

## Mock Trial Questions & Errors

These clarifications and corrections are drafted by case author Ben Garmoe, and will eventually be added into a revised electronic version of the case packet. If you have additional questions, please send them to Lyanna Williams at [iyanna@mylaw.org](mailto:iyanna@mylaw.org).

- 1. Special Instruction #8 refers to Maryland Rule of Evidence 615. But Rule 615 is not included anywhere in the casebook. Should it not be inserted somewhere?**

Answer: Yes. The case will be updated to include the following rule:

### Rule 615. Excluding Witnesses

At a party's request, the court must order witnesses excluded so that they cannot hear other witnesses' testimony. Or the court may do so on its own. But this rule does not authorize excluding a party to the case.

*Note: for the purpose of Mock Trial, "excluded" shall mean "constructively excluded." No competitors should actually be excluded from the courtroom under this rule, but rather the rule simply indicates that excluded witnesses must act as if they did not hear testimony from other witnesses or statements made by attorneys or the judge.*

- 2. In the last full line of Special Instruction #7, I believe "Barnes and Gardner" should say "Donahue."**

Answer: This is a drafting error. The case will be revised to remove "Barnes and Gardner" from Special Instruction #7 and replace those names with "Donahue."

- 3. The Plaintiff has no party representative for the purposes of Rule 615 (Special Instruction 8). Does the Plaintiff have a party representative for any or all other purposes, and if so, who is/are considered the plaintiff's party representative(s)?**

Answer: The Plaintiff is Michael Griggs, Personal Representative of the Estate of Aaron Griggs. Michael Griggs is Aaron Griggs' father, and has permission to act on behalf of the Estate of Aaron Griggs. Additionally, Rule 801(d)(2) addresses this question, and no further clarification will be issued.

- 4. In Pretrial order, second page, second paragraph: should "Exhibits 14A - 14H" be amended to "Exhibits 14A - 14I"?**

Answer: Yes, this is a drafting error. The case will be revised to replace Exhibits 14A - 14H with Exhibits 14A - 14I in the Pretrial Order Regarding Photographs.

- 5. Elin Sanchez, p. 42, line 188: "Jess was still inside" This seems inconsistent with the end of the same sentence, which reads, "Monroe stepped back out to join**

**Jess." Is this inconsistency intended, or should the beginning of the line read "Jess was still outside" instead?**

**Answer:** This is a drafting error. Line 188 of Elin Sanchez's affidavit will be updated to read "Jess was still outside and after a few minutes Monroe stepped back out to join Jess."

- 6. Jess Leonard, p. 45, line 80: "near a park at Jess's house" seems like it should say instead "at a park near Elin's house" (both to make sense of the phrasing and for consistency with Elin Sanchez, p. 40, lines 94-95)**

**Answer:** This is a drafting error. Line 80 of Jess Leonard's affidavit will be updated to read "In early April the four of us met up at a park near Elin's house."

- 7. Salem Harris, p. 72, line 27: Harris's senior year in high school should be 2002 (to match the following paragraph, with 4 years of undergraduate studies that finished in 2006)**

**Answer:** This is a drafting error. Line 27 of Salem Harris's report will be updated to reflect that Harris graduated from high school in 2002.

- 8. Exhibit 3, p. 83, last paragraph: The exhibit states that the transcript of Jodie Donahue's interview was "9 pages in length." As presented in the casebook, the transcript only runs 7 pages (p. 65-71). Is this inconsistency intended, or should this instead say "7 pages in length" in Exhibit 3?**

**Answer:** This is a drafting error. Exhibit 3 will be updated to indicate that the transcript of Jodie Donahue's interview is 7 pages in length.

- 9. Exhibit 5, p. 86: the handwriting should be in red ink, not black ink (to match with police officers' questions in Donahue interview), or is this inconsistency intended?**

**Answer:** The references to "red" ink on pages 61 (line 206) and 71 (lines 242, 246, and 247) will be changed to "black" to match Exhibit 5 and the printed case materials.

Nothing is written in red. But I just wanted to double check.

- 10. Hunter Knowles's age: Exhibit 13 (DOB: 7/24/1996) makes the witness 25 years old, whereas Hunter Knowles affidavit, p. 50, line 8, states the witness is 26 years old. Should the DOB in the exhibit be changed to 7/24/1995, or should the age in line 8 of the affidavit be changed to 25?**

**Answer:** This is a drafting error. Exhibit 13 will be updated to reflect that Hunter Knowles' date of birth is 7/24/1995.

**11. Jury Instruction 24:1 (bottom of p. 109) tells jurors "you must determine if the plaintiff was an invitee, a bare licensee, or a trespasser." Jury Instructions 24:2a, 24:2b, 24:3, and 24:5 (on p. 110), give instructions about how to consider invitees and trespassers, BUT there is no information about "bare licensee." Should this information be added (or the reference to "bare licensee" in 24:1 removed)?**

Answer: This is a drafting error. Jury Instruction 21:1 will be updated to remove the reference to "bare licensee" and will only reference "invitee" or "trespasser."

