

2009—2010
Maryland State Bar Association
Statewide High School
Mock Trial Competition



C L R E P
MSBA ♦ MSDE

Managed by
the Citizenship Law Related Education Program
for the Schools of Maryland
www.crep.org

In cooperation with the
Maryland Judicial Conference Public Awareness Committee,
Executive Committee on Law Related Education,
& Maryland State Department of Education

Important Contacts for the Mock Trial Competition

During LOCAL CIRCUIT COMPETITIONS, your first point of contact is your LOCAL COORDINATOR.

Call your local coordinator regarding your local competition schedule.

Your second point of contact is the State Mock Trial Director:

Shelley Brown Wojciechowski, 410-706-5362/0

sbw@clrep.org

Citizenship Law Related Education Program

for the Schools of Maryland

Maryland Bar Center

4th floor

Baltimore, Maryland 21201

Circuit	Counties/ City	Local Coordinators
1	Dorchester, Somerset, Wicomico, Worcester	Mr. Chris Palmer, Esq. 410-251-1428 cpalmerlaw@gmail.com
2	Caroline, Cecil, Kent, Queen Anne's, Talbot	See above
3	Baltimore, Harford	Mr. Tim Rualo 410-887-4017 trualo@bcps.org
4	Allegany, Garrett, Washington	Mr. Jim Zamagias 301-724-5360 x213 jzamagias@bishopwalsh.org
5	Carroll, Howard Anne Arundel	Mrs. Mary Pizzo 410-480-7777 MPizzo@opd.state.md.us Ms. Terry Poisson 410-222-5440 mpoisson@aacps.org
6	Frederick Montgomery	Mr. Michael Bunitsky 301-644-5265 mike.bunitsky@fcps.org Mr. Scott Zanni 301-840-4627 Scott_A_Zanni@mcpsmd.org
7	Calvert, Charles, Prince George's, St. Mary's	Ms. Sue Strickland 301-449-4900 Susan.Strickland3@verizon.net
8	Baltimore City	Mrs. Stacy McCormack 410-767-2307 SMcCormack@opd.state.md.us



Citizenship Law-Related Education Program for the Schools of Maryland

Maryland Bar Center
520 W. Fayette Street
Baltimore, MD 21201

Phone: 410 706-5360
Fax: 410 706-5576
www.clrep.org

EXECUTIVE COMMITTEE

Hon. Diane O. Leasure
Chairperson
Circuit Court, Howard County

Hon. Arthur M. Monty Ahalt
(Ret)
Chairman Emeritus

Jonathan Ilsong Ahn
Attorney at Law

Jane Anders
Teacher Consultant

Gilbert Austin
Educational Research & Evaluation

Sara Arthur
B&F Liaison

Hon. Mary Ellen Barbera
Court of Appeals

William A. Beale
Attorney at Law

Bethamy N. Beam
BOG Liaison

Alan S. Carmel
Attorney at Law

Adam Sean Cohen
Attorney at Law

Delegate Kathleen M. Dumais
District 15

Suzanne K. Farace
Attorney at Law

Michael I. Gordon
Attorney at Law

Hon. Larnzell Martin, Jr.
Circuit Court,
Prince George's County

Shannon McClellan
Attorney at Law

Stacy W. McCormack
Office of the Public Defender

Ellery M. "Rick" Miller, Jr.
Executive Director, CLREP

Annabelle Sher
Assistant Director Maryland Department
of Business & Economic Development

Victor A. Sulin
Attorney at Law

Kathleen J. P. Tabor
Attorney at Law

Charles S. Winner
Attorney at Law

November 10, 2009

Dear Mock Trial Participant:

Welcome to the 2009-2010 Maryland State Bar Association Statewide High School Mock Trial Competition. This is the 27th year for Mock Trial—over 46,000 students have participated in this competition since its inception. We are pleased that you are joining in this exciting learning experience.

This year's case focuses on the issues of harassment, bullying and escalating action until one party is charged with assault. We are concerned with the growing problem of bullying and harassment that is negatively impacting students in elementary and secondary education. These behaviors, whether in person or online, have no place in our schools. As you prepare your case, we hope that you will take note of how an action can lead to life changing results.

It is important for you to understand and remember our four primary objectives for this competition:

- To further understanding and appreciation for the law, court procedures, and the legal system;
- To increase proficiency in basic life skills such as listening, speaking, reading, and critical thinking;
- To promote better communication and cooperation between the school system, the legal profession, and the community at large;
- To heighten enthusiasm for academic studies as well as career consciousness for law-related professions.

Our objectives can only be accomplished, however, if you agree to compete fairly and honestly. Your primary objective should be to learn—not to win. Mock Trial provides opportunities to learn—through case preparation with your attorney advisor, teacher coach, and teammates, the competition with other schools, and various interpretations and perspectives of our law and legal system.

It is vital for you to remember that Mock Trial parallels the real world in terms of proceedings, interpretations, and decisions in the courtroom and by the Bench. Decisions will not always go your way and you will not always prevail. If you observe and remember this, you will enjoy the competition and succeed regardless of your won-loss record.

We ask that you read carefully through the rules, guidelines and score sheet included in this casebook, as some modifications have been made. We wish you a very successful year and a rewarding learning experience.

Sincerely,

Diane O. Leasure

Honorable Diane O. Leasure
Chair, Executive Committee

Ellery M. "Rick" Miller, Jr.

Ellery M. "Rick" Miller, Jr.
Executive Director, CLREP

TABLE OF CONTENTS

Part I: Organizational Rules	3
Part II: Hints on Preparing for Mock Trial	5
Part III: Trial Procedures	6
Part IV: Simplified Rules of Evidence	8
Statement of Stipulated Facts	15
Affidavit, Lee Dodd	17
Affidavit, Ali Smith	18
Affidavit, Dr. Lane Emerson	20
Affidavit, Corey James	22
Affidavit, Devon Riley	24
Affidavit, Dr. Terry Cameron	26
Peace Park Map	28
Waterloo County Police Department Call Log	29
Police Report	30
Glasgow Coma Scale	31
CT Scans	32
Case Law	34
Appendix A: Guidelines for Attorneys	36
Appendix B: Guidelines for Judges	37
Score Sheet	38
Dates/ Roles & Responsibilities	Inside Back Cover
State Champs	Back Cover

**2009-2010
MSBA HIGH SCHOOL MOCK TRIAL COMPETITION**

PART I: ORGANIZATIONAL RULES

1. **Forfeits are prohibited.** As a registered team, you agree to attend all scheduled competitions. If a team does not have an adequate number of students (i.e. due to illness, athletics, or other conflicts), it is still expected to attend and participate in the competition. In these instances, a team will “borrow” students from the opposing team. While this is treated as an automatic win for the opposition, both teams still gain the practice experience. Further, it maintains the integrity of the competition and is respectful of the Court, Presiding Judge, attorneys and the other team that has prepared and traveled to the competition. Coaches should make every effort to notify the local coordinator AND the other coach in advance of the competition. When an opposing team does not have enough students to assist the other team, students may depict two or more of the roles (i.e. they may depict 2 witnesses or play the part of 2 attorneys).
2. Student attorneys are expected to keep their presentations limited to specific time guidelines. It is the presiding judge’s sole discretion as to how or if the time guidelines will be implemented during each competition. Teams should NOT object if they perceive a violation of these *guidelines*.
 - Opening statements/closing arguments—5 minutes each;
 - Direct examination—7 minutes per witness;
 - Voir Dire, if necessary— 2 minutes per expert witness (in addition to the time permitted for direct and cross examination)
 - Cross-examination—5 minutes per witness;
 - Re-Direct and Re-Cross Examination—3 minutes and a maximum of 3 questions per witness.
3. Local competitions must consist of enough matches that each participating high school presents both sides of the Mock Trial case at least once.
4. A team must be comprised of no less than eight (8) but a maximum of twelve (12) student members from the same high school, with the exception of high schools with a Maryland State Department of Education inter-scholastic athletics designation of Class 2A or Class 1A, which may combine with any other schools in the LEA in those classifications to field a team. Two “alternate” students are permitted during the local competition only. If a team advances beyond the local competition, an official roster must be submitted not exceeding 12 students.
5. A team may use its members to play different roles in different competitions. (See Part II: Hints on Preparing for the Competition). For any single competition, all teams are to consist of three (3) attorneys and three (3) witnesses, for a total of six (6) different students. For any single competition, a student may depict one role only of either witness OR attorney. (Note: In Circuits 1 and 2, where teams typically participate in two competitions per evening – once as prosecution and once as defense – students may change roles for the second competition.)
6. Any high school which fields more than one team (Team A and Team B, for example) may NEVER allow, under any circumstances, students from Team A to compete for Team B or vice-versa. If a high school fields two or more teams, each team must have a different teacher coach and a different attorney coach than the other team. Additionally, if a high school has multiple teams, then those teams MUST compete against one another in local (circuit) competition.
7. A.) Areas of competition coincide with the eight Judicial Circuits of Maryland. Each circuit must have a minimum of four (4) teams. However, in order to provide the opportunity for as many teams to participate as possible, if a circuit has two (2) or three (3) teams, they may compete in a “Round Robin” to determine who will represent the circuit in the circuit playoff. The runner-up team from another circuit would be selected to compete based upon their winning record and average points scored during local competition rounds. This team would compete with the circuit representative in a playoff prior to the Regional Competition. When a circuit has only one registered team, CLREP may designate another circuit in which this team may compete.

B.) OR, under the discretion of a circuit coordinator and CLREP, if a circuit so chooses, it may combine with the “un-official” circuit to increase the number of opportunities to compete. In this case, a “circuit opening”

arises and will be filled by the following method. To create the most equity, a sequential rotation of circuits will occur. If willing, the second place team from the specified circuit will advance to the regional competitions to fill the opening. If that team is unable to advance, the opportunity will move to the next circuit, and so on, until the opening is filled. In the event that all circuits are officially comprised of a minimum of four teams, the designated circuit will remain the next in-line to advance in future years.

