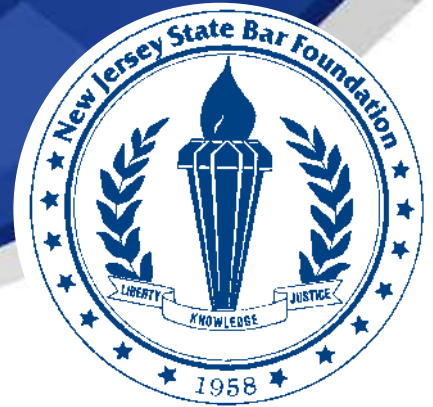


Celebrating 31 Years of Service to the Educational Community



VINCENT J. APRUZZESE

MOCK TRIAL COMPETITION

2012–2013 HIGH SCHOOL WORKBOOK

Sponsored by the New Jersey State Bar Foundation
in Cooperation with New Jersey's County Bar Associations

ATTENTION TEACHER-COACHES

CASE CLARIFICATIONS

We do not send mock trial case clarifications or updates by mail. It will be your responsibility to check our website, www.njsbf.org, periodically for possible updates or corrections.

CODE OF CONDUCT

Teacher- and attorney-coaches, students, parents and observers are expected to abide by the provisions of the competition's Code of Conduct. See Part I of this workbook for details.

UPDATES

Please note that R.2:2-5 has been amended to prohibit teacher- and attorney-coaches from coaching more than one team in any given year.

BEHAVIOR OF CONTESTANTS, JURORS AND OBSERVERS

Students and adults who participate in the New Jersey State Bar Foundation's High School Mock Trial Competition are expected to comport themselves properly in and out of the courtroom. Students and observers must respect their surroundings. Contestants and observers must (a) remove their litter from courtrooms and other areas and place trash in receptacles; (b) refrain from entering sections of the courthouses or other facilities where they are not authorized to be such as judges' chambers, conference rooms, offices, etc.; (c) refrain from using or removing property belonging to the courthouses or other facilities; (d) refrain from tampering with sound systems and (e) leave the courtrooms, jury rooms, restrooms, and common areas of the courthouses or other facilities in good order. Failure to do so may result in sanctions, including, but not limited to, the team's immediate disqualification from the competition.

Vincent J. Apruzzese
2012-2013 High School Mock Trial Competition
Sponsored by the New Jersey State Bar Foundation

OFFICIAL ENTRY FORM

In order to enter the competition, you must complete this Official Entry Form. All entries must be received no later than October 26, 2012. Please type or print clearly.

Name of School _____

School Address _____

_____ Zip _____

County in which School Is Located _____

Name of Teacher-Coach _____

Area Code, Telephone Number and Ext. (work) _____ (home) _____

School Fax Number _____ Date Submitted _____

E-mail Address _____

Please check the following where applicable:

- ☐ I need a lawyer-coach.
- ☐ I already have a lawyer-coach. His/her name is: _____
- ☐ This is my first year coaching mock trial.
- ☐ This is the school's first year of participation in mock trial.
- ☐ We are mock trial "veterans."
- ☐ Other (please explain): _____

Please return this completed entry form to: Sheila Boro, High School Mock Trial Competition,
New Jersey State Bar Foundation, New Jersey Law Center, One Constitution Square, New Brunswick, NJ 08901-1520.
Fax number: 732-828-0034.

Please Note: You must complete and return this form to the State Bar Foundation in order to enter the competition.
Please keep a copy for your records.

Mock Trial Competition

Statement of Goals

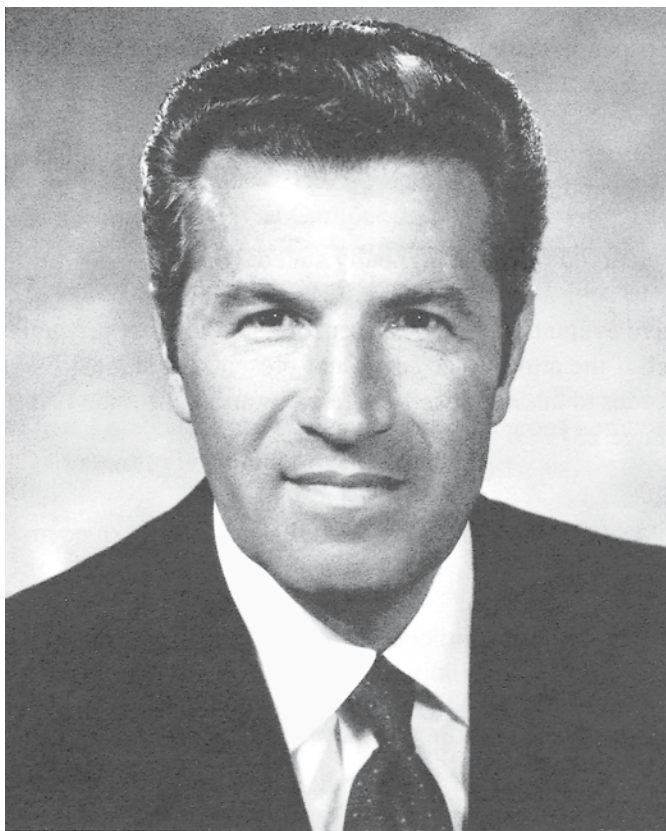
To increase comprehension of the historical, ethical and philosophical basis of the American system of justice.

To demystify the operation of the law, court procedures and the legal system.

To help students increase basic life and leadership skills such as listening, speaking, writing, reading and analyzing.

To heighten appreciation for academic studies and promote positive scholastic achievements.

To bring law to life for students through active preparation for and participation in the competitions. The goal is not to win for the sake of winning, but to learn and understand the meaning of good citizenship in a democracy vis-a-vis our system of law and justice. In this sense, all the students who participate will be winners.



Vincent J. Apruzzese, Esq.

