense's Opening Statement
7. Plaintiff's Direct Examination
8. Defense's Cross-examination
9. Plaintiff's Redirect Examination (optional)
10. Defense's Re-cross (optional)
11. Defense's Direct Examination
12. Plaintiff's Cross-examination
13. Defense's Redirect (optional)
14. Plaintiff's Re-cross (optional)
15. Plaintiff's Closing Argument
16. Defense's Closing Argument
17. Plaintiff's Rebuttal (optional)

### **Rule 4.5. Witness Participation**

All witnesses (three for each side) must take the stand. Neither team may call witnesses from the other side.

### **Rule 4.6. Time Limits**

Each team shall be allowed a total of 50 (fifty) minutes for their case. Time in each category may be divided among team attorneys as they choose, but overall time limits must be observed. Timing will halt during objections and judges' responses to objections. The following time categories are recommended but not mandatory:

1. Opening Statement (5 minutes per side)
2. Direct Examination (5 per witness **or** 15 minutes total)
3. Redirect Examination –optional (2 minutes per witness **or** 6 minutes total)
4. Cross Examination (4 minutes per witness **or** 12 minutes total)

5. Recross Examination – optional (2 minutes per witness **or** 6 minutes total)
6. Closing Arguments (5 minutes per side)
7. Plaintiff's Rebuttal – optional (1 minute)

Overtime penalties will be assessed **ONLY** for each full minute a team exceeds its fifty minute allotment. The presiding judge may, in an emergency, grant time extensions in the interest of fairness, however, this will be a rare occurrence and shall not be expected or requested.

The competition will provide or designate an official timekeeper for each courtroom who will sit in the clerk/court reporters' seat.

Teams may ask the judge to direct the official timekeeper to tell how much time the team has used.

#### **Rule 4.7. Supplemental Material/Costuming**

No witness costumes or props are allowed. This includes changing clothes between rounds to appear more professional or casual than in a previous round.

#### **Rule 4.8. Trial Communication**

For educational purposes and student feedback, at least one teacher sponsor, attorney coach or other adult (designated by the school to be responsible for the students) must remain in the seating area in the courtroom throughout the trial. There must be **no spectator contact** with student team members, including student bailiffs during the trial, including during interim recesses when the judges are out of the courtroom. Teacher sponsors, attorney coaches and other spectators may not talk to, signal, and/or otherwise communicate with or coach the participating students. Communication may occur after closing arguments when the judges have left the courtroom to deliberate.

#### **Rule 4.9. Viewing a Trial**

Teachers, coaches, and members of competing teams not yet eliminated from the competition **may not observe trials in which they are not participating.**

#### **Rule 4.10. Videotaping/Photography**

Tape recording, videotaping and still photography is prohibited during a trial except by competition staff or the media. The final round of the state competition may be videotaped by competition staff for educational purposes. Teams may take photos of their students in the courtroom before or after the trial has occurred.

#### **Rule 4.11. Jury Trial**

The case will be tried to a panel of three judges--a presiding judge and two judges who represent the jury. Arguments should be made to all the judges. Teams may address the judges who are not presiding as the jury.

**Rule 4.12. Standing During Trial**

Unless excused by the judge, attorneys will stand while giving opening statements and closing arguments, while conducting direct and cross examinations and while making or responding to objections.

**Rule 4.13. Objections 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 opening statement or closing statement, one of its attorneys may, following the opening statement or closing argument, stand to be recognized by the judge and may say, “If I had been permitted to object, 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. No rebuttal by opposing team will be heard.

**Rule 4.14. 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 4.15. Lack of Proper Predicate/Foundation**

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

**Rule 4.16. Procedure for Introduction of Exhibits**

Attorneys may introduce physical exhibits, provided the objects correspond to the description given in the evidence section of the case materials. Exhibits must be introduced into evidence if attorneys wish the court to consider the items themselves as evidence, not just the testimony about the exhibits. At the end of the witness examination, attorneys may ask to move the item into evidence in this manner:

1. Present the item(s) to an attorney for the opposing side prior to trial. If that attorney objects to use of the item, the judge will rule whether it fits the official description.
2. Request permission from the judge when you wish to introduce the item during trial. For example, say: "Your Honor, I ask that this item be marked for identification as Exhibit #\_\_\_\_\_."
3. Show the item to the witness on the stand. Ask the witness if s/he recognizes the item. If the witness does, ask the witness to explain it or answer questions about it. (Make sure you show the item to the witness, don't just point).