2009-2010	Circuit 6	2013-2014	Circuit 2
2010-2011	Circuit 7	2014-2015	Circuit 3
2011-2012	Circuit 8	2015-2016	Circuit 4
2012-2013	Circuit 1	2016-2017	Circuit 5

8. Each competing circuit must declare one team as Circuit Champion by holding local competitions based on the official Mock Trial Guide and rules. That representative will compete against another Circuit Champion in a single elimination competition on April 13 or 14, 2010.
9. The dates for the Regionals, the Semi-Finals, and the Finals will be set and notice given to all known participating high schools by Tuesday, November 10, 2009. Changes may occur due to conflicts in judicial schedules.
10. District Court judges, Circuit Court judges, and attorneys may preside and render decisions for all matches. If possible, a judge from the Court of Appeals or Court of Special Appeals will preside and render a decision in the Finals.
11. Any team that is declared a Regional Representative must agree to participate on the dates set for the remainder of the competition. Failure to do so will result in their elimination from the competition and the first runner-up in that circuit will then be the Regional Representative under the stipulations.
12. Winners in any single round should be prepared to switch sides in the case for the next round. Circuit Coordinators will prepare and inform teams of the local circuit schedule.
13. CLREP encourages Teacher Coaches of competing teams to exchange information regarding the names and gender of their witnesses at least 1 day prior to any given round. The teacher coach for the plaintiff/prosecution should assume responsibility for informing the defense teacher coach. A physical identification of all team members must be made in the courtroom immediately preceding the trial.
14. Members of a school team entered in the competition—including Teacher Coaches, back-up witnesses, attorneys, and others directly associated with the team’s preparation—are NOT to attend the enactments of ANY possible future opponent in the contest.
15. All teams are to work with their attorney coach in preparing their cases. It is suggested that they meet with their Attorney Advisor at least twice prior to the beginning of the competition. For some suggestions regarding the Attorney Advisor’s role in helping a team prepare for the tournament, see PART II: Hints on Preparing for Mock Trial and Appendix A.
16. **THERE IS NO APPEAL TO A JUDGE’S DECISION IN A CASE.** CLREP retains the right to declare a mistrial when there has been gross transgression of the organizational rules and/or egregious attempt to undermine the intent and integrity of the Mock Trial Competition. **Upon the coaches’ review of, and signature on the score sheet, THE OUTCOME IS FINAL.**
17. There shall be NO coaching of any kind during the enactment of a mock trial: i.e. student attorneys may not coach their witnesses during the other team’s cross examination; teacher and attorney coaches may not coach team members during any part of the competition; members of the audience, including members of the team who are not participating that particular day, may not coach team members who are competing; and team members must have their cell phones and all other electronic devices turned off during competition as texting may be construed as coaching. Teacher and Attorney Coaches MAY NOT sit directly behind their team during competition as any movements or conversations may be construed as coaching.

18. It is specifically prohibited before and during trial to notify the judge of students' ages, grades, school name or length of time the team has competed.
19. The student attorney who directly examines a witness is the only attorney who may raise objections when that same witness is being cross-examined. The student attorney who raises objections on direct examination must be the same attorney who then cross-examines that same witness. This same principle applies if a student attorney calls for a bench conference; i.e., it must be the attorney currently addressing the Court. The student attorney who handles the opening statement may not perform the closing argument.
20. Judging and scoring at the Regional, Semi-Final and Statewide Final Competitions are distinct from judging and scoring in some local competitions. As in a real trial, the judge will preside, hear objections and motions, instruct counsel, and determine which team prevailed based on the merits of the law. Two attorneys will independently score team performance at the trial, using the score sheet from the official Mock Trial Guide. At the conclusion of the trial and while in chambers, the judge will award the special point without informing the attorney scorers. The Special Point will only be added to the score sheet in the case of a tie. The attorneys will meet and work out any differences in scoring so that the two attorneys present one score sheet to the judge, and eventually, the two teams. The judge retains the right to overrule any score on the score sheet. Both teams shall receive a copy of this score sheet, signed by the judge. Teams will not have access to the original, independent score sheets of the attorneys.

PART II: HINTS ON PREPARING FOR A MOCK TRIAL COMPETITION

The following tips were developed by long-time Mock Trial Coaches.

1. Every student, teacher and attorney participating in a team's preparation should read the entire set of materials (case and guide) and discuss the information, procedures and rules used in the mock trial competition. Students: you are ultimately responsible for all of this once Court is in session.
2. Examine and discuss the facts of the case, witness testimony and the points for each side. Record key information as discussion proceeds so that it can be referred to in the future.
3. Witness' credibility is very important to a team's presentation of the case. Witnesses: move into your roles and attempt to think as the person you are portraying. Read over your affidavits many times and have other members of your team ask you questions about the facts until you know them.
4. Student attorneys: you should have primary responsibility for deciding what possible questions should be asked of each witness on direct and cross-examination. Questions for each witness should be written down and/or recorded. Write out key points for your opening statements and closing arguments before trial; then, incorporate additional points that arose during the competition for inclusion in your closing argument to highlight the important developments that occurred during the trial. Concise, summary, pertinent statements which reflect the trial that the judge just heard are the most compelling and effective. Be prepared for interruptions by judges who like to question you, especially during closing arguments.
5. The best teams generally have student attorneys prepare their own questions, with the Teacher and Attorney Coaches giving the team continual feedback and assistance. Based on these practice sessions, student attorneys should continue revising questions and witnesses should continue studying their affidavits.
6. As you approach your first round of competition, you should conduct at least one complete trial as a dress rehearsal. All formalities should be followed and notes should be taken by everyone. Evaluate the team's presentation together. Try to schedule this session when your Attorney Coach can attend.
7. **Some of the most important skills for team members to learn are:**
 - Deciding which points will prove your side of the case and developing the strategy for proving those points.

- Stating clearly what you intend to prove in an opening statement and then arguing effectively in your closing that the facts and evidence presented have proven your case.
- Following the formality of court; e.g., standing up when the judge enters or whenever you address the Bench, and appropriately addressing the judge as “Your Honor,” etcetera.
- Phrasing direct examination questions that are not leading (carefully review the rules of evidence and watch for this type of questioning in practice sessions).
- Refraining from asking so many questions on cross-examination that well-made points are lost. When a witness has been contradicted or otherwise discredited, learn to limit additional questions, as they often lessen the impact of previously made points.
- Thinking quickly on your feet when a witness gives you an unexpected answer, an attorney asks unexpected questions, or a judge throws questions at you.
- Recognizing objectionable questions and answers, offering those objections quickly and providing the appropriate basis for the objection.
- Paying attention to all facets of the trial, not just the parts that directly affect your presentation. All information heard is influential! Learn to listen and incorporate information so that your presentation, whether as a witness or an attorney, is the most effective it can be.
- The Mock Trial should be as enjoyable as it is educational. When winning becomes your primary motivation, the entire competition is diminished. **Coaches and students should prepare AT LEAST as much for losing as they do for winning/advancing.** Each member of the team—student or coach—is personally responsible for his/her behavior prior to, during, and at the close of the trial. There are schools and individuals across the state that are no longer welcome to participate based on previous behavior.

Part III: Trial Procedures

Before participating in a mock trial, it is important to be familiar with the physical setting of the courtroom, as well as with the events that generally take place during the competition and the order in which they occur. This section outlines the usual steps in a “bench” trial—that is, without a jury.

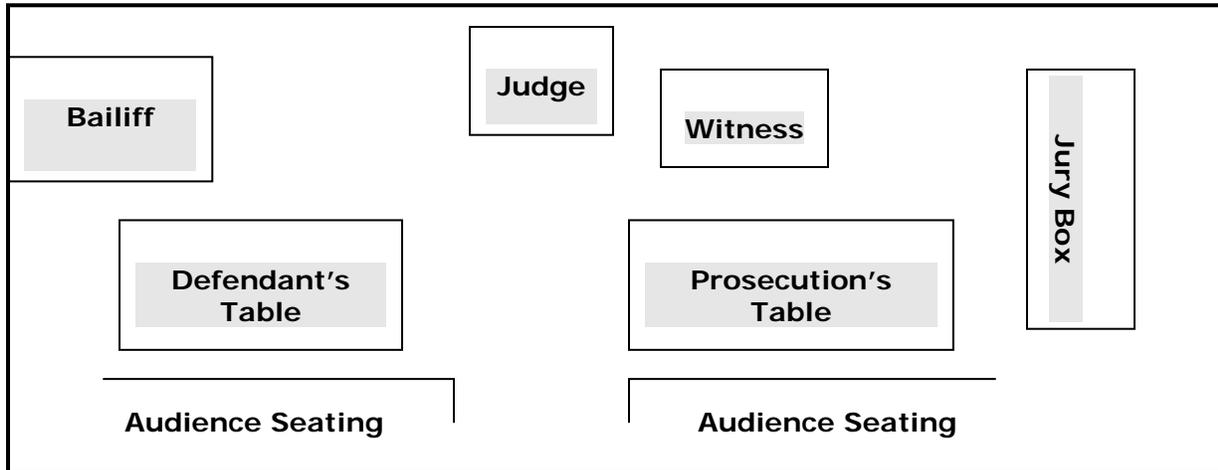
1. The Opening of the Court

- a. Either the clerk of the Court or the judge will call the Court to order.
- b. When the judge enters, all participants should remain standing until the judge is seated.
- c. The case will be announced; i.e., “The Court will now hear the case of _____ v. _____.”
- d. The judge will then ask the attorneys for each side if they are ready.

2. Opening Statements (5 minutes maximum)

- a. Prosecution (criminal case)/ Plaintiff (civil case)
After introducing oneself and one’s colleagues to the judge, the prosecutor or plaintiff’s attorney summarizes the evidence for the Court which will be presented to prove the case. The Prosecution/ Plaintiff statement should include a description of the facts and circumstances surrounding the case, as well as a brief summary of the key facts that each witness will reveal during testimony. The Opening Statement should avoid too much information. It should also avoid argument, as the statement is specifically to provide facts of the case from your client’s perspective.
- b. Defense (criminal or civil case)
After introducing oneself and one’s colleagues to the judge, the defendant’s attorney summarizes the evidence for the Court which will be presented to rebut the case (or deny the validity of the case) which the prosecution or plaintiff has made. It includes facts that tend to weaken the opposition’s case, as well as key

facts that each witness will reveal during testimony. It should avoid repetition of facts that are not in dispute, as well as strong points of the plaintiff/ prosecution's case. As with the Prosecution's statement, Defense should avoid argument at this time.



3. Direct Examination by the Prosecutor (7 minutes plus 2 minutes for Voir Dire)

The prosecutor/ plaintiff's attorney conducts direct examination (questioning) of each of its own witnesses. At this time, testimony and other evidence to prove the prosecution's/plaintiff's case will be presented. The purpose of direct examination is to allow the witness to relate the facts to support the prosecution/plaintiff claim and meet the required burden. It also allows counsel for each side to establish the credibility of each of their witnesses. (If opposing counsel chooses to voir dire a witness, 2 minutes are permitted, in addition to the 7 minutes allowed for direct examination.)

General Suggestions:

- Ask open-ended questions, rather than those that draw a "yes" or "no" response. Questions that begin with "who," "what," "where," "when," and "how" or "explain..." and "describe..." are helpful during direct examination.
- Questions should be clear and concise, and should help guide your witness through direct examination. Witnesses should not narrate too long, as it will likely draw an objection from opposing counsel.
- Do not ask questions that "suggest" a specific answer or response.

4. Cross-Examination by the Defendant's Attorneys (5 minutes)

After the attorney for the prosecution/plaintiff has completed the questioning of a witness, the judge then allows the defense attorney to cross-examine the witness. The cross-examiner seeks to clarify or cast doubt upon the testimony of the opposing witness. Inconsistency in stories, bias, and other damaging facts may be pointed out to the judge through cross-examination. (If an attorney chooses to voir dire a witness, 2 minutes are permitted, in addition to the 5 minutes allowed for cross examination. These 2 minutes are typically allotted during the witness' direct examination.)

General Suggestions:

- Use narrow, leading questions that "suggest" an answer to the witness. Ask questions that require "yes" or "no" responses.
- In general, it is never a good idea to ask questions to which you do not know the answer – unexpected responses can be costly and may leave you unprepared and off-guard.
- Never ask "why." You do not want to give a well-prepared witness an opportunity to expand upon a response.
- Avoid questions that begin with "Isn't it a fact that...", as it allows an opportunistic witness an opportunity to discredit you.