In recognition of his many years of service, the New Jersey State Bar Foundation named its Mock Trial Competition in honor of Vincent J. Apruzzese, Esq. in 1991. Mr. Apruzzese is a past president of the New Jersey State Bar Association. He led the drive to build the New Jersey Law Center, served as the first chairman of the New Jersey State Bar Foundation, and was chair of the Foundation's Public Education Committee for several years. This competition is a fitting tribute to his leadership, indefatigable spirit and insight in implementing free law-related education programs for the public and particularly for young people.

VINCENT J. APRUZZESE

MOCK TRIAL

COMPETITION

Dear Educator:

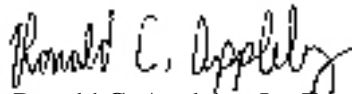
The New Jersey State Bar Foundation's Mock Trial Competition, now in its 31st year, is one of the nation's foremost contests of its kind for high school students. Our Mock Trial Competition has won many national awards for excellence in educational programming.

We thank you, the educators, and your students for your strong support and interest in the Mock Trial Competition. Last year 222 teams registered statewide. We look forward to working with you again in the year ahead.

The New Jersey State Bar Foundation's Mock Trial Competition is made possible by a network of support and cooperation from New Jersey's 21 County Bar Associations. County bar volunteers coordinate trials at the local levels and devote countless hours each year to bring this exciting educational program to students throughout the state. Volunteer attorneys from the counties will assist you and your team in preparing for the competition. This program is made possible through funding from the IOLTA Fund of the Bar of New Jersey.

We hope you'll join us in this classic educational event.

Sincerely,



Ronald C. Appleby, Jr., Esq.
Chair, Mock Trial Committee

VINCENT J. APRUZZESE
**MOCK TRIAL
COMPETITION**

*Sponsored by the New Jersey State Bar
Foundation*

FREE Mock Trial Workshop for Teachers & Attorneys

Learn how to conduct a mock trial and prepare your team for the New Jersey State Bar Foundation's High School Mock Trial Competition on **Monday, October 22, 2012** at the New Jersey Law Center in New Brunswick from **9:30 a.m. to 1:10 p.m.**

The workshop is for teachers and attorneys (county coordinators and attorney-coaches) only. Due to space limitations, we regret that we cannot accommodate students.

Teachers attending the entire workshop will receive professional development hours.

An overview of the mock trial structure, from local contests through statewide finals, will be presented. Students will enact this year's case. A mock trial judge will explain how teams will be evaluated.

The workshop is free but reservations are required. Please complete and return the form below.

Please keep a copy of this workshop form for your records. Directions follow:

From NJ Turnpike: Take Exit 9 to Route 18 North to Route 1 South. Take Route 1 South to Ryders Lane, New Brunswick (FIRST EXIT). The Law Center is the first right turn off of Ryders Lane.

From Trenton: Take Route 1 North to second Ryders Lane sign (RYDERS LANE-NEW BRUNSWICK). Ryders Lane passes over Route 1. The Law Center is the first right turn off of Ryders Lane.

For further information about directions, call 732-249-5000 or visit our website at www.njsbf.org.

Please Note: This is a registration form for the workshop only. It is **not** an entry form. You must complete an **Official Entry Form** in order to enter the competition.

HIGH SCHOOL MOCK TRIAL WORKSHOP

- ☐ Please register me/us for the free workshop on October 22, 2012. I understand that this workshop is for teachers and lawyers only, not students.

NAME(S) _____

SCHOOL OR LAW FIRM ADDRESS _____

WORK PHONE _____ HOME PHONE _____

I am a ☐ Teacher ☐ Attorney-Coach ☐ County Coordinator

Return to: Sheila Boro • New Jersey State Bar Foundation • One Constitution Square
New Brunswick, NJ 08901-1520 • Fax number: 732-828-0034

VINCENT J. APRUZZESE
HIGH SCHOOL MOCK TRIAL COMPETITION

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* The New Jersey State Bar Foundation gratefully acknowledges the assistance of the Mock Trial Committee and the following volunteers in preparing this year's original case: The Hon. Peter F. Bariso, Jr., Assignment Judge, Superior Court, Hudson County; The Hon. Marilyn C. Clark, Presiding Judge, Law Division, Criminal Part, Superior Court, Passaic County; The Hon. Phillip Lewis Paley, Judge, Law Division, Civil Part, Superior Court, Middlesex County; Mock Trial Committee Chair Ronald C. Appleby, Jr., Esq. and committee members Gwendolyn Y. Alexis, Esq., Kathleen M. Dotoli, Esq., Paul J. Endler, Jr., Esq., Lewis C. Fichera, Esq., Edward J. Moody, and R.J. Politowski. Special thanks to attorney Nancy E. Halpern, D.V.M. and to Kristen McCann, D.V.M. for providing technical assistance and helping to bring this case to fruition.

Photo of the West Highland Terrier (exhibit labeled as Sally for the purposes of this mock trial case) provided courtesy Mary Bloom© AKC.

The Vincent J. Apruzzese High School Mock Trial Competition is sponsored by the New Jersey State Bar Foundation and is funded by the IOLTA Fund of the Bar of New Jersey.

PART I
CODE OF CONDUCT
For Participants in the
Vincent J. Apruzzese High School Mock Trial Competition

Please review the following revised code carefully. It is the teacher-coach's responsibility to obtain all required signatures.