4. “Your Honor, I ask that Exhibit \_\_\_\_ be admitted into evidence.”
5. At this point opposing counsel may make any objections they have.
6. The judge will then rule on whether the item may be admitted into evidence
7. When finished using the item, give it to the clerk-bailiff to hold until needed again by you or another attorney.

**Rule 4.17. Use of Notes**

Witnesses are **not** permitted to use notes in testifying during the trial. However, attorneys may utilize witness statements to refresh recollection of witnesses in accordance with the applicable rules of evidence. Additionally, attorneys **may** use notes in the presentation of their material.

**Rule 4.18. Demonstrative Exhibits**

Demonstrative exhibits, including posters, charts of summary, PowerPoint Presentations or other material not specifically provided for in the case materials are not allowed.

**Rule 4.19. Redirect/Recross**

Redirect and recross examination will be allowed.

**Rule 4.20. Scope of Closing Arguments**

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

**Rule 4.21. The Debrief**

Presiding judges will announce the ruling on the legal merits of the trial. This decision is to inform students about what would happen in a real court of law **BUT** does not determine advancement in the competition.

The judges will also share positive comments and constructive criticism about the teams' presentations.

Presiding judges shall limit the debriefing sessions to a total of 15 minutes--to be shared among all members of the judging panel.

**E. JUDGING AND TEAM ADVANCEMENT**

**Rule 5.1. Finality of Decisions**

All decisions of the judging panel are FINAL.

### **Rule 5.2. Composition of Judging Panels**

A three-person panel will judge each round: a presiding judge and two other scoring judges. In most cases, two of the judges will be Idaho attorneys and judges while the third will be a community representative. The presiding judge will sit at the judge's bench and the other two panel judges will sit in the jury box.

Each judge will receive the *Mock Trial Handbook* prior to the trial and is expected to read the case and rules.

In case of a shortage of judges, competition staff will make every effort to find a replacement. If this is not possible, panels of two judges may be used. If two judges are used, the competition scorekeeper shall average the scores of the two judges present to compute a third score sheet. The team receiving the highest total number of points shall win the round. If the third score sheet is tied, the decision of the presiding judge will determine the winner of the third ballot.

### **Rule 5.3. Score Sheets/Ballots**

The term "ballot" will refer to the decision made by a scoring judge. The term "score sheet" is used in reference to the form on which presentation points are recorded. Score sheets are to be completed individually by the scoring judges. Scoring judges are not bound by the scoring decisions of the presiding or any other judge. The team that earns the highest points on an individual judge's score sheet is the winner of the ballot.

Judging panels may recognize outstanding individual presentations by selecting one outstanding witness and/or one outstanding attorney per round. The decision must be representative of the majority of the panel members and recorded on the forms provided. The judges **should not** announce these decisions, as students will be recognized at the end of the competition during the awards ceremony.

### **Rule 5.4. Completion of Score Sheets**

Each scoring judge shall record a number of points (1-10) for each presentation of the trial. At the end of the trial, each judge shall total the sum of each team's individual points and place this sum in the Column Totals box. **NO TIE IS ALLOWED IN THE COLUMN TOTALS BOXES.**

### **Rule 5.5. Scoring Deductions**

There will be a deduction of up to ten points from a team's total score if students, the teacher sponsor or attorney coach is found in violation of a rule by the presiding judge or competition staff. The presiding judge and/or the dispute resolution panel will determine the amount of the deduction

### **Rule 5.6. Team Advancement/Ranking**

Each team will participate in three trials at regional competition. The teams who win the most rounds, the most ballots and have the highest point total will advance to the state competition. The number of teams that advance to the state competition from each regional will be based on a

proportional representation of the number of teams that compete in each region compared to the numbers of teams competing overall. A total of twelve teams will advance to the state competition.

At the state competition, advancement will be determined using the same scoring system as at regionals, however, all the teams will compete in only two rounds before determining the four teams who will advance to the semi final round. The two teams that win the semi-final round will advance to the final round.