5. Direct Examination by the Defendant's Attorneys (7 minutes plus 2 minutes for Voir Dire)
Direct examination of each defense witness follows the same pattern as above which describes the process for prosecution's witness. (See #3 above for suggestions.)
6. Cross-Examination by the Prosecution/ Plaintiff (5 minutes)
Cross-examination of each defense witness follows the same pattern as above for cross-examination by the defense. (See #4 above for suggestions.)
7. Re-Direct Examination by the Plaintiff/ Prosecution (3 minutes and/or 3 questions)
The Plaintiff's/Prosecution's attorney may conduct re-direct examination of the witness to clarify any testimony that was cast in doubt or impeached during cross-examination. (Maximum of three minutes or three questions.)
8. Re-Cross Examination by the Defense Attorneys (3 minutes and/or 3 questions)
The defense attorneys may re-cross examine the opposing witness to impeach previous testimony. (Maximum of three minutes or three questions.)
9. Voir Dire Examination by Either the Plaintiff/ Prosecution or the Defense Attorneys (2 minutes)
Voir Dire is the process of asking questions to determine the competence of an alleged expert witness. Before giving any expert opinion, the witness must be qualified by the court as an expert witness. The court must first determine whether or not the witness is qualified by knowledge, skills, experience, training or education to give the anticipated opinion. After the attorney who called the witness questions him/her about his/her qualifications to give the opinion, and before the court qualifies the witness as an expert witness, the opposing counsel shall (if he/she chooses to do so) have the opportunity to conduct a brief cross-examination (called "voir dire") of the witness' qualifications.
10. Closing Arguments (Attorneys) (5 minutes)
For the purposes of the Mock Trial Competition, the first closing argument at all trials shall be that of the Defense.
 - a. Defense
A closing argument is a review of the evidence presented. Counsel for the defense reviews the evidence as presented, indicates how the evidence does not substantiate the elements of a charge or claim, stresses the facts and law favorable to the defense, and asks for a finding of not guilty for the defense.
 - b. Prosecution/ Plaintiff
The closing argument for the prosecution/plaintiff reviews the evidence presented. The prosecution's/plaintiff's closing argument should indicate how the evidence has satisfied the elements of a charge, point out the law applicable to the case, and ask for a finding of guilt. Because the burden of proof rests with the prosecution/plaintiff, this side has the final word.
11. The Judge's Role and Decision
The judge is the person who presides over the trial to ensure that the parties' rights are protected and that the attorneys follow the rules of evidence and trial procedure. In mock trials, the judge also has the function of determining the facts of the case and rendering a judgment, just as in actual bench trials.

PART IV: SIMPLIFIED RULES OF EVIDENCE AND PROCEDURE

In American trials, elaborate rules are used to regulate the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that both parties receive a fair hearing and to exclude any evidence deemed irrelevant, incompetent, untrustworthy or unduly prejudicial. 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 attorneys to know the rules, to be able to use them to present the best possible case, and to limit the actions of opposing counsel and their witnesses.**

Formal rules of evidence are quite complicated and differ depending on the court where the trial occurs. For purposes of this Mock Trial Competition, the rules of evidence have been modified and simplified. Not all judges will interpret the rules of evidence or procedure the same way, and you must be prepared to point out the specific rule (quoting it, if necessary) and to argue persuasively for the interpretation and application of the rule you think proper. No matter which way the judge rules, attorneys should accept the ruling with grace and courtesy!

1. SCOPE

- RULE 101: SCOPE. These rules govern all proceedings in the mock trial competition. The only rules of evidence in the competition are those included in these rules.
- RULE 102: OBJECTIONS. An objection which is not contained in these rules shall not be considered by the Court. However, if counsel responding to the objection does not point out to the judge the application of this rule, the Court may exercise its discretion in considering such objections.

2. RELEVANCY

- RULE 201: RELEVANCY. Only relevant testimony and evidence – that which helps the trier of fact decide the issues of the case – may be presented. However, if the relevant evidence is unfairly prejudicial, confuses the issues, or is a waste of time, it may be excluded by the Court. This may include testimony, pieces of evidence, and demonstrations that have no direct bearing on the issues of the case and have nothing to do with making the issues clearer.

Example:

Relevant: Lee, explain to this Court what you saw occur as you approached the Pagoda in Peace Park on the evening of October 4, 2009.

Irrelevant: Lee, how many martial arts movies would you say you have watched over the course of your lifetime?"

Objections to Irrelevant Questions/Testimony:

"Objection. This testimony is unduly prejudicial."

"I object, Your Honor. This testimony is irrelevant to the facts of the case."

- RULE 202: CHARACTER. Evidence about the character of a party or witness (other than his or her character for truthfulness or untruthfulness) may not be introduced unless the person's character is an issue in the case.

Objection:

"Objection. Evidence of the witness' character is not proper given the facts of the case."

3. WITNESS EXAMINATION

A. DIRECT EXAMINATION (attorney calls and questions witness)

- RULE 301: FORM OF QUESTION. Witnesses should be asked direct questions and may not be asked leading questions on direct examination. Direct questions are phrased to evoke a set of facts from the witnesses. A leading question is one that suggests to the witness the answer desired by the examiner -- typically a "yes" or "no" answer.

Example of a Direct Question:

Q: Sgt. Smith, when you went to the home of Mr. and Mrs. Madigan, what did they file a complaint about?

Example of a Leading Question: Sgt. Smith, Mr. and Mrs. Madigan filed a harassment complaint against Corey, did they not?

Narration: While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions must not be so broad that the witness is allowed to wander or narrate an entire story. Narrative questions are objectionable.

Example of Narrative Question:

Q: Dr. Cameron, explain to the Court the severity of various head injuries.

Objection:

“Objection. Question seeks a narration.”

At times, a direct question may be appropriate, but the witness’ answer may go beyond the facts for which the question was asked. Such answers are subject to objection on the grounds of narration.

Objections:

“Objection: Counsel is leading the witness.”

“Objection. Witness is being narrative.”

“Objection: Question asks for a narration.”

RULE 302: SCOPE OF WITNESS EXAMINATION. Direct examination may cover all facts relevant to the case of which the witness has first-hand knowledge. Any factual areas examined on direct examination may be subject to cross-examination.

RULE 303: REFRESHING RECOLLECTION. If a witness is unable to recall a statement made in an affidavit, the attorney on direct may show that portion of the affidavit that will help the witness to remember.

B. CROSS EXAMINATION (questioning the other side’s witness)

RULE 304: FORM OF QUESTION. An attorney may ask leading questions when cross-examining the opponent’s witnesses. Questions that tend to evoke a narrative answer should be avoided in most instances.

RULE 305: SCOPE OF WITNESS EXAMINATION. Attorneys may only ask questions that relate to matters brought out by the other side on direct examination or to matters relating to the credibility of the witness. This includes facts and statements made by the witness for the opposing party. Note that many judges allow a broad interpretation of this rule.

Example:

If, on direct examination, a witness is not questioned about a topic, the opposing attorneys may not ask questions about this topic on cross examination.

Objection:

“Objection. Counsel is asking the witness about matters which did not arise during direct examination.”

RULE 306: IMPEACHMENT. On cross-examination, the attorney may impeach a witness (show that a witness should not be believed) by (1) asking questions about prior conduct that makes the witness’ credibility (truth-telling ability) doubtful, or (2) asking questions about previous contradictory statements. These kinds of questions can only be asked when the cross-examining attorney has information that indicates that the conduct actually happened.

C. RE-DIRECT EXAMINATION

RULE 307: LIMIT ON QUESTIONS. After cross-examination, up to three (3), but no more than three (3), questions may be asked by the direct examining attorney, and such questions are limited to matters raised by the attorney on cross-examination. (The presiding judge has considerable discretion in deciding how to limit the scope of the re-direct.)

NOTE:

If the credibility or the reputation for truthfulness of the witness has been attacked on cross-examination, the attorney whose witness has been damaged may wish to ask several more questions. These questions should be limited to the damage the attorney thinks has been done and should be phrased so as to try to “save” the witness’ truth-telling image in the eyes of the court. Re-direct examination is limited to issues raised by the attorney on cross-examination. Please note that at times it may be more appropriate NOT to engage in re-direct examination.

D. RE-CROSS EXAMINATION

RULE 308: LIMIT ON QUESTIONS. Three (3) additional questions, but no more than three (3), may be asked by the cross-examining attorney, and such questions are limited to matters on re-direct examination and should avoid repetition. (The presiding judge has considerable discretion in deciding how to limit the scope of the re-cross.) Like re-direct examination, at times it may be more appropriate not to engage in re-cross examination.

Objection:

“Objection. Counsel is asking the witness about matters that did not come up on re-direct examination.”

4. HEARSAY

A. THE RULE

RULE 401: HEARSAY. Hearsay is a statement made outside of the courtroom. Statements made outside of the courtroom are usually not allowed as evidence if they are offered in court to show that the statements are true. The most common hearsay problem occurs when a witness is asked to repeat what another person stated to him or her. **For the purposes of the Mock Trial Competition, if a document is stipulated, you may not raise a hearsay objection to it.**

Example: Sgt. Ali Smith states, “Mrs. Madigan told me that Corey was devastated by the harassment endured at school, and that the bullying impacted all aspects of Corey’s life—appetite, sleep, school, and more.”

Objection: “Objection. The statement is hearsay, Your Honor.”

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

B. EXCEPTIONS

RULE 402: ADMISSION AGAINST INTEREST. A judge may admit hearsay evidence if it was said by a party in the case and contains evidence which goes against the party’s side.

RULE 403: STATE OF MIND. A judge may admit hearsay evidence if a person’s state of mind is an important part of the case and the hearsay consists of evidence of what someone said which described that particular person’s state of mind.

RULE 404: BUSINESS RECORDS. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnosis, made at or near the time by or from information transmitted by a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business

activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of the information or the method of circumstances of preparation indicate lack of trustworthiness, shall be admissible. The term “business” as used in this paragraph includes business, institution, association, profession, occupation, and callings of every kind, whether or not conducted for profit.

RULE 405: EXCITED UTTERANCE. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

5. OPINION AND EXPERT TESTIMONY

RULE 501: OPINION TESTIMONY BY NON-EXPERTS. Witnesses who are not testifying as experts may give opinions which are based on what they saw or heard and are helpful in explaining their story. A witness may NOT testify to any matter of which the witness has no personal knowledge, nor may a witness give an opinion about how the case should be decided.

Example: (Lack of Personal Knowledge) Devon testifies, “It was Taylor’s fall to the ground that caused the head injury—that is very clear.”

Objection:

“Objection. The witness has no personal knowledge that would enable him/her to answer this question/ make this statement.”

Objection:

“Objection. The question asks the witness to give a conclusion that goes to the finding of the Court.”

RULE 502: OPINION TESTIMONY BY EXPERTS. Only persons qualified as experts may give opinions on questions that require special knowledge or qualifications. An expert may be called as a witness to render an opinion based on professional experience. An expert must be qualified by the attorney for the party for whom the expert is testifying. This means that before the expert witness can be asked for expert opinion, the questioning attorney must bring out the expert’s qualifications, education and/or experience.

Example: (Prior to being qualified as an expert) - Dr. Emerson, what makes the GCS a reliable method of assessing the state of consciousness of a patient?

