

**State of Hawaii**  
**Rules of the Mock Trial Competition**  
*\*revised December 17, 2009\**

**A. ADMINISTRATION**

**Rule 1.1. Rules**

All trials will be governed by the Rules of the Competition and the Rules of Evidence. Questions or interpretations of these rules are within the discretion of the State Coordinator, whose decision is final. State Coordinator, as used herein, refers to one or more persons on the Mock Trial Committee who may include board members of the Young Lawyers Division of Hawaii State Bar Association (“HSBA”), staff members of HSBA and other designated persons.

**Schools administrators, coaches and students are responsible for reading and understanding the rules of the competition before entering the tournament. Failure to abide by or follow any of the rules detailed herein may result in a team member or a team’s disqualification and/or suspension from the competition. Further actions may include barring a school’s participation in the competitions for a period of time to be determined by the State Coordinator depending on the severity of the misconduct.**

**Rule 1.2. Code of Conduct**

The Rules of Competition, as well as proper rules of courthouse and courtroom decorum and security, must be followed. The State Coordinator, or the Coordinator’s representative, possesses discretion to impose sanctions, up to and including forfeiture or disqualification, for any misconduct, occurring while a team is present, for flagrant rule violations, and for breaches of decorum which affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge or the mock trial program.

**Rule 1.3. Emergencies**

During a trial, the judge shall have discretion to declare an emergency and adjourn the trial for a short period of time to address the emergency.

In the event of an emergency that would cause a team to be unable to continue a trial or to participate, the team must notify the State Coordinator as soon as is reasonably practicable. If the State Coordinator, or its designee, in its sole discretion, agrees that an emergency exists, the State Coordinator, or its designee, shall declare an emergency and will decide whether the team will forfeit or may direct that the team take appropriate measures to continue any trial round. A forfeiting team will receive a loss.

**Rule 1.4 Competition Schedule**

The State Coordinator has the sole responsibility and authority for determining the competition schedule. The competition schedule will be determined randomly and impartially. Schools may not request any changes to the schedule once the schedule has been determined, unless there is sufficient cause that will warrant a change in the schedule. The State Coordinator will review any objections to the schedule and will make determinations on a case-by-case basis.

### **Rule 1.5 Mandatory Coaches' Orientation**

A mandatory meeting of all coaches will be scheduled (at a date to be determined by the State Coordinator) to brief all participants of the rules and regulations of the mock trial tournament, judging, security issues, and any other items that need to be addressed for the competition. Neighbor island coaches will be permitted to participate by telephone. Oahu coaches may participate by telephone under limited circumstances, with approval of the State Coordinator.

### **Rule 1.6 Reimbursements**

While there is no formal limit to the number of students who can be part of the Mock Trial team, the State Coordinator have the discretion of limiting travel reimbursements for teams traveling to either the state championships or national competitions. Reimbursements will be limited to covering ten (10) students and two (2) coaches. Schools are responsible for covering all other expenses for any additional team members and/or coaches that will be accompanying the team to the state championships and/or national competitions.

## **B. THE PROBLEM**

### **Rule 2.1. The Problem**

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

The problem shall consist of three witnesses per side, all of whom shall have names and characteristics which would allow them to be played by either males or females. All three of the witnesses must be called.

### **Rule 2.2. Witnesses Bound by Statements**

Each witness is bound by the facts contained in his/her own witness statement, the Statement of Facts and/or any necessary documentation relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 2.3, "unfair extrapolation."

A witness is not bound by facts contained in other witness statements.

### **Rule 2.3. Unfair Extrapolation**

A fair extrapolation is one that is neutral. Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial.

If a witness is asked information not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue of the case.

Attorneys for the opposing team may refer to Rule 2.3 in a special objection,

such as “unfair extrapolation” or “This information is beyond the scope of the statement of facts.” Possible rulings by a judge include:

- a) No extrapolation has occurred;
- b) An unfair extrapolation has occurred;
- c) The extrapolation was fair; or
- d) Ruling is taken under advisement. The decision of the judge regarding extrapolations or evidentiary matters is final.

When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings.

**Rule 2.4. Gender of Witnesses**

All witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any student may portray the role of any witness of either gender.

**Rule 2.5. Voir Dire**

Voir dire examination of a witness is not permitted.

**C. TEAMS**

**Rule 3.1. Team Eligibility**

1. Teams competing in the Hawaii High School Mock Trial Championship must be comprised of students who are high school students, grades 9-12, and enrolled at the high school entering the team.
2. A school may field more than one team. It is at the discretion of the school to determine if they will enter more than one team. Teams must provide a complete team roster (LIST) of all members of that team by the first round of competition. Once the season has started a student cannot switch teams for any reason.