#### **Rule 5.7. Tied Scores**

In the event that there is a tied score between teams the advancing team will be determined using the following criteria:

- Did the tied teams meet each other in competition? If so, the team that scored higher in that round will be declared the winner. If tied teams did not meet each other during competition:
- Did the tied teams meet a common opponent? If so, and tied team A scored higher than team C, and tied team B lost to team C, then tied team A will be declared the winner over tied team B. If tied teams did not meet a common opponent or if they both won or both lost to the common opponent:
- The winning team is the one that receives the highest combined score (from both rounds at that competition) in the score sheet category, **Overall Team Courtroom Decorum**.
- The team that receives the highest combined score (from both rounds at that competition) in the score sheet category, **Opening Statements** will be the winner.
- The team that receives the highest combined score (from both rounds at that competition) in the score sheet category, **Closing Arguments** will be the winner.

### **F. DISPUTE RESOLUTION**

#### **Rule 6.1. Dispute Resolution Panel**

The dispute resolution panel will be made up of the competition coordinator, the master scorekeeper and a presiding judge or other competition staff. The dispute resolution panel shall be the appeals board for any disputes.

#### **Rule 6.2. Reporting a Rules Violation/Inside the Bar**

If, during the trial, any team has reason to believe that a violation of the *Rules of Competition & Procedure* has occurred, the alleged violation shall be presented immediately to the presiding judge through one of the team attorneys by objection. This will be presented in accordance with the *Simplified Rules of Evidence* procedure for objections. The presiding judge may rule on the matter or take the matter under advisement, and the trial shall continue. **The decision of the presiding judge is final.** Judges will not announce, but at their discretion may deduct up to ten points from each judge's score sheet for a rules violation.

Any alleged violation which is 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 presiding judge, is promptly waived.

**Rule 6.3. Reporting a Rules Violation/Outside the Bar**

Disputes which 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 a trial coordinator or master scorekeeper who will ask the complaining party to complete a dispute form. The form must be completed and returned to a competition coordinator or the master scorekeeper. After the completed form is received, the dispute resolution panel will (a) notify all pertinent parties; (b) allow time for a response, if appropriate; (c) evaluate the dispute; and (d) rule on the charge. At their discretion, the dispute resolution panel may notify the judging panel of the affected courtroom of the ruling on the charge or may assess an appropriate point deduction for the violation.

# **Idaho Mock Trial Rules of Evidence**

## **Introduction**

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 Idaho 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.

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, the Rules of Procedure, and these simplified Rules of Evidence govern the Idaho Mock Trial Competition.

## **Article I. General Provisions**

### **Rule 101. Scope**

These rules govern proceedings in the Idaho 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.

### **Rule 105. Limited Admissibility**

When evidence which is admissible as to one party or for one purpose, but is not admissible as to the other party or for another purpose is admitted, the judge, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

### **Rule 106. Remainder of or Related Writings or Recorded Statements**

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

## **Article II. Judicial Notice**

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

1. Scope of rule.-This rule governs only judicial notice of adjudicative facts.
2. 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.

3. When discretionary.-A court may take judicial notice, whether requested or not.
4. When mandatory.-A court shall take judicial notice if requested by a party and supplied with the necessary information.
5. 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.
6. Time of taking notice.-Judicial notice may be taken at any stage of the proceeding.
7. 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 III. Presumptions in Civil Actions and Proceedings (not applicable in criminal cases)**

#### **Rule 301. Presumptions in General in Civil Actions and Proceedings**

In all civil actions and proceedings . . . a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of non-persuasion, which remains throughout the trial upon the party on whom it was originally cast.

### **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**

Relevant evidence is admissible, except as otherwise provided by . . . these rules. Evidence which is not relevant 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 substantially 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**

1. Character evidence.-Evidence of a person's character or character trait, is not admissible to prove action regarding a particular occasion, except:
  - a. Character of accused.-Evidence of a pertinent character trait offered by an accused, or by the prosecution to rebut same;
  - b. Character of victim.-Evidence of a pertinent character trait of the victim of the crime offered by an accused, or by the prosecution to rebut 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 aggressor;
  - c. Character of witness.-Evidence of the character of a witness as provided in Rules 607, 608 and 609.