Objection: “Objection. Counsel is asking the witness to give an expert opinion for which the witness has not been qualified.”

RULE 503: VOIR DIRE. (“To speak the truth.”) After an attorney who has called a witness questions him/her about his/her qualifications, and before the court qualifies the witness as an expert, the opposing counsel shall have the opportunity, if he/she chooses, to conduct voir dire. After the voir dire examination has been conducted, the cross-examining attorney should advise the court as to whether there are any objections to the witness being qualified as an expert witness and/or whether there are any objections to the witness’ expertise to give the specific opinion the opposing counsel is trying to elicit from this witness.

Example:

(after questioning by an attorney to create a foundation for his/her witness to be qualified by the Court as an expert witness): “At this time, your Honor, I request that the Court accept and qualify the witness as an expert in the field of”

Objection:

“Your Honor, we would like permission to voir dire the witness.”

6. PHYSICAL EVIDENCE

RULE 601: INTRODUCTION OF PHYSICAL EVIDENCE. Physical evidence may be introduced if it is relevant to the case. Physical evidence will not be admitted into evidence until it has been identified and shown to be authentic or its identification and/or authenticity has been stipulated. That a document is “authentic” means only that it is what it appears to be, not that the statements in the document are necessarily true.

Physical evidence need only be introduced once. The proper procedure to use when introducing a physical object or document for identification and/or use as evidence is (for example):

- a. Show the exhibit to opposing counsel.
- b. Show the exhibit and have it marked by the clerk/judge. “Your Honor, please have this marked as Plaintiff’s Exhibit 1 for identification.”
- c. Ask the witness to identify the exhibit. “I now hand you what is marked Plaintiff’s Exhibit 1. Would you identify it, please?”
- d. Ask the witness about the exhibit, establishing its relevancy.
- e. Offer the exhibit into evidence. “Your Honor, we offer Plaintiff’s Exhibit 1 into evidence at this time.”
- f. The Judge will ask opposing counsel whether there is any objection, rule on the objection, and admit or not admit the exhibit into evidence.
- g. If the exhibit is a document, hand it to the clerk/judge.

NOTE:

After an affidavit has been marked for identification, a witness may be asked questions about it without its introduction into evidence.

7. INVENTION OF FACTS (Special Rules for the Mock Trial Competition)

RULE 701: DIRECT EXAMINATION. On direct examination, the witness is limited to the facts provided in the casebook. If a witness testifies in contradiction of a fact given in the witness’ statement, opposing counsel should impeach the witness’ testimony during cross-examination. If the witness goes beyond the facts given, such that they directly conflict with the stipulated facts or witness affidavits, a bench conference may be requested by opposing counsel, at which time the counsel may object to invention of facts. (It should be noted that the granting of a bench conference is a discretionary decision of the judge. A request for a bench conference might not be granted.)

Example: During Direct Examination

Q. Devon, how would you describe Corey’s general personality in school?

A. Devon testifies, “I know that Corey has had anger management problems in the past. We’ve all seen it, and we’ve all tried talking with Corey about it. I even talked with Corey’s parents about it.”

Objection:

“Objection, your honor, the witness is creating facts which are not in the record.”

During Cross-Examination

Objection:

“Objection. The witness is inventing facts that directly contradict case material.”

Objection to be made at a bench conference:

“Your Honor, the witness is creating facts which are not in the record.”

“Your Honor, the witness is intentionally creating facts which could materially alter the outcome of the case.”

RULE 702: CROSS-EXAMINATION. Questions on cross-examination should not seek to elicit information that is not contained in the fact pattern. If on cross-examination a witness is asked a question, the answer to which is not contained in the witness' statements of the direct examination, the witness may respond with any answer which does not materially alter the outcome of the trial. An answer which is contrary to the witness' affidavit may be impeached by the cross-examining attorney. If the witness invents facts material to the case, a bench conference may be called and, if granted, an objection made to the invention of facts.

Objection:

"Objection. The witness' answer is inventing facts which materially alter the case."

8. SPECULATION

RULE 801: Speculation by a witness, upon which the court may not base verdict, is the art of theorizing about a matter as to which evidence is not sufficient for certain knowledge. Speculation as to what possibly could have happened is of little probative value. Some leeway is allowed for the witness to use their own words, and greater freedom is allowed with expert witnesses.

Example: Direct Examination by the Prosecution

Q: What did you see as you walked toward Peace Pagoda on the evening of October 4?

A: I saw Corey James strike the victim, hard enough to cause Taylor to fall to the ground. When I drew closer to Corey and the friend, they were imploring the victim to get up. *In hindsight, I don't think this is anything more than the two of them putting on a big show for me. I believe they realized how much trouble they were in and wanted to play the part of distressed children.*

Objection:

"Objection. Inadmissible speculation on behalf of the witness. I move that the second portion of this statement, beginning with 'In hindsight...,' be stricken from the record."

9. PROCEDURE RULES

- RULE 901: PROCEDURES FOR OBJECTIONS. An attorney may object anytime the opposing attorney has violated the Rules of Evidence.
NOTE: The attorney who is objecting should stand up and do so at the time of the violation. When an objection is made, the judge will usually ask the reason for it. Then the judge will turn to the attorney who asked the question and that attorney will usually have a chance to explain why the objection should not be accepted ("sustained") by the judge. The judge will then decide whether to discard a question or answer because it has violated a rule of evidence ("objection sustained"), or whether to allow a question or answer to remain on the trial record ("objection overruled").
- RULE 902: MOTIONS TO DISMISS. Motions for dismissal at the end of the prosecution's case are NOT permitted.
- RULE 903: CLOSING ARGUMENTS. Closing arguments must be based on the evidence and testimony presented during the trial. Offering new information at this point is incorrect.

IN THE CIRCUIT COURT FOR WATERLOO COUNTY, MARYLAND

State of Maryland,)
)
 Prosecution,)
)
 v.)
)
 Corey James,)
)
 Defendant.)

STATEMENT OF STIPULATED FACTS

Taylor Madigan is a sixteen-year-old sophomore at Northern High School in Waterloo County. On four separate occasions, since the start of school, Taylor has complained to school authorities that Corey James, another sixteen year old sophomore, had hit, pinched, pushed and made threatening statements and had taken Taylor’s lunch money twice. Corey adamantly denied that s/he had bullied, touched or taken Taylor’s lunch money. With no proof or witnesses, the school principal had taken no action for the first three incidents except to warn both students to behave. After Taylor reported the fourth case of harassment and taking of his/her lunch money by Corey, the assistant principal suspended Corey for two days; Thursday, October 1st and Friday, October 2nd, 2009. After the fourth incident and the two-day suspension of Corey, Taylor told his/her parents, who called the police to file a report. The police investigated the matter and unlike school authorities, only having the word of both students, could take no action except to write a police report and keep it on file. Corey James’ parents let Corey know that this had to stop. They did not care if Corey denied it or not, they wanted this mess with Madigan to “just stop and go away.”

On Sunday, October 4th while Corey was playing video games at home with Devon Riley, a friend, s/he telephoned Taylor and arranged to work things out and put an end to the current problems they were facing. They agreed to meet on neutral ground at the Peace Park in the early evening on the same day. Devon accompanied Corey to the park. A short time later, it is submitted that Taylor Madigan arrived in the parking lot of Peace Park on his/her bike and when s/he saw Corey and Devon s/he rode over to join them. Getting off the bike Taylor walked up to Corey and allegedly listened to Corey explain that what had happened between them was done and over with and that they would just leave each other alone from then on. According to Devon Riley, it was at this point that allegedly Taylor shoved Corey really hard and yelled that s/he would not take it any more and that it had to stop now. Furthermore, Devon alleged that it was at this time that Corey went to shove Taylor back in the chest, but at that moment Taylor ducked and with an open palm was struck on the right side of the forehead near the temple. Taylor fell backward striking the back of his/her head on the asphalt. Taylor made an attempt to get up, but collapsed and did not move.

Lee Dodd was out walking his/her dog in Peace Park near the Peace Pagoda when s/he heard loud voices; upon rounding the pagoda on the east side, Lee saw the defendant, Corey James strike the victim, Taylor Madigan, in the forehead and watched the victim fall backward and strike the asphalt with his/her head. Dodd watched the victim attempt to rise, only to collapse motionless. Dodd indicated that it was easy to see what transpired because of all the lights surrounding the parking lot.

Lee Dodd informed police officer, Sgt. Ali Smith, who arrived at the scene shortly after the 911 call, that s/he had heard loud voices and could not make out what was being said, but as s/he rounded the Peace Pagoda, observed Corey James strike the victim in the forehead with an open palm, “like in the martial arts movies”; the victim fell backwards striking the asphalt, tried to get up and then collapsed, motionless.

Both Corey James and Devon Riley knelt over Taylor and pleaded with the victim to get up. Dodd arrived and told both of them not to touch Taylor and proceeded to call 911. The EMS team arrived in several minutes and found the victim with weak vital signs. After placing Taylor in a neck brace, they proceeded with haste to the hospital. Dr.

Lane Emerson, a Shock Trauma Neurologist, examined the victim and conducted preliminary tests. Taylor Madigan has never regained consciousness and is still in a deep coma today.

Sgt Smith arrested the defendant, Corey James. Corey was handcuffed and placed into the police cruiser and taken to the station.

STATEMENT OF CHARGES AND DEFENSES

The State of Maryland charges Corey James with the following violations of the Maryland Code:

MD Code §3-202. Assault in the first degree

MD Code §3-203. Assault in the second degree

MD Code §3-204. Reckless endangerment

Corey James denies all charges and claims that the alleged actions do not constitute assault under any Maryland criminal law code.

Additional Stipulations

The parties have stipulated to the authenticity and factual accuracy of the following items. The parties have also agreed that the items are not in dispute:

- 1. The police call log
- 2. The police arrest report
- 3. The map of Peace Park
- 4. Glasgow Coma Scale
- 5. Brain Scan

The parties reserve the right to dispute any other legal or factual conclusions based on these items and to make objections to these items *based on evidentiary issues*.

WITNESSES TO APPEAR BEFORE THE COURT

<u>Witnesses for the Prosecution</u>	<u>Witnesses for the Defense</u>
Lee Dodd, Dog walker Sgt. Ali Smith, Waterloo County Police Dr. Lane Emerson, Shock Trauma Neurologist	Corey James, Defendant Devon Riley, friend Dr. Terry Cameron, Neurologist

1 **Witness for the Prosecution**

2 **Lee Dodd, Dog walker**

3
4 My name is Lee Dodd. I am fifty-five years old. I am married and live in Waterloo, at 44 Scotts Hill
5 Drive, just across from the Peace Park. I am the head chef at La Château restaurant at the Inner Harbor.

6
7 On October 4th 2009, I was walking our dog Poopsie, she is a Shih Tzu, and I always take her for a walk
8 at 8 PM on Sunday evenings. I know it was 8 PM because 60 minutes had just ended and it runs from 7
9 to 8 PM every Sunday night and I never miss it.