**12. For Exhibit 1 – for confirmation – it should only be a headshot/normal picture, not a picture of a "dead" Aaron Griggs, correct?**

Answer: Correct. Aaron Griggs must be alive in Exhibit 1.

**13. For Special Instruction 13, it mentions Case Law, but it only includes Jury instructions.**

Answer: This is a drafting error. The reference to case law can be ignored, as there is no case law in this year's case.

**14. In the case book there are 4 witnesses for the side of the plaintiff - so are we supposed to have a total of 7 students when we are the plaintiff (4 witnesses and 3 lawyers). Also, when we are playing the role of the defense is one lawyer supposed to question two plaintiff witnesses since there are 4 of them.**

Answer: This is fully addressed in Special Instruction 3. The Plaintiff must call **one** of Elin Sanchez or Jess Leonard. Each side will call three witnesses in every trial.

**15. The language of Rule 702 has been modified from previous years. Was this intentional?**

Answer: This is a drafting error. Rule 702 will be updated to read as follows:

Rule 702. Testimony by Expert Witnesses. A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

(a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;

(b) the testimony is based on sufficient facts or data;

(c) the testimony is the product of reliable principles and methods; and

(d) the expert has reliably applied the principles and methods to the facts of the case.

**16. Should Rule 705 be included in the Rules of Evidence?**

Answer: While Rule 705 has not been included in the Rules of Evidence for the past few years, we will update the case to include this rule. The case will be updated to include the following rule:

Unless the court requires otherwise, the expert may testify in terms of opinion or inference and give reasons without first testifying to the underlying facts or data. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

**17. Special Instruction number 6 indicates that all "reports" are not exhibits and not permitted to be entered into evidence, yet the autopsy report and police report are both marked as exhibits and, according to stipulation 3 both are pre admitted into evidence with all objections waived.**

Answer: This Special Instruction refers to the reports authored by witnesses in this case. The Special Instruction will be revised to read as follows:

The affidavits of Elin Sanchez, Jess Leonard, Hunter Knowles, and Monroe Williams, the reports of Rahul Singh and Salem Harris, and the interview of Jodie Donahue are not exhibits and are not permitted to be entered into evidence.

**18. In Exhibit 3 on page 83, the officer indicates that Jodie arrived after Aaron was off the premises. Elsewhere it is clear that Jodie is the one who led the EMTs and police to the cabin (page 43, line 207). Is this intentional?**

Answer: The case stands as written on this point.

**19. Exhibit 6 says Aaron showed them the website on 11/13/19 but in the affidavit of Monroe line 52 it says Aaron showed it to them on 10/31/19.**

Answer: This is a drafting error. Monroe Williams' affidavit will be updated to reflect that Aaron Griggs showed the website to Williams on 11/13/19, to match the dates in Exhibit 6.

I went to the affidavit of Monroe line 52 it says Aaron showed it to them on 10/31/19. Yet I do not see a date.

**20. We have received various questions asking about the wording of the MPJI-Cv 19:1 DEFINITION OF NEGLIGENCE jury instruction on Page 109, and specifically questions about the wording of the "reasonable care" portion of that instruction.**

Answer: The language of this jury instruction is copied directly from the Maryland Pattern Jury Instructions, and it is accurate.

**21. Can rule 404(b)2 regarding the admissibility of character evidence be added to the Rules of Evidence?**

Answer: Yes, this rule will be slightly modified to fit the facts of this year's case. Here is the rule that will be added to the packet:

*Rule 404. Character Evidence; Crimes or Other Acts.*

*(a) Character Evidence:*

*(1) Prohibited Uses: Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.*

*(b) Exceptions in a Criminal case:*

*(1) Evidence of a person's character or character trait may be admissible for another purpose, such as proving motive, opportunity, intent, plan, or knowledge.*

*(2) Evidence of the character or character trait of the defendant, the victim, or any witness testifying in a case may also be admissible if it shows a pertinent trait. Pertinent traits are character traits that relate directly to a particular element of the crime charged or a defense to that alleged crime.*

**22. Can Rule 704 regarding an expert's opinion on the ultimate issue be added to the case packet?**

Answer: Yes. The revised version of the case book will include this rule:

*Rule 704. Opinion on the Ultimate Issue*

*Testimony in the form of an opinion or inference otherwise admissible is not objectionable merely because it embraces an ultimate issue to be decided by the trier of fact. Such testimony may be objectionable based on other sections of these Rules.*

**23. Can you restore a copy of the "Objections" sheet in the case book?**

Answer: Yes. The revised version of the case book will have a copy of the "Objections" sheet that has been included in previous years.