- d. Other crimes, wrongs, or acts.-Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person in order to show an action conforms to character. 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.

**Rule 405. Methods of Proving Character**

1. 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.
2. 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 eye-witnesses, 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 (civil case rule)**

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 proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

**Rule 409. Payment of Medical and Similar Expenses (civil case rule)**

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 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements**

Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:

1. a plea of guilty which was later withdrawn;
2. a plea of nolo contendere;

3. any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the forgoing pleas; or
4. any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty which is later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

**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.

**Rule 603. Oath or Affirmation**

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation, administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

**Rule 604. Interpreters**

An interpreter is subject to the provisions of these rules relating to the qualification as an expert and the administration of an oath or affirmation to make a true translation.

**Rule 607. Who may Impeach**

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

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

1. 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.
2. 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 (This rule applies only to witnesses with prior convictions.)**

1. General Rule.-For the purpose of attacking the credibility of a witness, evidence that a witness other than the accused has been convicted of a crime shall be admitted if elicited from the witness or established by public record during cross-examination, but only if the crime was punishable by death or imprisonment in excess of one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.
2. 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 that the value of the conviction 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.
3. Effect of pardon, annulment, or certificate of rehabilitation.-Evidence of a conviction is not admissible if (1) the conviction has been the subject of a pardon or other equivalent procedure based on a finding of the rehabilitation of the person 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, other equivalent procedure based on a finding of innocence.
4. 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.

5. 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**

1. 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.
2. 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.
3. 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.
4. 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 witness uses a writing to refresh memory for the purpose of testifying, either-

1. while testifying, or
2. before testifying, if the court in its discretion determines it is necessary in the interests of justice, an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross examine the witness thereon, and to introduce in evidence those portions which 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.

## **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**

1. Opinion or inference testimony otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.
2. 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 therefore without prior disclosure of the underlying facts or data, unless the Court requires otherwise. The expert may in any event may 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:

1. 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.
2. Declarant.-A "declarant" is a person who makes a statement.
3. 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.
4. Statements which are not hearsay.-A statement is not hearsay if:
  - a. 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
  - b. 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- statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.
2. Excited utterance- 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- 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- 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- These records include any memo, record, report, or other compilation of data in any form, which meets the following requirements:
  - a. It must be kept in the ordinary course of business or as part of the ordinary conduct of an organization or enterprise;
  - b. It must be part of the ordinary business of that organization, business, or enterprise to compile the data or information;
  - c. The information must be made for the purpose of recording the occurrence of an event, act, condition, opinion, or diagnosis that takes place in the ordinary course of the business or enterprise;
  - d. The entry in the record or the compiling of the data must be made at or near the time when the event took place;
  - e. The recording of the event must be made by someone who has personal knowledge of it. In order for a document or other form of data to be admissible under this rule, a foundation must be laid as to all of the foregoing requirements by the custodian of the records or other witness found by the Court to be qualified.
7. 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.
8. Reputation as to character-Reputation of a person's character among associates or in the community.
  9. 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**

1. Definition of unavailability.-"Unavailability of a witness" includes situations in which the declarant-(1) is exempted by a ruling of the court of 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 subdivisions (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 or 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.
2. Hearsay exceptions.-The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:
  - a. 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.
  - b. Statement under belief of impending death.-In a prosecution of a 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 the impending death.
  - c. 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.
  - d. Statement of personal or family history.-**(A)** A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, 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 states; or (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.

- e. Other exceptions.-A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party is a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant. For the purposes of the mock trial competition, required notice will be deemed to have been given. The failure to give notice as required by these rules will not be recognized as an appropriate objection.

#### **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.

#### **Rule 806. Attacking and Supporting Credibility of Declarant**

When a hearsay statement has been admitted, the credibility of the declarant may be attacked and supported by any evidence that would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant, inconsistent with the declarant's hearsay statement, is not subject to any requirement that the declarant may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine the declarant on the statement as if under cross examination.

### **ARTICLE X. Contents of Writing, Recordings, and Photographs**

#### **Rule 1002. Requirement of Original**

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required. . . . Copies of any case materials are considered as originals.

### **ARTICLE XI. Miscellaneous Rules**

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

These rules may be known and cited as the Idaho Mock Trial Rules of Evidence.