10
11 I always walk Poopsie through the park and we always walk around the pond and then east toward the
12 Peace Pagoda. On this day, as I approached the pagoda, I heard loud voices coming from the parking lot
13 area. I could not make out what was being said, and the pagoda was obstructing my view. As I rounded
14 the structure, and turned onto the path heading north to the parking lot, I saw the defendant, Corey James,
15 strike the victim with what appeared to me to be an open palm punch, like you see in those silly martial
16 arts movies. I was no more than 35-40 yards away, and I am sure of the distance because I play golf, and
17 have to judge distances all the time. Also, the numerous lights, put up by the county to help prevent
18 crime, had the area awash in light. From where I was, I saw the blow strike the victim on the right side of
19 the head, and I watched helplessly as s/he fell backward, and I heard his/her head hit the asphalt. It was
20 most unnerving as it sounded to me like a melon being dropped on concrete. The victim tried to get up,
21 but as s/he fell back down and just lay there not moving. Poopsie was barking up a storm and we hurried
22 to see if we could be of assistance.

23
24 When I got to the victim the defendant and his/her friend were kneeling down imploring the victim to get
25 up. I could tell that they were very upset by how they were acting and how they were talking. The
26 defendant was holding the victim's hand and saying, "Oh come on Taylor don't kid around, get up, please
27 get up," and the other one was pleading with the victim to open his/her eyes. I told them to step back
28 from the victim and stay put. I was concerned that more harm might be done if they jostled the victim,
29 and I also did not want them leaving the area. They did as they were told. I guess they must have known
30 I was not fooling around. At this point I immediately dialed 911 on my cell phone, as I never walk
31 Poopsie without it. I mean you never know when you just might need it.

32
33 I did feel for a pulse, and although quite weak, I did find one as I put my finger on the artery that runs up
34 and down the neck. In minutes the EMS team arrived, as well as a Waterloo County police officer. I
35 heard the EMS team members speaking to each other and they also found a pulse although they said it
36 was very weak. I then watched as they put a brace around the victim's neck and put her/him on a
37 stretcher and wheel her/him to the ambulance. They left the parking lot with the siren blaring and lights
38 flashing.

39
40 I went over to the police officer and explained that I saw the defendant strike the victim in the head with
41 an open hand punch, just like in the martial arts movies. I also told the officer that the defendant appeared
42 really upset about the condition of the victim. I explained where I was when I saw what happened and
43 pointed back toward the Peace Pagoda to show the officer that I could see everything from where I was
44 quite clearly. The officer thanked me for calling 911, and asked for my contact information, said that
45 someone would contact me later, and that I was free to go.

46
47 As I was leaving with Poopsie I watched the officer handcuff the defendant and place him/her in the back
48 of the police cruiser.

49
50 Lee Dodd

1 **Witness for the Prosecution**
2 **Sgt. Ali Smith, Waterloo County Police**
3

4 My name is Ali Smith. I am 38 years old. I live in Stevenson. I am a sergeant with the Waterloo County
5 Police Department and have been on the force for 8 years. I have a bachelor's degree and a master's
6 degree in criminal justice from the University of Maryland at College Park. Before joining the Waterloo
7 County Police, I served in the United States Army as a military police officer, leaving the service
8 honorably with the rank of sergeant.
9

10 On Friday, October 2nd 2009, at approximately 5PM, I was dispatched to 35 Leafydale Terrace, the home
11 of the Taylor Madigan. I arrived at the home at 5:15 PM and proceeded to meet with Mr. and Mrs.
12 Madigan and Taylor. They wanted to file a complaint against the defendant, Corey James, for harassment
13 and bullying of Taylor and taking his/her lunch money on two separate occasions. Taylor alleged that
14 there were four incidents in all, and that they had taken place since the beginning of school—two on the
15 way to and from school, and two on school grounds. I discovered at this time, that Taylor had reported
16 the incidents to the school principal and that after the last complaint on the morning of Thursday, October
17 1st, Corey was suspended for two days—the 1st and 2nd of October. I later attempted to have this
18 confirmed by the principal, but was told that the records of their students were confidential. After taking
19 the information from Taylor, I proceeded to the home of Corey James at 56 Scotts Hill Drive. There I
20 met with Mrs. James and Corey. The defendant admitted that s/he had been suspended for the last two
21 days for bullying Taylor Madigan, but adamantly insisted that s/he was innocent, had not done anything
22 to Taylor, and that it was all lies. Mrs. James said Corey was not a liar and that if “s/he said it never
23 happened then it never happened.” Corey did say that ever since s/he made the Model UN team last year,
24 and Taylor did not, they did not hang together.
25

26 Unlike school authorities, the police don't act without probable cause in a case such as this, and as there
27 were no witnesses to any of the alleged harassment and bullying, and no proof that Taylor took Corey's
28 lunch money, it boiled down to Taylor's word against Corey's and I therefore could take no action except
29 to warn Corey to stay clear of Taylor as much as possible. I will say that at this point Corey again said,
30 “But I never did any of those things to Taylor.”
31

32 On Sunday, October 4th, at approximately 8:15 in the evening, I was dispatched to the Peace Park after a
33 911 call was received concerning someone who was down from a head injury. I arrived at the Southwest
34 corner of the parking lot, just after the EMS team and found them working on a person, who I
35 immediately identified as Taylor Madigan, with an apparent head injury. At the scene were Devon Riley,
36 Lee Dodd, who was accompanied by a small yapping dog, and the defendant, Corey James. As the victim
37 was being loaded into the ambulance, Lee Dodd came over to me and said that s/he placed the 911 call,
38 and that s/he witnessed the defendant strike the victim in the side of the head with what was described as
39 “an open handed punch, like in those martial arts movies.” Dodd also stated that while walking the dog
40 and coming around the Peace Pagoda, s/he heard loud voices, but could not make out what was being
41 said. Dodd indicated that the voices were loud and excited and that when s/he turned the corner of the
42 pagoda toward the parking lot, saw an open hand punch being thrown by the defendant and watched the
43 victim fall to the ground striking his/her head on the asphalt. Dodd further explained that the victim tried
44 to get back up, and simply fell back and did not move again. Dodd said the sound of Taylor's head
45 hitting the asphalt “was like that of a melon hitting concrete.” Dodd also told me that when s/he went to
46 offer assistance, both the defendant and Riley were trying to help the victim, and were quite agitated,
47 pleading for the victim to get up. Dodd explained that s/he directed the two to move away from the
48 victim, not to go anywhere and then s/he felt for a pulse, found a faint one, and called 911. I thanked
49 Dodd for making the call, and took down his/her contact information explaining that someone would be
50 in contact with him/her.
51

52 I approached the defendant and recognized that it was Corey James, who I had spoken to on Friday. I
53 asked what had happened and Corey said that Taylor had pushed him/her and that s/he merely was

1 pushing him/her back; that Taylor had ducked into what was going to be a push to the chest, but instead
2 Corey's hand hit the right side of Taylor's head. Taylor fell backward and struck his/her head, tried to get
3 up, fell back and did not move. Corey also explained that after taking martial arts for eight years, if s/he
4 had wanted to hurt Taylor, s/he would not have just tried to push him/her.

5
6 Based on the eyewitness testimony of Dodd and the statements made by Corey at the scene, I arrested the
7 defendant, Corey James, for assault. Corey was handcuffed, Mirandized and taken to the station for
8 processing.

9

10 *Ali Smith*

1 **Witness for the Prosecution**

2 **Dr. Lane Emerson, Shock Trauma Neurologist**

3
4 My name is Lane Emerson and I am a shock trauma neurologist at Sinai Hospital in Baltimore. I am 44
5 years old. I am married and live at 601 Plum Tree Drive in Ellicott City. I have a medical degree from
6 Stanford University and did my residency at Johns Hopkins University. I worked at the R Adams Cowley
7 Shock Trauma Center of the University of Maryland. I am also a faculty member at Johns Hopkins
8 University Medical School where I teach neurology.

9
10 On Sunday, October 4th, 2009, I was on call in the Trauma Center of Sinai Hospital, as part of a specially
11 trained trauma team. Sinai is designated as a Level II Trauma Center and we are fully equipped for rapid
12 resuscitation, including on-site CT scanning. It should be understood that only a select group of medical
13 centers receive Level II Trauma Center verification from the American College of Surgeons (ACS).
14 Verified trauma centers must meet the essential ACS criteria that ensure trauma care capability and
15 institutional performance.

16
17 At approximately 8:30 PM, we received a call from one of the EMS teams that they were treating an
18 apparent head injury and that the person was sixteen years of age, was unconscious, nonresponsive,
19 breathing shallowly, but that a very weak pulse was found. As they were located only 4 miles away from
20 the hospital at Peace Park, the decision was made to have the EMS team transport the person in their
21 ambulance because they could have the person at the emergency room before the med-evac helicopter
22 would reach them, let alone get the injured person to us. The EMS team provided immediate, standard,
23 and necessary care. In fact, they arrived with the injured teen nine minutes after leaving the park. During
24 that time, we were in constant communication with the team and there was no change in the patient's
25 condition during transport.

26
27 When the patient was brought into the emergency room, our trauma team was standing by and
28 immediately began assessing the patient's condition. The initial exam we performed on the patient
29 corroborated the EMS team's finding that the patient was unconscious, nonresponsive to outside stimuli,
30 had a weak yet steady pulse, and was breathing shallowly. I ordered a CT scan to determine if there was
31 a subarachnoid hemorrhage, which is bleeding in the area between the brain and the thin tissues that cover
32 the brain, or an intracerebral hemorrhage, which is bleeding in the brain caused by the breaking (rupture)
33 of a blood vessel in the head. In other words, we wanted to see if there was damage that might have been
34 caused internally to the brain. A CT scan — also called computerized tomography or just CT — is really
35 an X-ray technique that produces images of your body that visualize internal structures in cross sections
36 rather than the overlapping images typically produced by conventional X-ray exams. In other words, it
37 unobtrusively let's us see what is inside a patient.

38
39 I found that there was swelling and a contusion on and around the temple on the right side of the head and
40 there was evidence that the patient had hit the back of his/her head, as there was a small laceration of the
41 scalp and swelling. Most lay people would call it a knot on the back of the head. Since the patient was
42 still unconscious, I also had the Glasgow Coma Scale (GCS) administered. As time was passing and the
43 patient was still comatose, I was concerned that we were dealing with a coma. The GCS is a neurological
44 scale, which helps to give us a reliable, objective way of recording the conscious state of a person, for
45 initial as well as subsequent assessment. We also have to take into account the patient's medical history,
46 which we did not have at this time.

47
48 A patient is assessed against the criteria of the scale, and the resulting points give a patient score between
49 3 (indicating deep unconsciousness) and either 14 (original scale) or 15 (the more widely used revised
50 scale). The test checks verbal responses and understanding, the eyes and their responsiveness to noise
51 and light, and motor responses. The GCS found that our patient scored a 5, which indicated deep
52 unconsciousness. The patient, in my opinion, was in a coma.

53

1 The result of the CT scan showed that the coma was caused by an intracerebral hemorrhage located in the
2 back of the skull and just slightly to the left of center, which was apparently caused by the impact
3 sustained when hitting the asphalt in the parking lot. In my opinion, the injury suffered to the right
4 temple area was determined to be minor and not a cause of the coma. Since being admitted several
5 months ago, the patient has undergone one surgical procedure to reduce the swelling and pressure on the
6 brain. Although the swelling has been significantly reduced and the pressure eliminated, there has been
7 no change in the patient's condition.