OVERALL PURPOSE AND SPIRIT OF THE COMPETITION

The Vincent J. Apruzzese High School Mock Trial Competition ("Mock Trial Competition") has been created for the purpose of stimulating and encouraging a deeper understanding and appreciation of the American legal system by high school students. Because of the competition's experiential educational format, learning derives from various sources and results from both articulated and unarticulated messages. The students learn proper comportment from each other, their teacher-coaches, their attorney-coaches, the volunteer mock trial judges and their parents and other guest-observers in the courtroom. Given the multifarious sources of student learning in the Mock Trial Competition, this Code of Conduct interprets "Participants" to include not only the students, but all of those who have the potential to influence student learning. In keeping with this interpretation, "Extensions" of this Code of Conduct must be executed by the team members, the teacher-coach and the attorney-coach. **In addition, each teacher-coach is required to provide parents and other guest-observers with copies of this Code of Conduct.**

SPECIFIC GOALS OF THE MOCK TRIAL COMPETITION

All Participants shall in manner and in deed do their parts in helping the Mock Trial Competition achieve the following specific goals:

- Promote cooperation, academic integrity, honesty and fair play among students.
- Promote good sportsmanship and respect for others in both victory and defeat. Participants must also demonstrate respect for County Mock Trial Coordinators, mock trial personnel, mock trial judges and other volunteers who make this competition possible.
- Promote good faith adherence to the Mock Trial Competition rules and procedures.
- Improve proficiency in speaking, listening, reading, reasoning and analytical skills.
- Promote respect for the judicial system and instill a notion of proper courtroom decorum. This includes respect for the courthouse and other venues where mock trials take place.
- Promote congeniality and open communication between the educational and legal communities.

SPECIFICALLY PROHIBITED NEGATIVE BEHAVIORS

Although not exhaustive, the following list contains behaviors that are directly opposed to the goals and objectives of the Mock Trial Competition and which, if engaged in, will constitute grounds for such disciplinary action as the County Coordinator at the local level (or Mock Trial Committee at state regional, semi-final and final levels) deems appropriate given the circumstances:

- Failure of the teacher-coach (a) to familiarize all parents and guest-observers with the contents of this Code of Conduct, or (b) to submit Extensions of this Code of Conduct executed by the team members, teacher-coach, and attorney-coach to the County Coordinator prior to the first round of competition.
- Use of communications technology (audio recording, visual recording, telephone, text-messaging by telephone, BlackBerry, laptop or other telecommunications device) by a team member (a) to communicate with any member of its team during an ongoing mock trial round, or (b) to record or in any way memorialize any portion of a round of the competition in which the team is not a participant.

- Acceptance of an audiotape, videotape, DVD recording, CD recording, or other transcription of the performance of another team in a round that the recipient did not participate in, even if the recipient has not viewed the material, listened to the recording or read the transcript.
- Plagiarism by any member of a team or any team's use of material plagiarized by its teacher-coach, its attorney-coach, or by the parents or guest-observers of team members.
- Direct verbal or written communication outside of the courtroom with a volunteer mock trial judge by any team, its teacher-coach, its attorney-coach or the parents or guest-observers of team members, except as permitted after the trial for the teacher- or lawyer-coach under R.5:3-6.

ACCOUNTABILITY FOR AND CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT

All Participants, including parents and guest-observers, must adhere to the rules and procedures of the Mock Trial Competition and this Code of Conduct (which includes by this reference the Extensions signed by the student teams, teacher-coaches and attorney-coaches). Failure to abide by the Mock Trial Code of Conduct is sufficient grounds for disqualification and dismissal of the team with which the offender(s) is directly or indirectly connected at the sole discretion of the County Coordinator at the local level or the Mock Trial Committee at the state regional, semi-final and final levels.

EXTENSION OF CODE OF CONDUCT

To Be Signed by Teacher-Coach Participants in the Vincent J. Apruzzese High School Mock Trial Competition

I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct in my role as teacher-coach, hereby agreeing to focus attention on the educational value of the Mock Trial Competition.

I agree to act as an adult role model for my students and to discourage willful violations of the rules. I will instruct my students as to proper procedure and decorum and will assist them in understanding and abiding by the competition rules and procedures as well as adhering to the spirit of this Code of Conduct. By action and by deed, I will teach my students the importance of treating others with respect and courtesy. In my interaction with other teacher-coaches, attorney-coaches, mock trial judges, county mock trial coordinators, other volunteers and mock trial personnel, I will set an example that my students can follow.

I understand that I have the following responsibilities for which I, alone, am accountable:

- Training students to fulfill the role of jurors and bringing a sufficient number of student jurors to each round of competition.
- Circulating the Code of Conduct to all parents and guest-observers in advance of their attending any of the rounds of competition.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, MySpace, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions.

I agree to act as a role model by carrying out my responsibilities as a teacher, never forgetting that I am representing the educational system in addition to coaching high school students as their mock trial advisor. Thus, I will zealously encourage fair play and promote conduct and behavior that is in keeping both with proper courtroom decorum and the spirit of the Mock Trial Competition. I will discourage skirting the rules and engaging in obstructionist behavior that interferes with the orderly flow of courtroom procedures. I agree to inculcate the highest standards of the education profession by discouraging a culture of win-at-any-cost and by promoting a spirit of willing compliance with the rules of the competition and the ethical guidelines provided by this Code of Conduct.

Date: _____

Teacher-Coach

School

EXTENSION OF CODE OF CONDUCT

To Be Signed by Attorney-Coach Participants in the Vincent J. Apruzzese High School Mock Trial Competition

I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct in my role as attorney-coach, hereby agreeing to abide by the rules and procedures of the Mock Trial Competition and to uphold the highest standards of the legal profession.

I agree to act as a role model of our honorable profession by carrying out my responsibilities as an officer of the court, never forgetting that I am representing the judicial system in addition to coaching high school students as their mock trial advisor. Thus, I will zealously encourage fair play and promote conduct and behavior that is in keeping both with proper courtroom decorum and the spirit of the Mock Trial Competition. I will discourage skirting the rules and engaging in obstructionist behavior that interferes with the orderly flow of courtroom procedures. I agree to inculcate the highest standards of the legal profession by discouraging a culture of win-at-any-cost and by promoting a spirit of willing compliance with the rules of the competition and the ethical guidelines provided by this Code of Conduct.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, MySpace, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions.