There is no limit to the number of students who practice as alternates.

**Rule 3.2. Team Composition**

1. Competition Teams consist of no less than five (5) and no more than ten (10) official members assigned to roles representing the Prosecution/Plaintiff and Defense/Defendant sides in any given match. (See Rule 3.3 for further explanation referring to team participation.)

The total size of the team is up to the coaches/school. There is no limit to the total size of the team, other than the minimum number of match play participants. Schools may also choose to field more than one team to increase match play and participation.

**Rule 3.3. Team Presentation**

Teams must present both the Prosecution/Plaintiff and Defense/Defendant sides

of the case. The starting time of any trial will not be delayed for longer than 15 minutes. Incomplete teams will have to begin without the absent members. A complete team has at least 3 witnesses, 1 attorney and a clerk/bailiff. Teams without a sufficient number of participants may forfeit their round. Where practicable, the same team member may portray both a witness role and attorney role during the course of the trial competition.

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

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

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

Each team must call three witnesses. Witnesses must be called only by their own team during their case-in-chief and examined by both sides. Witnesses may not be recalled by either side.

#### **Rule 3.5. Team Roster Form**

Copies of the Team Roster Form must be completed and duplicated by each team prior to arrival at the courtroom for each round of competition. No information identifying team origin should appear on the form. Before beginning a trial, the teams must exchange copies of the Team Roster Form. The Form should identify the gender of each witness so that references to such parties will be made in the proper gender. Copies of the Team Roster Form should also be made available to the judge before each round.

#### **Rule 3.6 Clerk/Bailiff Duties**

1. The Prosecution/Plaintiff's team will furnish a clerk. The Defense/Defendant's team will furnish a bailiff.
2. The clerk will time the various segments of the defense/defendant team's presentation. The bailiff will time the various segments of the Prosecution/Plaintiff team's presentation.
3. The Bailiff will call the court to order and announce recesses. The Bailiff will announce to everyone, "All Rise, the [First/Second/Third/Fifth] Court of the State of Hawaii is now in session. The Honorable Judge \_\_\_\_\_ presiding." When the judge calls for a break, the Bailiff will announce to everyone, "All Rise, the Court is now in recess."
4. The Clerk will swear in every witness. (See Rule 4.4)
5. If elapsed time flip cards are used, the respective clerk/bailiff will be responsible for showing the elapsed time.
6. When the allotted time has expired, the timekeeper will stand and say, "TIME."

## **D. THE TRIAL**

### **Rule 4.1. Courtroom Setting**

No team shall rearrange the courtroom without prior permission of the judge. If furniture and/or chairs need to be moved, it is the responsibility of participating school teams to return furniture and/or chairs in their original positions and locations.

### **Rule 4.2. Stipulations**

Stipulations shall be considered part of the record and already admitted into evidence.

### **Rule 4.3. Reading Into The Record Not Permitted**

Stipulations, the indictment, or the Charge to the Jury will not be read into the record.

### **Rule 4.4. Swearing of Witnesses**

The following oath may be used before questioning begins:

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

### **Rule 4.5. Trial Sequence and Time Limits \*\* revised as of September 1, 2008 \*\***

The trial sequence and time limits are as follows:

1. Opening Statement (6 minutes per side)
2. Direct and Redirect (optional) Examination (18 minutes per side)
3. Cross and Re-cross (optional) Examination (18 minutes per side)
4. Closing Argument (9 minutes per side)

The Prosecution/Plaintiff gives the opening statement first. The Prosecution/Plaintiff gives the closing argument first; the Prosecution/Plaintiff may reserve a portion of its closing time for a rebuttal. The Prosecution/Plaintiff's rebuttal is limited to the scope of the Defense/Defendant's closing argument.

Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial may not be transferred to another part of the trial.

### **Rule 4.6. Timekeeping**

Time limits are mandatory and will be enforced.

Time for objections, extensive questioning from the judge, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements.

Time does not stop for introduction of exhibits.

### **Rule 4.7. Time Extensions and Scoring**

The judge has sole discretion to grant time extensions. If time has expired and an

attorney continues without permission from the Court, the judge may determine whether or not to discount points in a category because of over-runs in time.

**Rule 4.8. Motions Prohibited**

No motions may be made.

**Rule 4.9. Sequestration**

Teams may not invoke the rule of sequestration.