8
9 It was learned later that the patient had suffered a bicycle accident two years before this incident occurred
10 and, although rendered unconscious for several minutes, recovered fully. It is also my opinion, based on
11 the tests administered and my observations over several months, that the previous accident had no bearing
12 on the current state the patient is in. As of this date, Taylor Madigan is still comatose and unresponsive,
13 but breathing without medical assistance. I would still not rule out the patient coming out of the coma,
14 but the longer it persists, the greater the odds against recovery.

15
16 Lane Emerson, M.D.

1 **Witnesses for the Defense**

2 **Corey James, Defendant**

3
4 My name is Corey James. I am sixteen years old. I live at 56 Scotts Hill Drive in Waterloo. It is not far
5 from the Peace Park. I am a sophomore at Northern High School. I do not understand how all this
6 happened to me.

7
8 Taylor went to the principal a couple of times and accused me of hitting, pinching, pushing, threatening
9 him/her and that I had taken Taylor's lunch money. I said that I had done no such thing, and the principal
10 told us to both behave and that she did not want to see either of us again. I tried to ask Taylor what was
11 going on, but was told to "back off." So I stayed away from Taylor and made a point to walk on the other
12 side of the hallway whenever I saw him/her coming. Then on Wednesday afternoon the 30th of
13 September 2009, just as school was ending, I was called to the principal's office again, and accused again
14 of bullying and harassing Taylor and that I had for the second time taken his/her lunch money. I said that
15 I did no such thing, but the principal shook her head, and said that I had been warned and that she had no
16 alternative but to suspend me for two days. I was told not to come to school until the following Monday,
17 October 5th.

18
19 On Friday the 2nd of October, my mom told me to come out of my room because there was a police
20 officer here to see us. The officer told us that a complaint had been filed against me for harassment and
21 bullying and that s/he was investigating the matter. I explained that I had been accused by Taylor of
22 hitting, pinching, pushing, threatening him/her and that I had taken Taylor's lunch money. I told the
23 officer I never did any of it, but the principal at school had suspended me for two days. That is when my
24 mom told the officer that I was not a liar, and that when I said I did not do something, then I did not do it!
25 I also told the officer that ever since I made the Model UN team and Taylor didn't, we did not hang out
26 together or talk like we used to. I mean we were not best friends, but I thought s/he was a friend.

27
28 The police officer thanked us for our time and told us that unlike school authorities the police needed
29 probable cause, and as this was a case of one kid's word against another, and with no evidence or
30 witnesses, that a report would be kept on file, but that no other action would be taken.

31
32 On Sunday morning the 4th of October, my father returned from a trip, and after my mom spoke to him,
33 they made it clear that what ever was going on had to stop and they did not care if I denied it or not, they
34 wanted this mess with Taylor Madigan to "just stop and go away." I told them I would take care of it, and
35 later that day as I was playing video games with my friend, Devon Riley, I decided to call Taylor and get
36 this matter behind us—and as my parents said, "this mess must just stop so make it go away." I got
37 Taylor to agree to meet me at the Peace Park after dinner at 8 PM that night. Devon agreed to go with me
38 so that Taylor could not accuse me of doing something I never did.

39
40 Devon and I arrived at the park at about 7:50 PM. I knew it was before 8 PM, as my watch keeps really
41 good time. We waited for Taylor at the southwest end of the parking lot, which is just north of the Peace
42 Pagoda. We wanted to wait there as it is really lit up with all the lights the county put up so that Taylor
43 would easily find us. I saw Taylor riding up to us on a bike and I waved and told Taylor that I did not
44 understand why I was being accused of things I had never done, but what had happened between us was
45 done and over with and that we would just leave each other alone from then on. That was when Taylor
46 yelled at me saying that s/he "would not be told what to do by anyone anymore and it would stop now."
47 That is when Taylor pushed me hard in the chest. I admit I was not prepared for that, and I was taken off
48 guard and I got mad and went to push Taylor back, but as I went to push him/her with my left hand,
49 Taylor ducked, as s/he must of thought I was going to punch him/her. But Taylor ducked his/her head
50 right into my open hand as I went to push him/her. The palm of my left hand connected to the right side
51 of Taylor's head and s/he fell backward and hit his/her head on the asphalt. Taylor tried to get up, but fell
52 back down and did not move. At first we thought s/he must have been joking around, I mean I did not

1 punch Taylor, I know s/he fell and hit his/her head, but we did not think it was so bad. When Taylor did
2 not move at all, we started begging him/her to get up, but Taylor did not move.

3
4 That is when Lee Dodd came running up to us with a little dog that never stopped making noise. It could
5 not be called barking, more like yipping I guess. We did not know the person then, but it was Lee Dodd,
6 and s/he told us to move away and to not go anywhere as s/he called 911 on his/her cell phone. We did as
7 we were told, but I have to say we were not going to go anywhere until we knew Taylor was okay.

8
9 A short time later, we heard a siren and an EMS truck pulled into the parking lot and came right over to
10 where Taylor was lying on the ground. The EMS guys were all over Taylor and one was on a portable
11 phone talking to someone. As they were working on Taylor, I saw a police car pull into the parking lot
12 and noticed right away that it was the same officer who talked to my mom and me.

13
14 As Taylor was being put in the EMS truck, I noticed Lee Dodd talking to the officer and pointing at me. I
15 got a sick feeling in my stomach and that is when the officer came over to me and asked me what
16 happened. I told the officer that I had asked Taylor to meet me so that we could put all of this mess
17 behind us and just leave each other alone, but when Taylor got to the park s/he just pushed me hard and I
18 had tried to merely push him/her back. I told Sgt. Smith that Taylor had ducked into what was going to
19 be a push to the chest, but instead my open hand hit him/her on the right side of the head as s/he ducked
20 right into it. Taylor fell backward and struck/his/her head, tried to get up, fell back and did not move. I
21 told him/her I never meant to hurt Taylor -- that I was simply defending myself. After eight years of
22 martial arts, if I had wanted to hurt Taylor, it would have been easy to do so.

23
24 I was then arrested and taken to the police station.

25
26 Corey James

1 **Witnesses for the Defense**

2 Devon Riley, friend

3
4 My name is Devon Riley. I am sixteen years old. I live at 35 Sunset Lane in Waterloo. I am a
5 sophomore at Northern High School. I have been a friend of Corey James my whole life. I also know
6 Taylor Madigan as s/he went to the same school as me and we have been in several classes together.

7
8 On Sunday October 4th 2009 I was at Corey James' house playing video games with Corey. *Tour of Duty*
9 is awesome and we play it for hours all the time. Corey's dad had just gotten home from a trip and I
10 could hear Corey's mom and dad talking about Corey being suspended for being a bully. It was cool
11 when I heard Corey's mom sticking up for him/her. I heard them agreeing that even if Corey did not do
12 it, the matter still had to be resolved. My mom and dad would have grounded me for months. They
13 called Corey to the kitchen, but I could still hear them tell him/her "that no matter what was or was not
14 going on with Taylor, it had to stop, that enough was enough, and that s/he needed the matter to be
15 resolved and to just go away". I heard Corey promise them that it would be taken care of that day.

16
17 Corey came back into the family room and told me that s/he would try to set up a meeting with Taylor so
18 this problem could be dealt with, as s/he could not get in any more trouble. Later in the day, I am not sure
19 of the time, I know it was after lunch, s/he called Taylor and they agreed to meet at Peace Park at 8 that
20 night. Corey asked me to go along as a witness. I do not think Corey trusted Taylor at all after all the
21 trouble s/he caused. We had played *Tour of Duty* all the way up until dinner. After dinner, we helped
22 clean up and then we left for Peace Park to meet Taylor. The James' live almost across from the park so
23 we walked over at 7:45 so we would be a little early. It only took us five minutes to get to the parking lot
24 and Corey had us stand in the southwest corner where it was lit up by all the lights so Taylor would see
25 us.

26
27 We both saw Taylor enter the parking lot at the same time and we waved. Taylor saw us and rode over to
28 where we were standing. S/he got off the bike and I heard Corey explain that although s/he did not
29 understand why s/he was being accused of things s/he had never done, what had happened between them
30 was done and over with, and that they would just leave each other alone from then on. It was just after
31 Corey finished saying what he s/he did when Taylor just yelled that s/he was not taking it anymore, and
32 then pushed Corey really hard in the chest. I saw Corey fall back a step or two and looked shocked. I
33 know s/he was. I then watched, and it seemed like everything was in slow motion, as Corey appeared to
34 be getting ready to push Taylor back with an open left hand, when Taylor ducked down turning his/her
35 head to the left. I watched Corey finishing what was obviously going to be a push to the chest, but that is
36 where Taylor's head was and his/her palm landed on the side of Taylor's head and s/he went down
37 backwards and the back of his/her head met the asphalt so hard, I could hear a dull thud. I watched
38 Taylor try to get up, but s/he fell back down and did not move. I mean there was no movement at all. We
39 knelt down next to Taylor and both Corey and I told him/her to get up, but s/he did not move. I got
40 scared and we both were almost begging Taylor to say something or get up or do anything.

41
42 At this time, a person by the name of Lee Dodd ran over, and s/he had a funny looking dog with him/her.
43 I guess you could call it a dog. It did not bark, but made strange yipping like sounds, and it would not
44 stop. Dodd told us to move away from Taylor but not to go anywhere. We did as we were told. I did not
45 say anything, but I would not have left anyway until I knew Taylor was all right. I watched Dodd feel
46 Taylor's neck as s/he dialed 911 and in minutes I heard a siren and saw an EMS vehicle pulling into the
47 parking lot. The EMS people were amazing, they were all over Taylor, checking his/her pulse, looking at
48 his/her head while another was on a cool looking phone telling someone all about Taylor. As the EMS
49 crew worked on Taylor, I noticed a police car pull into the lot. The officer and Dodd were talking and I
50 saw them looking at Corey. I saw them shake hands and then I watched as the officer went to speak with
51 Corey as Taylor was placed into the EMS truck. With the siren blaring and the lights flashing, it pulled
52 out of the parking lot. Corey spoke to the officer for a while, and then I watched in shock as Corey was
53 handcuffed and placed inside the police car. I then watched the police car drive out of the parking lot and

1 I stood there alone and watched Dodd and that stupid dog walk back around the Peace Pagoda. So I
2 walked home.

3

4 Corey did not mean to hurt Taylor. I mean really, s/he has had eight years of martial arts. If Corey
5 wanted to hurt someone, s/he could easily, and it would not be by pushing. But s/he would never hurt
6 anyone, s/he does not believe in fighting. All Corey wanted to do was tell Taylor that they would just
7 stay away from each other. It was Taylor who pushed first.

8

9 Corey and Taylor used to hang together, but stopped before the end of school last year. I know some kids
10 used to tease Taylor. I admit I did a few times as well, but Corey never did. S/he used to tell me I
11 shouldn't as a matter of fact. So why didn't the police officer ask me what happened? All s/he did was
12 talk to the adult. I do not understand any of this, I am sorry Taylor is hurt, but s/he started it anyway. It
13 just is not fair.