Date: _____

Attorney at Law, State of New Jersey

School

EXTENSION OF CODE OF CONDUCT

To Be Signed by Student Team Member Participants in the Vincent J. Apruzzese High School Mock Trial Competition

As a Team Member/Juror of _____ High School, I state that I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct as a condition of participation in the Mock Trial Competition and hereby promise to compete with the highest standards of comportment, showing respect for my fellow students, opponents, judges, attorney-coaches, teacher-coaches, county mock trial coordinators and mock trial personnel.

I agree to accept both defeat and success with dignity and restraint. I promise to avoid all tactics that I know are wrong or in violation of the rules. I make a commitment to comply with the rules of the competition in spirit and in practice. I will not plagiarize or accept plagiarized material. I will not use telecommunications technology to circumvent the rules or to gain unfair advantage. I understand that use of telecommunications technology in the courtroom by any Participant (with the exception of permissible videotaping by participating teams per R.2:5-3) seeking to gain advantage for a team subjects that team to the risk of disciplinary action, which could result in an expulsion of the team from the competition or in the lesser penalty of a score reduction.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, MySpace, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions.

By signing below, I agree to vigorously uphold the Code of Conduct of the Mock Trial Competition:

Date: _____	_____
Date: _____	_____
Date: _____	_____
Date: _____	_____
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Date: _____	_____

PART II

RULES OF GENERAL APPLICATION

RULE 2:1 APPLICABILITY, SCOPE, CONSTRUCTION AND CITATION OF RULES

2:1-1 APPLICABILITY; SCOPE

The Vincent J. Apruzzese Mock Trial Competition is governed by these simplified rules of procedure and evidence. Additional rules regarding the competition and its procedures are contained throughout this workbook. Please read the entire workbook carefully. **Other rules of procedure or evidence may not be raised.**

2:1-2 CONSTRUCTION

These rules shall be construed to secure a just determination, simplicity in procedure, and fairness in administration of the competition.

2:1-3 CITATION

Attorneys should be prepared to cite the specific rule number upon which an objection is based if requested to do so by judges.

RULE 2:2 GENERAL CONTEST FORMAT

2:2-1 LOCAL COMPETITIONS

Each team must compete in at least two trials, switching sides for the second trial. If there are an uneven number of teams in the initial two trials, the County Mock Trial Coordinator has the discretion to ask teams to volunteer to play both sides at the same time or to randomly assign team(s) to do so. Contestants must be prepared to field both sides simultaneously if necessary. If a team does not have enough members to play both sides at once, the teacher-coach must notify the County Mock Trial Coordinator in advance.

In the event of an emergency, last-minute cancellation by a team, or failure of a team to appear, which may create an uneven number of teams competing, the County Mock Trial Coordinator shall designate one team to field both sides.

After each team has had an opportunity to play both sides, the County Mock Trial Coordinator may elect to utilize a single-elimination or other format. The County Mock Trial Coordinator has the authority to configure local contest schedules. The County Mock Trial Coordinator will determine which teams advance based upon win/loss record and point scores. In a configuration where teams play only two rounds initially, a team with two losses should not advance and a team with two wins should advance. Where three rounds of competition are initially scheduled, a team with three losses should not advance and a team with three wins should advance.

If a team has questions about the local competition, the teacher-coach should contact the County Mock Trial Coordinator. Names and phone numbers of County Mock Trial Coordinators are posted on our website, www.njsbf.org.

2:2-2 DATES AND TIMES; FAILURE TO APPEAR

Local contest dates and times will be determined by county coordinators. **Failure to appear on the dates specified by the County Mock Trial Coordinator will result in forfeiture.** The county coordinator works very hard to arrange contest schedules, and teams should make every effort to participate in the local contest once they have entered. Last-minute cancellations create scheduling difficulties for everyone.

2:2-3 POSTPONEMENTS

Postponements may be made only by the county coordinator.

2:2-4 CHANGES TO RULES AND PROCEDURES

No rule or procedure may be changed after the 30th day preceding the first contest.

2:2-5 OFFICIAL REPRESENTATIVE OF EACH TEAM

The official representative of a mock trial team is the teacher-coach, not students, lawyer-coaches or others. All communications regarding a team must be made by and through the teacher-coach as official team representative.

Communications received from students will not be answered. See R.2:14-15. Teacher-coaches and attorney-coaches are prohibited from coaching more than one team in any given year.

2:2-6 WORKBOOKS

Workbooks may be photocopied as necessary, and permission to photocopy a workbook is hereby granted. Please download the workbook from the Foundation's website, www.njsbf.org.

RULE 2:3 TEAMS

2:3-1 TEAM MEMBERS

A competing team in any given round shall consist of no more than TEN (10) students—two (2) attorneys, three (3) witnesses and alternates—plus the teacher-coach. A school may enter ONE (1) team only. For any single trial, a team must consist of two (2) attorneys and three (3) witnesses. The competition is open to New Jersey high schools only.

2:3-2 IDENTIFICATION OF TEAMS

Teams will be identified by I.D. numbers, not high school names, and teams should not bring materials, such as notebooks, T-shirts, school newspapers, etc., that would identify their schools. Guests of each team should similarly be requested to refrain from wearing or bringing items to contests that would identify the schools with which they are affiliated. Contestants are not permitted to identify their school or the opposing team's school to the judges.

2:3-3 STUDENT JURIES

Each team should bring SIX (6) student jurors to each competition. Team members may serve as jurors in rounds in which their team is not playing, and jurors may serve as team members in rounds in which they are not serving as jurors. A student should not serve as a juror on a trial in which his or her school is participating unless there are extenuating circumstances. Rules pertaining to student jurors are set forth infra at R. 2:4.

RULE 2:4 STUDENT JURIES

2:4-1 PURPOSE OF STUDENT JURIES

The purpose is to provide students with a better understanding of the duties and responsibilities of jurors and to enable more students to participate in the competition.