**Rule 4.10. Bench Conferences**

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

**Rule 4.11. Supplemental Material/Costuming**

Teams may refer only to materials included in the trial packet. No illustrative aids of any kind may be used, unless provided in the case packet. No enlargements of the case materials will be permitted. No charts, easels, billboards, mock-ups, videos, multimedia presentations (i.e. Powerpoint) or other visual aids will be admitted. Absolutely no props or costumes are permitted unless authorized specifically in the case materials (Costuming is defined as hairstyles, clothing, accessories, and make-up which are case-specific).

The only documents which the teams may present to the judge are the individual exhibits as they are introduced into evidence and the team roster forms. Exhibit notebooks are not to be provided to the judge.

**Rule 4.12. Trial Communication**

Throughout the course of trial, coaches, teachers, alternates and observers shall not talk to, signal, communicate with, or coach their teams regarding any aspect of the mock trial competition, including, but not limited to, communications regarding the facts and law of the case, mock trial rules, rules of evidence, opening statements, closing arguments, direct and re-direct examinations, cross examinations, timekeeping, scorekeeping, the participants' performances, judging, etc.

This rule remains in force from the commencement of the opening statement until the completion of closing arguments, including recesses, emergency recess and any other periods between opening statement and closing arguments. Participating team members may, among themselves, communicate during the trial; however, no disruptive communication is allowed. Signaling of time by the teams' timekeepers shall not be considered a violation of this rule.

Team members may, however, communicate to their coaches if they believe a violation of the Rules has occurred.

Coaches, teachers, alternates and observers must remain outside the bar in the spectator section of the courtroom or in the jury section, unless the person has prior permission from the State Coordinator. Only team members participating in this round may sit inside the bar and communicate with each other.

School teams in violation of this rule may result in the immediate forfeit and/or suspension from competition.

**Rule 4.13. Viewing a Trial**

The viewing of a trial is limited to those teams competing and their parents and friends. Entry into other courtrooms to view other competitions is strictly prohibited. Any violation of this rule may render a team subject to discipline at the discretion of the State Coordinator.

**Rule 4.14. Videotaping/Photography**

Video recording (whether by video recorder, camera phone or other device) of any tournament competition for the sole purpose of reviewing and evaluating one's own team performance will be permitted with prior permission from the opposing team's coach or faculty member.

Video recording of any kind for scouting purposes (recording of teams other than the one in which the person recording is affiliated with) is expressly forbidden. Any violation of this rule will result in the immediate forfeit of at least one game and may be subject to suspension for the entire competition and/or be banned from competing in future competitions..

Any team has the option to refuse participation in videotaping, tape recording, and still photography by opposing teams.

Media coverage may be allowed at the discretion of the State Coordinator. Media representatives shall wear identification badges.

**Rule 4.15. Bench Trial**

Trials will be judged by the presiding judge, decisions made by the judge are final.

**Rule 4.16. Standing During Trial**

Unless excused by the judge, attorneys will stand while giving opening and closing statements, during direct and cross examinations, and for all objections.

**Rule 4.16.A Standing During Trial – ADA compliance**

Accommodations will be made where needed and will not have any effect on the outcome.

**Rule 4.17. Objections During Opening Statement/Closing Statement**

No objections may be raised during opening statements or during closing arguments. If a team believes an objection would have been proper during the opposing team's opening statement or closing argument, one of its attorneys may, following the opening statement or closing argument, stand to be recognized by the judge and may say, "If I had been permitted to object during closing arguments, I would have objected to the opposing team's statement that \_\_\_\_\_." The judge will not rule on this "objection."

The Judge will weigh the "objection" individually. No rebuttal by opposing

team will be heard.

#### **Rule 4.18. Objections**

1. **Argumentative Questions:** An attorney shall not ask argumentative questions.
2. **Lack of Proper Predicate/Foundation:** Attorneys shall lay a proper foundation prior to moving the admission of evidence. After the exhibit has been offered into evidence, the exhibit may still be objected to on other grounds.
3. **Assuming Facts Not in Evidence:** Attorneys may not ask a question that assumes unproved facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by evidence (sometimes called a "hypothetical question").
4. **Questions Calling for Narrative or General Answer:** Questions must be stated so as to call for a specific answer. (Example of improper question: "Tell us what you know about this case.")
5. **Non-Responsive Answer:** A witness' answer is objectionable if it fails to respond to the question asked.
6. **Repetition:** Questions designed to elicit the same testimony or evidence previously presented in its entirety are improper if merely offered as a repetition of the same testimony or evidence from the same or similar source.

Teams are not precluded from raising additional objections, which are available under the Rules of Evidence.