14

15 *Devon Riley*

1 **Witness for the Defense**

2 **Dr. Terry Cameron, Neurologist**

3
4 My name is Terry Cameron and I am a surgeon and neurologist at Johns Hopkins Hospital in Baltimore.
5 I am 50 years old. I am married and live at 12 College Road in Catonsville. I have a medical degree from
6 Harvard University and did my residency at Brigham & Women's Hospital in Boston, a Level 1 Trauma
7 Center. I was also on the medical staff of Massachusetts General Hospital, another Level 1 Trauma
8 Center. I am also a professor of neurology at the School of Medicine of Johns Hopkins University and
9 have been for the last eleven years. It should be noted that each of the hospitals with which I have been
10 associated were and are Level 1 Trauma Centers as designated by the American College of Surgeons. I
11 am also the author of Always Wear a Helmet—Preventing Traumatic Head Injuries in Athletes.

12
13 I was asked to examine the patient, Taylor Madigan, by the defense. In my opinion, Taylor is in a deep
14 coma. In reviewing his/her medical records, I noted that the patient's Glasgow Coma Scale (GCS) score
15 was found to be a 5 when admitted and remains unchanged as of today. It should be understood that the
16 GCS is an important diagnostic tool in determining the state a patient is in when unconscious. The scores
17 range from 3 to 15.

18
19 The GCS was developed to provide health-caregivers a simple way of measuring the depth of a coma
20 based upon observations of eye opening, speech, and movement. Taylor's score being a 5, quite frankly
21 is not good. I do not wish to seem harsh, but the outcome of a patient can be associated with their best
22 response in the first twenty-four hours after injury. Using the GCS, with 3 being a person in a coma with
23 the lowest possible score, and 15 being a "normal" rating, research shows that if the best scale is 3 to 4
24 after twenty four hours, 87 percent of those individuals will either die or remain in a vegetative state and
25 only 7 percent will have a moderate disability or good recovery. In patients with a rating from 5 to 7, 53
26 percent will die or remain in a vegetative state, while 34 percent will have a moderate disability and/or
27 good recovery. In patients with a GCS of 8 to 10, 27 percent will die or remain in a coma, while 68
28 percent will have a moderate disability and/or good recovery. In patients rating 11 to 14, only 7 percent
29 are likely to die or remain in a coma, while 87 percent would most likely result in moderate disability
30 and/or good recovery.

31
32 No one really can accurately predict whether a person with head injuries will die. Head injuries are very
33 often serious enough in and of themselves to cause death. There are two critical periods in their
34 immediate recovery. The first is in the first day or two after the injury when the injuries may be so
35 overwhelming as to cause death in the face of the most intensive treatment. Those who survive this
36 period face another critical period beginning a few days later and continuing for two weeks or more. This
37 critical period results from swelling of the injured brain. That Taylor's swelling was significantly reduced
38 is a very promising sign in an otherwise very bad situation.

39
40 As of today, Taylor is comatose and unresponsive, but breathing without medical assistance. What I have
41 described is what the patient's current condition is and the seriousness of the coma. What caused the
42 coma cannot be determined by the GCS or looking at the physical condition of a patient when first
43 examined or in what condition they are in now. The entire record must be explored and in Taylor's case
44 that includes his/her medical record.

45
46 We know that Taylor fell backward and landed on the back of his/her head and sustained a laceration and
47 swelling to the scalp—a bump. The CT Scan showed that Taylor was also suffering from an intracerebral
48 hemorrhage. What caused the intracerebral hemorrhage was, in my opinion, not caused by falling
49 backward, but rather a pre-existing condition from the bicycle accident Taylor was involved in two years
50 ago that did render Taylor unconscious for several minutes. It is a pity, and quite frankly unacceptable
51 that even though Taylor was rendered unconscious for several minutes, no CT scan or other exam was
52 done at the time. However, we know that it did happen.

1 I must conclude that after looking at the totality of the patient's record, previous serious head trauma
2 causing Taylor to be knocked unconscious; the apparent erratic behavior of accusing Corey of bullying
3 and harassment from someone who had been a friend and had no record of such behavior, and the extent
4 of the injury suffered by merely falling backward from a standing position, it is my best medical judgment
5 that Taylor was already suffering from the intracerebral hemorrhage. It is my professional opinion that it
6 was slowly causing more and more pressure to build on the brain, thus effecting his/her behavior, and was
7 quite literally a time bomb waiting to go off. Taylor's situation is deplorable, but no matter how you look
8 at it, it was a tragic accident.

9

10 *Jerry Cameron, M.D.*

Call Log

Waterloo County Police Department

Date	Time	Street	Suffix	Call type	Unit
10/ 02/ 9	0900	DURRETT	DR	Fireworks	215B
10/ 02/ 9	0930	PEACHERS MILL	RD	Traffic Stop	331B
10/ 02/ 9	1015	APPLE	RD	Misc. Out at a location	335B
10/ 02/ 9	1145	TINY TOWN	RD	B&E Vehicle Already Occurred	339D
10/ 02/ 9	1150	RIVERSIDE	DR	Misc. Out at a location	344C
10/ 02/ 9	1200	AIRPORT	RD	Theft Of Property/Services	215B
10/ 02/ 9	1210	AIRPORT	RD	Theft Of Property/Services	337B
10/ 02/ 9	1700	MILLFORDMILL	RD	Auto theft	102B
10/ 02/ 9	1300	RIVERSIDE	RD	Traffic Stop	343C
10/ 02/ 9	1332	RIVERSIDE	DR	Traffic Stop	395C
10/ 02/ 9	1350	GRACEY	AV	Misc. Out at a location	340C
10/ 02/ 9	1350	GRACEY	AV	Misc. Out at a location	341C
10/ 02/ 9	1420	RIVERSIDE	DR	Misc. Out at a location	344C
10/ 02/ 9	1432	RIVERSIDE	DR	Misc. Out at a location	398C
10/ 02/ 9	1457	DOVER	RD	Welfare Check	SO69
10/ 02/ 9	1457	DOVER	RD	Welfare Check	235B
10/ 02/ 9	1557	DOVER	RD	Welfare Check	331B
10/ 02/ 9	1607	PARK	LN	Suspicious Vehicle	113B
10/ 02/ 9	1618	DANIEL	ST	Traffic Stop	341C
10/ 02/ 9	1618	DANIEL	ST	Traffic Stop	395C
10/ 02/ 9	1645	KRAFT	ST	Misc. Out at a location	330C
10/ 02/ 9	1700	LEAFYDALE	TER	Harassment	102B
10/ 02/ 9	1704	KRAFT	ST	Misc. Out at a location	344C
10/ 02/ 9	17444	KRAFT	ST	Misc. Out at a location	398C
10/ 02/ 9	1837	DUNLOP	LN	Misc. Out at a location	SO41
10/ 02/ 9	1854	PROVIDENCE	BLVD	Traffic Stop	254C
10/ 02/ 9	1904	STEELERS	RD	Wreck Property Damage	SO69
10/ 02/ 9	2004	VIKINGS	RD	Wreck Property Damage	160C
10/ 02/ 9	21411	RAVENS	DR	Misc. Out at a location	212D
10/ 02/ 9	21724	BOYSCOUT	RD	Misc. Out at a location	393D

POLICE REPORT

POLICE DEPARTMENT FORM 83/11 WATERLOO COUNTY, MARYLAND				1. NAME (LAST, FIRST, MIDDLE) AGE 16 JAMES, COREY		2. COMPLAINT NO. 2134769	
18. CAR 102	19. POST Waterloo#4	20. REPORTING Sgt. Ali Smith	STREET CODE	3. ADDRESS 56 Scotts Hill Drive Waterloo, MD 21208			4. CUSTODY NO. 334BC006
21. TAKEN INTO CUSTODY (LOCATION & TIME) Peace Park, 20:45 hours							5. RES PHONE 410-555-1987
22. LOCATION OF INCIDENT PEACE PARK		23. SOBRIETY N/A YES ___ NO ___		6. SCHOOL N/A		GRADE N/A	
24. DATE & TIME OF INCIDENT October 4, 2009 20:30		25. NARCOTIC N/A YES ___ NO ___		7. ALIAS OR NICKNAME None	8. SOCIAL SEC. NO 878-99-6990		9. PLACE OF BIRTH Waterloo, Md.
26. VEHICLE INVOLVED: LICENSE STATE YR N/A			10. EMPLOYED Student		BUSINESS PHONE N/A		11. INDENT. NO. N/A
27. OFFICER IN CASE Sgt. Ali Smith		SEQ. NO. DIST. OR UNIT Waterloo		12. INCIDENT (EXPLAIN) Assault		13. COMP. FILED YES <u>X</u> NO ___	
N/A (2)				15. JUDGE TRIAL DATE TBD TBD		16. DISPOSITION Pending	
17. WARRANT NO. BCMD10952006				28. COMPLAINANT Lee Dodd made 911 call		ADDRESS CITY ZIP 44 Scotts Hill Drive, Waterloo 21208	
29. REPORTING PERSON Lee Dodd Witness				RES. PH BUS. PH 410 555-2132 410-555-2100		30. ACCOMPLICE N/A	
31. HOW TRANSPORTED Cruiser				32. CAR NO. 102		33. SEARCHED BY SEQ NO. Sgt. Ali Smith	
34. NATURE OF INJURY N/A				35. HOSPITALIZED N/A		36. NARRATIVE	
<p><i>On October 4, 2009 at approximately 20:15 I was dispatched to the Peace Park for an apparent head injury. Upon arriving at the scene the EMS team was already at the scene attending to Taylor Madigan. I was approached by a Lee Dodd who informed me that he saw the subject, James Corey strike the victim in the side of the head with an open palm and the victim fell to the ground and tried to get back up, but fell back down and did not move. I questioned the subject and Corey James admitted striking the victim, alleging it was a push not a hit. The subject was handcuffed, mirandized, and taken to the station. The victim was taken to Sinai Hospital.</i></p>							
<p>IMPORTANT NOTICE FROM THE CIRCUIT COURT OF WATERLOO COUNTY, DIVISION FOR CRIMINAL</p> <p>You will receive a summons if a complaint is filed with the <u>Waterloo County</u> Circuit Court. You are required to notify the Court Clerk's Office, 41 Court Avenue, Waterloo, MD 21208, 410-555- 2601 of any change of address for you. Failure to obey a Court summons or give notification of change of address will result in re-arrest and a proceeding against you for Contempt of Court.</p> <p>I acknowledge receipt of this notice: <u>Corey James</u> Date: October 4, 2009</p>							

Glasgow Coma Scale

Eye Opening	
Spontaneous	4
To loud voice	3
To pain	2
None	1
Verbal Response	
Oriented	5
Confused, Disoriented	4
Inappropriate words	3
Incomprehensible words	2
None	1
Motor Response	
Obeys commands	6
Localizes pain	5
Withdraws from pain	4
Abnormal flexion posturing	3
Extensor posturing	2
None	1

The scale is used as part of the initial evaluation of a patient, but does not assist in making the diagnosis as to the cause of coma. Since it "scores" the level of coma, the GCS can be used as a standard method for any health-caregiver to assess change in patient status.