2:4-2 JURY CHARGE

Because of time restraints, actual procedures for selection and "charge" of jurors will not be followed. Juries will render their decision based upon a simplified charge and upon the factual testimony they have heard during the course of the trial. (The charge to the jury is the final address by the judge to the jury before the verdict, in which the judge sums up the case and instructs the jury as to the rules of law which apply to its various issues and which they must observe.) The judge will not read the charge to the jury. Jurors are expected to be familiar with the contents of the jury charge.

2:4-3 JURY VERDICT

Student juries will be required to render a verdict based upon the merits of the case and applicable law. They will **not** at any time determine which team wins or advances to the next round. That decision will be made by the judges

only. Jurors will neither score team performances nor will their verdicts or performances as jurors be scored.

2:4-4 PROHIBITIONS

Jurors are not allowed to take notes or use recording devices.

2:4-5 PROCEDURES

In all competitions, the jurors from losing teams will be released, except for the runners-up. In each phase, jurors from first runner-up teams will be eligible to act as jurors in the final competition on the local or regional level. The runners-up from the state semi-final competition will be eligible to serve as jurors in the final statewide championship round at the New Jersey Law Center.

In the statewide championship round, the jurors of winning teams will not participate, unless the runner-up team is not available. The runner-up team in the semi-finals will be requested to provide jurors for the championship round.

Jurors should proceed immediately to the courtroom in which the trial they are assigned to will be conducted and shall seat themselves in the jury box. Jurors will only be triers of the facts. Their decisions will not affect which team wins.

At the conclusion of the trial, jurors will be allotted 15 minutes maximum to deliberate the facts and render a decision concerning those facts. Student jurors shall be responsible for electing a spokesperson from among the jury to advise the judge of the jury's verdict when the trial reconvenes. The spokesperson must briefly summarize the reasons for their verdict. Generally, jurors are requested to arrive at an unanimous decision.

Jurors are requested to take into consideration only the facts that are presented to them without considering testimony which may have been presented in a previous trial in which they acted as jurors.

RULE 2:5 GENERAL PROCEDURE FOR TRIALS

2:5-1 DETERMINATION OF SIDES — STATE LEVEL

Determination of which team will be prosecution/plaintiff and which team will be defense at the state level, which includes regionals, regional finals and state semi-finals as well as the final round, will be made by drawing lots a few minutes before each trial begins. However, if the same two teams have previously met in the statewide semi-finals and have both qualified for the statewide finals, the teams must switch sides in the championship round. At the regionals, teams that are eligible to advance to the next round will switch sides if possible. Where it is impossible for both teams to switch sides, a drawing of lots must be used to determine assignments in the next round.

2:5-2 DETERMINATION OF SIDES — LOCAL/COUNTY LEVEL

At the local/county level, sides for the initial round of competition may be preassigned at the discretion of the County Mock Trial Coordinator. Contestants in any subsequent round of a competition should automatically switch sides in the case for the next round (provided that they are eligible to advance to the next round). Where it is impossible for both teams to switch sides, a drawing of lots must be used to determine assignments in the subsequent round.

2:5-3 OBSERVATION OF TRIALS BY NON-PARTICIPANTS

Teams are permitted to observe mock trial contests, even if they are not participating in those contests. Note-taking by observers during competitions is permissible. Teams that are not participating in a round shall not audiotape or videotape or use any other technological means to obtain auditory or visual information. Only participating teams will be allowed to videotape or audiotape mock trial contests. Each school will be allowed to designate one official videotaper/audiotaper. Experience has demonstrated that careful preparation has more impact on the quality of presentation and the final result than last-minute changes based on the above.

RULE 2:6 PREPARATION OF MOCK TRIAL CONTESTS

2:6-1 MEETINGS WITH ASSIGNED ATTORNEYS

All teams are to work with their assigned attorneys in preparing their cases. It is recommended that teams meet with their lawyer-advisers at least six times prior to the contest. See Part VI for suggestions regarding the attorney-adviser's role in helping a team prepare for the competition.

2:6-2 DRESS REHEARSALS

All teams are required to conduct one full trial enactment (dress rehearsal) with attorney-advisers in attendance based on the case prior to the first round of the competition. Additional sessions devoted to the attorneys' questioning of individual witnesses are also recommended.

RULE 2:7 DECISIONS

The judge(s) will render a decision based on the quality of the students' performance in the case and the best team presentation. The judges have been instructed to rate the performance of all witnesses and attorneys on the team. (See Performance Rating Sheet.)

Judges will provide qualitative evaluations only, based on the categories in the rating sheet. Numerical scores will **not** be released. The purpose of this procedure is to re-emphasize the educational goals of the competition. Judges will provide evaluations and announce the winning team before the jury delivers its verdict. The jury verdict is not significant in the judges' evaluation.

Contestants may, as always, discuss their trials with judges after each contest if time permits. However, contestants are prohibited from contacting competition judges directly to complain about competition results. See Rule 2:14 and Rule 2:15.

The student jury will decide on the merits of the legal case and the applicable law. This decision of guilt or innocence in a criminal case, or finding in favor of the plaintiff or defendant in a civil case, does **not** determine which team wins or advances to the next round.

The decisions of the judges are final.

RULE 2:8 SCORING PERFORMANCES

While all possible measures are taken to encourage consistency in scoring, not all mock trial judges evaluate the performance of students identically. Even with rules and evaluation criteria for guidance, the competition reflects the subjective quality present in all human activities.

Please review the score sheet at the back of this workbook very carefully.