#### **Rule 4.19. Reserved**

#### **Rule 4.20. Procedure for Introduction of Exhibits**

As an example, the following steps effectively introduce evidence:

1. All evidence will be pre-marked as exhibits.
2. Ask the judge for permission to approach the bench. Show the judge the marked exhibit. "Your honor, may I approach the bench to show you what has been marked as Exhibit No. \_\_?"
3. Show the exhibit to opposing counsel.
4. Ask for permission to approach the witness. Give the exhibit to the witness.
5. "I now hand you what has been marked as Exhibit No. \_\_\_ for identification."

6. Ask the witness to identify the exhibit. "Would you identify it please?"
7. Witness answers with identification only.
8. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No. \_\_ into evidence at this time. The authenticity of this exhibit has been stipulated."
9. Court: "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
10. Opposing Counsel: "No, your Honor", or "Yes, your Honor". If the response is "yes", the objection will be stated on the record. Court: "Is there any response to the objection?"
11. Court: "Exhibit No. \_\_ is/is not admitted."

**Rule 4.21. Use of Notes**

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

**Rule 4.22. Redirect/Recross**

Redirect and Recross examinations are permitted within the allotted time, provided they conform to the restrictions in Rule 611(d) in the Rules of Evidence.

**Rule 4.23. Scope of Closing Arguments**

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

**Rule 4.24. Offers of Proof**

No offers of proof may be requested or tendered.

**E. JUDGING AND TEAM ADVANCEMENT**

**Rule 5.1. Finality of Decisions**

All decisions of the judge are FINAL.

**Rule 5.2. Circuit Definition**

There are Four (4) Circuits identified in the competition. The numbering of the Circuits follows that of the Hawaii State Judiciary:

- |                |   |                      |
|----------------|---|----------------------|
| First Circuit  | - | Oahu                 |
| Second Circuit | - | Maui, Lanai, Molokai |
| Third Circuit  | - | Big Island (Hawaii)  |
| Fifth Circuit  | - | Kauai                |

**Rule 5.3. Semi-Final Advancement**

In the event that one or more of the teams qualifying for the semi-finals is unable to compete:

1. The team that ranked second in the circuit will be asked to stand in for the qualifying team. Should that team be unable to compete as well, the teams in that circuit will be offered the chance to compete in the order of rank. If a tie for second place exists and time permits, a runoff match is preferred. The decision as to whether or not time permits will be made by the State Coordinator. If the State Coordinator decides that there is not enough time for a runoff, Rule 5.5 will determine the semi-finalist.
2. If no other team from the circuit is able to attend the semi-finals, a team from the circuit with the highest number of participating teams will be offered the opportunity to compete in the order of rank. That team will be determined using the procedure above.

**Rule 5.4(1) Odd number of teams participating in a round**

A “bye” becomes necessary when an odd number of teams are present for any given preliminary round of the tournament. In the event of a circumstance resulting in an odd number of competing teams, the following procedure will apply. The team drawing the “bye” (no opponent for a single trial round) will, by default, receive a win. This rule will apply in preliminary rounds,

**Rule 5.4(2) Withdrawals and forfeiture of teams during preliminary rounds**

If a team withdraws from the competition, or forfeits an individual competition, after the preliminary rounds have been scheduled and posted on the HSBA website, the teams scheduled to compete against the withdrawing team receive a win.

**Rule 5.5. Ranking within Circuits (for the purpose of Advancement)**

Each team will be ranked within the circuit. The determination of ranking place/ordinal within the circuit will be made through the process outlined below:

1. Win/Loss Record – Compare the win/loss records of the two teams;
- 1.a. Play-Off Match – Should there be a tie and time allowed for a play-off match, the teams would play against each other in a tiebreaker match.
2. Should time NOT allow for a play-off match the teams would be ranked with the following procedure:
  - 2.a. First-Hand Match-Up – If the two teams have met in competition, the outcome of the match;
  - 2.b. Common Opponent Win/Loss Record – If the two teams have NOT met in competition, what is their comparative win/loss record for the teams they played in common;
  - 2.c. Point Spread – Comparing the combined point spreads of each team’s tournament history. Winning spreads are calculated with a positive score and losing spreads are calculated with a negative score.

**Rule 6.0 Safety**

1. The Young Lawyers Division will not tolerate any misbehavior, threats of

violence, verbal abuse or misconduct by any team, participant, coach, school administrator, parent or anyone associated with the teams or the Mock Trial Program during the course of the Mock Trial tournament. Any person found in violation of any of the rules stated herein may be immediately suspended from the competition and/or prohibited from observing the competition at the sole discretion of the State Coordinator. In addition, the State Coordinator will have the sole discretion to suspend an entire team from the competition and/or prohibit the team from observing the competition regardless of their current standing in the competition if one or more of the team members, coaches, school administrator, parent or anyone associated with the teams are found in violation of any of the rules stated herein. The school may relinquish and forfeit any wins they have earned up to that point and an automatic win will be given to all teams that the school was set to compete against the school.