Intra-cerebral hemorrhage shown by CT scan



CT Scan of Normal Brain



**Annotated Code of Maryland
Criminal Law Article**

Title 3. Other Crimes Against the Person

Subtitle 2. Assault, Reckless Endangerment, and Related Crimes

§3-201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Assault” means the crimes of assault, battery, and assault and battery, which retain their judicially determined meanings.
- (c) (1) “Law enforcement officer” has the meaning stated in § 3-101(e)(1) of the Public Safety Article without application of § 3-101(e)(2).
- (2) “Law enforcement officer” includes:
 - (i) a correctional officer at a correctional facility; and
 - (ii) an officer employed by the WMATA Metro Transit Police, subject to the jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area Transit Authority Compact, which is codified in § 10-204 of the Transportation Article.
- (d) “Serious physical injury” means physical injury that:
 - (1) Creates a substantial risk of death; or
 - (2) Causes permanent or protracted serious:
 - (i) Disfigurement;
 - (ii) Loss of the function of any bodily member or organ; or
 - (iii) Impairment of the function of any bodily member or organ.

§3-202. Assault in the first degree

- (a) (1) A person may not intentionally cause or attempt to cause serious physical injury to another.
- (2) A person may not commit an assault with a firearm, including:
 - (i) A handgun, antique firearm, rifle, shotgun, short-barreled shotgun, or short-barreled rifle, as those terms are defined in § 4-201 of this article;
 - (ii) An assault pistol, as defined in § 4-301 of this article;
 - (iii) A machine gun, as defined in § 4-401 of this article; and
 - (iv) A regulated firearm, as defined in § 5-101 of the Public Safety Article.
- (b) A person who violates this section is guilty of the felony of assault in the first degree and on conviction is subject to imprisonment not exceeding 25 years.

§3-203. Assault in the second degree

- (a) A person may not commit an assault.
- (b) Except as provided in subsection (c) of this section, a person who violates subsection (a) of this section is guilty of the misdemeanor of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$2,500 or both.
- (c) (1) In this subsection, “physical injury” means any impairment of physical condition, excluding minor injuries.
- (2) A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is a law enforcement officer engaged in the performance of the officer’s official duties.
- (3) A person who violates paragraph (2) of this subsection is guilty of the felony of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

§3-204. Reckless Endangerment

- (a) A person may not recklessly:
 - (1) Engage in conduct that creates a substantial risk of death or serious physical injury to another; or
 - (2) Discharge a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another.
- (b) A person who violates this section is guilty of the misdemeanor of reckless endangerment and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.
- (c) (1) Subsection (a)(1) of this section does not apply to conduct involving:

- (i) The use of a motor vehicle, as defined in § 11-135 of the Transportation Article; or
- (ii) The manufacture, production, or sale of a product or commodity.
- (2) Subsection (a)(2) of this section does not apply to:
 - (i) A law enforcement officer or security guard in the performance of an official duty; or
 - (ii) An individual acting in defense of a crime of violence as defined in § 5-101 of the Public Safety Article.

Maryland Assault Penalties and Sentence Guidelines

Charge
Assault—1 st Degree
Assault—2 nd Degree
Assault—Reckless Endangerment

Appendix A: Guidelines for Attorney Coaches

Please also refer to Appendix B: Guidelines for Judges.

I. Approaches to Student Coaching

A. Initial Sessions

The first session with a student team should be devoted to the following tasks:

- Answering questions that students may have concerning general trial practices;
- Discussing court etiquette
- Explaining the reasons for the sequence of events/procedures found in a trial;
- Listening to the students' approach to the assigned case; and
- Discussing general strategies as well as raising key questions regarding the enactment.

B. Subsequent Sessions

Subsequent sessions should center on the development of proper questioning techniques by the student attorneys and sound testimony by the witnesses. Here, an attorney can best serve as a constructive observer and critical teacher—listening, suggesting, and demonstrating techniques to the team.

Students develop a better understanding of the case and learn more from the experience if the attorney coaches **do not** figure out the angles, fill in the gaps, and determine trial strategy for the team. Coaching, guiding, and asking questions of the students is far more beneficial than telling them how to proceed.

If the competition is to realize its full potential, it is crucial that you help discourage a “win-at-all-costs” attitude among your team members. Please coach your team on proper decorum when a case, or decisions throughout the case, are not decided in their favor.

It is extremely important that students are coached on and understand the “human” element of judging and how that fits into the nature of our judicial process. Part of your focus should rest upon the fact that law is not black and white, and that individuals will interpret the law differently. Similarly, as in the real world, court proceedings will vary in relation to the presiding judge; accordingly, scores, interpretations, and outcomes will vary. What is permitted in one courtroom may not be permitted in another; what is successful in one case, may not be successful in another.

After twenty successful years, it has been shown time and time again that the best teams are those that view defeats as opportunities to learn. Debriefing with team members after wins and losses helps everyone to improve their skills and increase their understanding of the law.

II. Time Commitment

There is no pre-determined amount of time that attorney coaches are expected to spend coaching their teams. Some attorneys are available for one to two sessions per month, and others are available on a daily or weekly basis. Attorneys who have caseloads which do not permit them to coach in the afternoons have worked with teams on weekday evenings or weekends.

While most teams work with one attorney coach throughout the competition season, there are a handful of teams which have opted for a “team” of attorney coaches, so that the time commitment of each attorney is decreased.

Appendix B: Guidelines for Competition Judges

I. Procedures for Scoring Competitions

Rankings are determined by both wins and points. Therefore, it is essential that the presiding judge carefully rate each team on all elements listed on the Performance Rating Sheet.

A. Special Point

Always award the Special Point immediately after the close of the trial, and before adding the scores. This point will be used only in the event of a tie.

B. Decorum

Please be sure to score each team's overall performance in decorum in the space provided on the rating sheet.

C. Announcing Your Decision

1. After awarding, tallying and double-checking the rest of the scores, your first announcement to the teams should focus on the general student performance, decorum, and legal understanding that you just witnessed.
2. Your second announcement should be which team prevailed, based on the merits of the case.
3. Your last announcement should declare who prevailed based on student performance (the score sheet).

II. Time Limitations

Students have been asked to limit their presentations to the timeframes listed below. It is particularly helpful for teams to know in advance how you will handle the time guidelines. Some judges prefer to give a warning, for instance, when there is one minute left; others expect students to be mindful of the time on their own. Still others prefer not to watch the time at all, though this has, at times, led to lengthy competitions. Students should not base an objection on the time. This is left to your discretion as the presiding judge. Competitions should last approximately 1 ½ to 2 hours.

Opening/Closing Statements	5 minutes each
Direct Examination	7 minutes/witness
Cross-Examination	5 minutes/witness
Voir Dire, as part of cross-examination	2 minutes per expert witness (in addition to the 5 minutes permitted for the cross-examination)
Re-Direct and Re-Cross Examination	3 minutes or a maximum of 3 questions

III. Mock Trial Simplified Rules of Evidence

The rules of evidence governing trial practice have been modified and simplified for the purposes of mock trial competitions. They are to govern proceedings. Other more complex rules are NOT to be raised during the trial enactment.

Attorneys and witnesses may neither contradict the Statement of Facts or Affidavits, nor introduce any evidence that is not included in this packet of materials. As with any perceived violation of a rule of evidence, students should object or request a bench conference.

IV. Trial Procedures

A. Motions to Dismiss

The purpose of the competition is to hear both sides; therefore, motions to dismiss, etcetera, are not allowed. There shall be no sequestration of witnesses at any time during the trial. If such a motion is made, the motion MUST be denied.

B. Opening/ Closing Arguments

Competition procedures permit only one opening statement and one closing argument for each team. In Mock Trial Competition, the Defense Team will always make the first closing argument, followed by the Prosecution/Plaintiff. There is no rebuttal in Mock Trial.

C. Direct and Cross Examinations

Each attorney (three for each side) must engage in the direct examination of one witness and the cross-examination of another.

**Maryland State Bar Association
2008-2009
Statewide High School Mock Trial Competition**

Registration Deadline.....Friday, November 6, 2009
Mock Trial Guides Distributed to teams who have registered and paid by 11/7/08.....Tuesday, November 10, 2009
Circuit Competitions (1st level of competition).....January 4 -March 25, 2010

Note: All Circuit competitions must be declared to CLREP no later than March 24, 2010.

Regional Competitions (2nd Level of competition).....Wednesday, April 13, 2010—Thursday, April 14, 2010
(The eight Circuit Champions compete against one another in a single elimination round)

Semi-Final Competitions: Annapolis, MD.....Thursday, April 29, 2010
(The top four teams compete against one another in a single elimination round.)

Statewide Finals: Annapolis, MD.....LIVE WEBCAST.....Friday, April 30, 2010
<http://www.courts.state.md.us/coappeals/webcast.html>

**Note: All competition dates are final.
A change by the Chief Judge of the State of Maryland is the only exception.**

Organizing Local Competitions

The Citizenship Law-Related Education Program will:

- provide Mock Trial Guides and rules for each State competition;
- disseminate information to each circuit;
- provide technical assistance to Circuit Coordinators;
- provide all registered participants who compete for the season with a certificate of participation;
- assist in recruitment of schools;
- act as a liaison in finding legal professionals to assist teams;
- develop press releases, beginning at the Regional Level of Competition.

The role of the Bar Association is:

- to advocate involvement of local attorneys in preparing teams and hearing trials;
- to provide support to schools;
- to assist the Circuit Coordinator.

The role of the Circuit Coordinator is:

- to make decisions/ mediate at the local level when problems or questions arise;
- to establish the circuit competition calendar;
- to arrange for courtrooms, judges, and attorneys for local competitions;
- to inform and attempt to recruit all schools in the circuit;
- to work with the local Bar Associations to set court dates, recruit attorney advisors, and establish local guidelines;
- to arrange general training sessions if necessary.

The role of the individual school/teacher coach is:

- to DEMONSTRATE that winning is secondary to learning;
- to coach and mentor students about the “real-world” aspect of judging in competitions;
- to teach sportsmanship, team etiquette and courtroom decorum;
- to recruit students for the team;
- to arrange training sessions and scrimmages;
- to arrange transportation to competitions
- to supervise the team during practices and competitions;
- to work with partners to recruit attorney advisors;
- to ensure that the team arrives at all scheduled mock trial competitions.

Mock Trial State Champions

2008-2009 Allegany High School Allegany County	1995-1996 Towson High School Baltimore County
2007-2008 Severna Park High School Anne Arundel County	1994-1995 Pikesville High School Baltimore County
2006-2007 Severn School Anne Arundel County	1993-1994 Richard Montgomery High School Montgomery County
2005 – 2006 Severna Park High School Anne Arundel County	1992-1993 Elizabeth Seton High School Prince George's County
2004-2005 Richard Montgomery High School Montgomery County	1991-1992 Oxon Hill High School Prince George's County
2003-2004 The Park School Baltimore County	1990-1991 Westmar High School Allegany County
2002-2003 Elizabeth Seton High School Prince George's County	1989-1990 Bishop Walsh High School Allegany County
2001-2002 Towson High School Baltimore County	1988-1989 Lake Clifton/Eastern High School Baltimore City
2000-2001 DeMatha Catholic High School Prince George's County	1987-1988 Pikesville High School Baltimore County
1999-2000 Broadneck High School Anne Arundel County	1986-1987 Thomas S. Wootton High School Montgomery County
1998-1999 Towson High School Baltimore County	1985-1986 Old Mill High School Anne Arundel County
1997-1998 Pikesville High School Baltimore County	1984-1985 High Point High School Prince George's County
1996-1997 Suitland High School Prince George's County	1983-1984 Worcester County Team