RULE 2:9 TIME LIMITS

The following time limits will be in effect:

Opening Statements—4 minutes for each side

Direct Examination—6 minutes for each witness

Cross-Examination—7 minutes for each witness

Closing Statements—8 minutes for each side

Every effort shall be made to respect these time limits. County coordinators are encouraged to appoint bailiffs to keep time. Bailiffs will also be appointed at the regional, statewide semi-final and statewide final levels. Bailiffs will keep time, and their decisions regarding timekeeping are final. Challenges to timekeeping will not be considered. Timekeepers may issue one-minute warnings verbally or through the use of a card or hand signals. When time is up, judge(s) must halt the trial. Regarding objections, the clock will be stopped.

Re-direct and re-cross (optional, to be used at the discretion of the team)—After cross-examination, additional questions may be asked by the direct-examining attorney, but questions must be limited to matters raised by the attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on re-cross, but such questions must be limited to matters raised on re-direct examination and should avoid repetition. **One minute will be allowed for re-direct and re-cross respectively. Judges should not deduct points if a team decides not to re-direct or re-cross.** (See R. 5: 4-16.)

RULE 2:10 REGIONAL COMPETITION

To reach the statewide finals, a team will have to compete in a two-part regional competition. Winning teams from each county qualify for the first stage of the regionals, consisting of two, single-elimination trials. Winners of the first stage will return for regional playoffs. Winners of the regional playoffs qualify for the statewide semi-finals. Winning semi-finalists will be eligible to compete in the statewide finals. If there is a tie score, the judge(s) will make the final determination based on overall team performance.

Please take note of all of the following contest dates before entering the competition in order to make sure your team can attend.

The New Jersey State Bar Foundation will be responsible for coordinating the regional competitions. **All regionals will be conducted at the New Jersey Law Center in New Brunswick as follows: South—February 5, 2013; North—February 6, 2013; and Central—February 7, 2013. Regional playoffs will be held on February 27, 2013.** Please reserve these dates. Inability to attend will result in forfeiture.

To find out which regional your county belongs in, please call 732-937-7519 or e-mail sboro@njsbf.org.

RULE 2:11 SEMI-FINALS

Regional finals winners are eligible to compete in the statewide semi-finals scheduled for **March 18, 2013** at the New Jersey Law Center in New Brunswick. Please reserve this date. Inability to attend will result in forfeiture.

RULE 2:12 STATEWIDE FINALS

The winners of the semi-finals are eligible to compete in the statewide championship round scheduled for **March 20, 2013** at the New Jersey Law Center in New Brunswick. This date is final; please arrange your schedule accordingly. Inability of finalist teams to attend will result in forfeiture. This will be a single-elimination round. The judges' decision will be final.

2:13 STUDENT ILLNESS POLICY

In the event that one or more members of a team cannot compete due to illness, another member or members of that team may substitute for them. The substitutes must be team members who are not already playing in that round. In addition, jurors may serve as substitutes unless they are already serving as jurors in a round. One attorney cannot play the roles of both attorneys in any given round. Likewise, one witness cannot play the roles of other witnesses in the same round. A student-lawyer cannot play the role of a witness in the same round nor can a witness play the role of a lawyer in the same round. If a contestant becomes ill while a trial is in progress, judge(s) may grant a 15-minute recess. During that time, the teacher-coach may arrange for another team member or juror to continue in place of the ill student. The team with the ill student and their teacher-coach and attorney-coach may communicate about the ill student and his or her replacement during the emergency recess. If the ill student cannot continue to compete, and a substitution cannot be made, the team must forfeit the round. It is recommended that teacher-coaches prepare “understudies” in case of illness.

2:14 COMPLAINT PROCEDURE

No one shall contact any competition judge to complain about competition results. **Only teacher- or attorney-coaches are authorized to communicate about questions, problems, comments or complaints about contests. Communications received from students will not be answered.** Students should discuss issues or concerns with their teacher-coaches. Complaints about county competitions must be submitted in writing, via e-mail to your County Mock Trial Coordinator. Names and addresses of the County Mock Trial Coordinators will be posted on the New Jersey State Bar Foundation’s website, www.njsbf.org. Please remember that, as stated in R. 2:7, the decisions of the judges are final. If a teacher-coach, as official team representative, wishes to file a grievance regarding another coach’s/team’s conduct or alleged rule violation, such complaint should be emailed promptly to the County Coordinator at the county level or to the Mock Trial Committee at the state regional, semi-final and final level. The County Coordinator or Mock Trial Committee shall forward the grievance to the teacher-coach of the team against which it is lodged and shall give that party a specific time period in which to respond. Final disposition of the grievance rests with the County Coordinator at the local level or the Mock Trial Committee at the state level.

2:15 QUESTIONS REGARDING CASE OR RULES

Contestants who have questions about the mock trial case and/or rules should submit them through their teacher- or attorney-coaches. Teacher- or attorney-coaches should e-mail or fax their questions to Sheila Boro, director of mock trial programs, at sboro@njsbf.org or fax to 732-828-0034. **Communications received from students will not be answered.** Please identify yourself, your school, whether you are the teacher-or attorney-coach, and provide a daytime phone number.

PART III

HINTS ON PREPARING FOR A MOCK TRIAL COMPETITION

The following tips have been developed from previous experiences in training a mock trial team.

All students should read the entire set of materials and discuss the information/procedures and rules used in the mock trial contest.

The facts of the case, witnesses' testimony, and the points for each side in the case then should be examined and discussed. Key information should be listed as discussion proceeds so that it can be referred to at some later time.

All team roles in the case should be assigned and practiced.

Credibility of witnesses is very important to a team's presentation of its case. As a result, students acting as witnesses need to really "get into" their roles and attempt to think like the persons they are playing. Students who are witnesses should read over their statements (affidavits) many times and have other members of the team or their class ask them questions about the facts until they know them cold.

Student team members 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.

The best teams generally have students prepare their own questions, with the teacher-coach and attorney-adviser giving the team continual feedback and assistance on the assignment as it is completed. Based on the experience of these practice sessions, attorneys should revise their questions, and witnesses should restudy the parts of their witness statements where they are weak.