2. Any improper physical contact and/or communication (both verbal and non verbal) with an opposing team member, coach, teacher or school representative during competition is expressly prohibited. Team members may not inappropriately approach, gesture or talk with opposing team members throughout the course of the competition. The State Coordinator will have the sole discretion to impose the appropriate sanctions as stated in this Rule.
3. Any threats of violence (whether intentional or unintentional) which include the use of profanity, “stare downs”, hand gestures, mocking gestures, verbal threats, use of intimidation and invasions of personal space will not be tolerated. The State Coordinator will have the sole discretion to impose the appropriate sanctions as stated in this Rule.
4. School coaches, advisors and teachers are responsible for ensuring that the participating students are aware and familiar with the rules of conduct noted here. Any person who is concerned about any possible safety issue need to immediately stop the competition and alert the court bailiff, presiding judge or the State Coordinator.

#### **Rule 7.0 Violations/Penalties**

1. School teams found in violation of any of the guidelines and rules contained herein may result in the immediate suspension of the school team from competition regardless of their current standing in the competition. The violating school may be required to relinquish and forfeit any wins they have earned up to that point and an automatic win may be awarded to all teams that the school was set to compete against.
2. Depending on the scope of the misconduct or violation, a school may be barred from participating in future competitions for a set time.

#### **Rule 8.0 Conflict Resolution**

1. School administrators must take an active part in any and all issues relating to the conduct and behavior of their Mock Trial team. School

administrators need to work with the coaches to determine any issues that may prevent their team from conducting themselves in a professional manner.

#### **Rule 8.1 Reporting a Rules Violation During Trial**

If, during the trial, any team has reason to believe that a violation of the Rules of has occurred, the alleged violation shall be presented immediately to the Presiding Judge through one of the team attorneys by objection or to the Young Lawyers Division representative. The Presiding Judge may rule on the matter or take the matter under advisement, and the trial shall continue. While judges will not announce it, they may at their discretion deduct up to ten points from their Score Sheets for a rules violation.

Complaints/Grievances in regard to a judge's rulings, points awarded, or who won the trial will not be entertained.

#### **Rule 8.1 Reporting a Rules Violation Outside of Trial**

1. Any disputes, complaints, allegations or reports of violation of the Rules must be brought by the school administration directly and not through third party legal representatives, coach intermediaries, parents or other affiliated parties even with the school's consent or authorization.

Any complaints, allegations or reports of misconduct must be submitted no more than forty-eight (48) hours after the alleged violation is witnessed and must be in writing submitted directly from the school's principal. The complaint must contain a detailed description of the incident including the time, date and person(s) and team(s) involved. All information must be sent to the HSBA office at 1100 Alakea Street, Ste. 1000; Honolulu, HI 96813 or via fax at (808) 521-7396 or email at [yldmocktrial@gmail.com](mailto:yldmocktrial@gmail.com).

The complaint/grievance process will be governed by this rule and will follow these guidelines:

- 1) Within 48 hours of the incident, the written complaint must be received by the State Coordinator. The complaint may be sent electronically and must contain specific information about the violation.
- 3) After a complaint is received by the State Coordinator, the State Coordinator shall alert the party(ies) against which the complaint was lodged and share the nature of the grievance. The State Coordinator may invite further comment in writing or in person from those involved, in its discretion. All decisions of the State Coordinator shall be final.
- 4) The State Coordinator may decide to issue any one of the following in order of increasing severity:
  - a) Warning: A private conversation discussing the alleged violation with the offending party or parties.

- b) Reprimand: A written letter to the offending party or parties advising them of the Rules violation. This letter may be sent to the individual and/or school.
- c) Suspension: Suspension of an offending individual(s) or team(s) from participation in mock trial for a time period to be specified by the State Coordinator
- d) Disqualifications: Disqualification of an offending individual(s) or team(s) for a time period specified by the State Coordinator, but no less than one competition season.

Complaints/Grievances in regard to a judge's rulings, points awarded, or who won the trial will not be entertained.

- 3. If at all possible, school administrators are encouraged to resolve the issue between the schools themselves before involving the Young Lawyers Division and Hawaii State Bar Association. If no resolution is possible, then the YLD and HSBA can step in to mediate the issue or problem.

**Rule 9.0 Confidentiality**

Under no circumstance will any information be released relating to a participating student's background (financial, criminal, personal and/or family) without the written consent of the party and his/her parents or where legally warranted. All students' personal privacy will be strictly enforced.