Opening and closing statements should also be written out by team members. Legal and/or non-legal language should be avoided where its meaning is not completely understood by attorneys and witnesses.

Closing statements should not be totally composed before trial, as they are supposed to highlight the important developments for the prosecution or plaintiff and the defense which have occurred during the trial. The more relaxed and informal such statements are, the more effective they are likely to be. Students should be prepared for interruptions by judges who like to question the attorneys, especially during closing argument.

As a team gets closer to the first round of the contest, the competition requires that it conduct at least one complete trial as a kind of "dress rehearsal." All formalities should be followed and notes taken by the teacher-coach and students concerning how the team's presentation might be improved. A team's attorney-adviser should be invited to attend this session and comment on the enactment.

The ability of a team to adapt to different situations is often a key part in a mock trial enactment since each judge—or lawyer acting as a judge—has his or her own way of doing things. Since the proceedings or conduct of the trial often depend in no small part on the judge who presides, student attorneys and other team members should be prepared to adapt to judicial rulings and requests, even if they appear contrary to outlined contest procedures and rules.

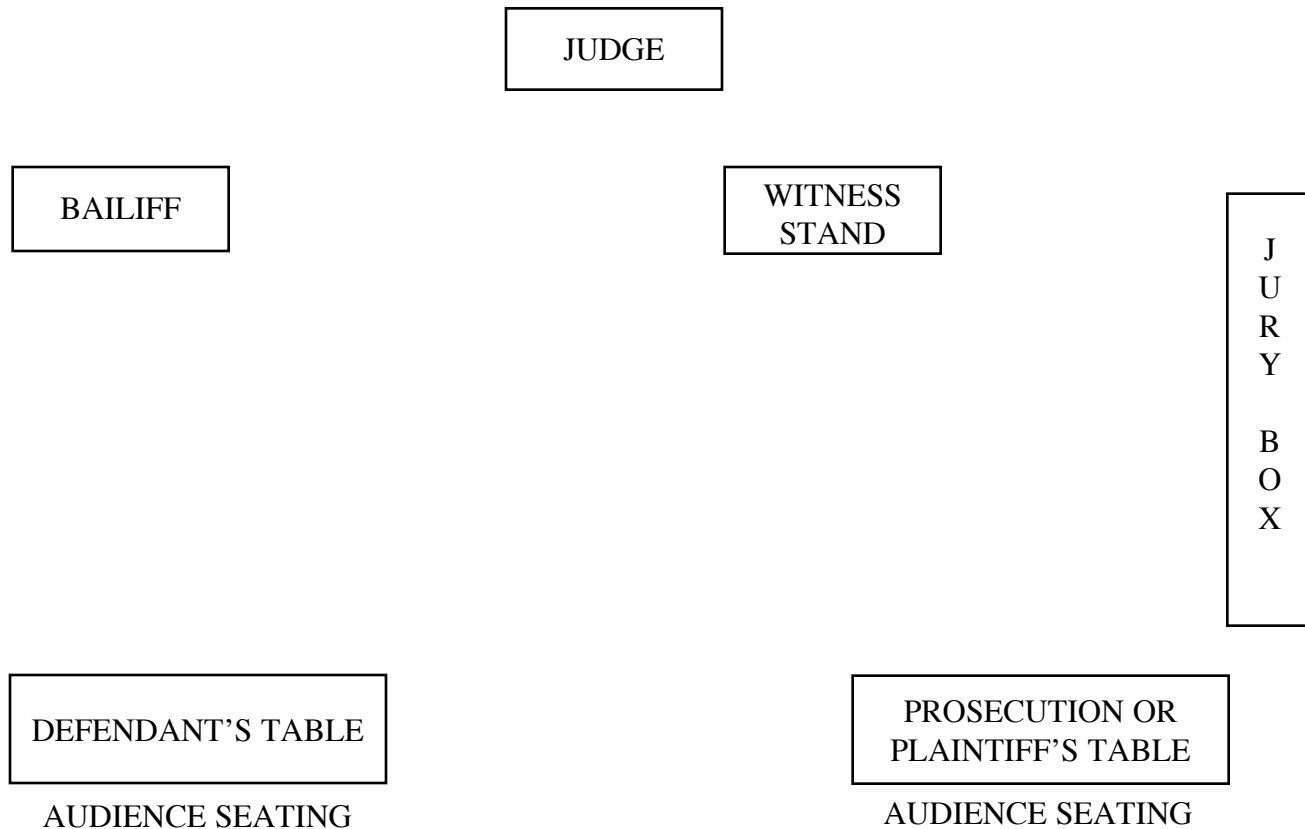
Some of the things most difficult for team members to learn to do are:

- (a) To decide which are the most important points to prove their side of the case and to make sure such proof takes place;
- (b) To tell clearly what they intend to prove in an opening statement and to argue effectively in their closing statement that the facts and evidence presented have proven their case;
- (c) To follow the formality of court, e.g., standing up when the judge enters; or when addressing the judge, to call the judge “your honor,” etc.;
- (d) To phrase questions on direct examination that are not leading (carefully review the rules and watch for this type of questioning in practice sessions);
- (e) Not to ask so many questions on cross-examinations that well-made points are lost. When a witness has been contradicted or otherwise discredited, student attorneys tend to ask additional questions which often lessen the impact of points previously made. (Stop — recognize what questions are likely to require answers that will make good points for your side. Rely on the use of these questions. Avoid pointless questions!)
- (f) To think quickly on their feet when a witness gives an unexpected answer, an attorney asks unexpected questions, or a judge throws questions at the attorney or witness. (Practice sessions will help prepare for this.)

PART IV 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 exercise and the order in which they occur.

COURTROOM LAYOUT



PARTICIPANTS

The Judge(s)

The Attorneys

Prosecutor–Defendant (Criminal Case)

Plaintiff–Defendant (Civil Case)

The Witnesses

Prosecutor–Defendant (Criminal Case)

Plaintiff–Defendant (Civil Case)

STEPS IN MOCK TRIALS

The Opening of the Court

Either the clerk of the Court or the judge will call the Court to order.

When the judge enters, all participants should remain standing until the judge is seated.

The case will be announced, i.e., “The Court will now hear the case of _____ v. _____.”

The judge will then ask the attorneys for each side if they are ready.

Appearances

Opening Statements to the Jury

(1) Prosecution (in criminal case)/Plaintiff (in civil case)

The prosecutor in a criminal case (or plaintiff's attorney in a civil case) summarizes the evidence which will be presented to prove the case.

(2) Defendant (in criminal or civil case)

The defendant's attorney in a criminal or civil case summarizes the evidence which will be presented to rebut the case the prosecution or plaintiff's attorney has made.

Direct Examination by Prosecution or Plaintiff's Attorney

The prosecutor(s) or plaintiff's attorney(s) conduct direct examination (questioning) of each of their own witnesses. At this time, testimony and other evidence to prove the prosecution's or plaintiff's case will be presented. The purpose of direct examination is to allow the witness to narrate the facts in support of the case. Direct examination is limited by the scope of the affidavits and/or the exhibits contained in this workbook.

NOTE: The attorneys for both sides, on both direct and cross-examination, should remember that their **only function is to ask questions which elicit the most important facts of the case**; attorneys themselves may not testify or give evidence, and they must avoid phrasing questions in a way that might violate this rule.

Cross-Examination by Defendant's Attorney

After the attorney for the prosecution or plaintiff has completed questioning each witness, the judge then allows the other party (i.e., defense attorney) to cross-examine the witness. The cross-examiner seeks to clarify or cast doubt upon the testimony of opposing witnesses. Inconsistency in stories, bias, and other damaging facts may be pointed out through cross-examination.

Direct Examination by Defendant's Attorneys

Direct examination of each defense witness follows the same pattern as the preceding which describes the process for prosecution's/plaintiff's witnesses.

Cross-Examination by Prosecution or Plaintiff's Attorneys

Cross-examination of each defense witness follows the same pattern as the step above for cross-examination by the defense.

Closing Arguments to the Jury

(1) Defense

The closing statement for the defense is essentially the same as for the prosecution/plaintiff. Counsel for the defense reviews the evidence as presented, indicates how the evidence does not satisfy the elements of the charge or claim, stresses the facts favorable to the defense and asks for a finding (verdict) of not guilty (criminal case) or judgment for the defense (civil case). The defense will give its closing argument first, followed by the prosecution/plaintiff, as done in real trials.

(2) Prosecution or Plaintiff

A closing statement is a review of the evidence presented. It should indicate how the evidence has satisfied the elements of the case, and ask for a finding (verdict) of guilty (criminal case).

THE JUDGE'S ROLE

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 trials held without a jury, the judge also has the function of determining the facts of the case and rendering a judgment. (The student jurors will render a verdict, but will not determine which team wins. That will be decided by the judges.)

At all levels of the competition, a panel of two judges will judge the contests wherever possible. This may include two judges, sitting or retired, one judge and one lawyer, or two lawyers. If, for any reason, only one judge is available for any given contest, the contest shall proceed with one judge.

THE STAFF'S ROLE

Staff of the New Jersey State Bar Foundation attend the regional, semi-final and final contests in order to handle room and luncheon arrangements. **Please do not ask staffers to get involved in the competition proceedings. Student team members are responsible for pointing out infractions, if any, to judge(s). The judge(s) will then decide.** (See Part V for further details, particularly the section dealing with objections.)

PART V

SIMPLIFIED RULES OF PROCEDURE AND EVIDENCE

RULE 5:1 GENERAL PROCEDURE DURING TRIALS

5:1-1 USE OF EXHIBITS

The use of evidentiary or demonstrative exhibits not contained in this Mock Trial Workbook is not permitted. Use of props, visual and illustrative aids, other than what is specified in this workbook, is prohibited. Case materials cannot be enlarged unless specifically stated. It is assumed that once an exhibit has been put into evidence, it has been published to the jury. As such, copies of the exhibits shall not be distributed to the jury.

5:1-2 STATEMENT OF FACTS AND STIPULATIONS

The Statement of Facts, if provided, and any additional stipulations may not be disputed. The Statement of Facts is not admissible as an exhibit.

5:1-3 MOTIONS

No motions of any kind are allowed. For example, defense cannot make a motion to dismiss after the prosecution has rested its case. Motion for directed verdict is also prohibited.

5:1-4 VOIR DIRE

Voir dire, the preliminary examination of a witness or juror to determine his or her competency to give or hear evidence, is prohibited.

5:1-5 COURTROOM DECORUM

Usual rules of courtroom decorum apply to all participants. Appropriate, neat appearance is required.

RULE 5:2 OBJECTIONS

5:2-1 IN GENERAL

Procedural objections and objections to evidence are restricted to those in the Mock Trial Workbook. Other objections found in the New Jersey and Federal Rules of Evidence are not permitted. All objections, except those relating to openings or closings, shall be raised immediately by the appropriate attorney. When an objection is made, each side will usually have at least one fair opportunity to argue the objection before the presiding judge rules. Sidebars are not permitted. Competitors shall refrain from interrupting an adversary during opening statements or closing arguments. (See Rule 5:2-6.)

5:2-2 TIME FOR OBJECTIONS

A student attorney can object any time that the opposing team has violated the rules of evidence or has violated the rules or procedures of the Mock Trial Competition. **IMPORTANT:** Only student attorneys may object to any violations they believe have occurred, and they must object directly to the judge during the trial at the time of the violation, except as set forth in Rule 5:2-6.

5:2-3 LIMITATION ON OBJECTIONS

Objections made after the trial has concluded cannot be addressed. NJSBF staff members cannot object on your behalf. Please do not ask staffers to intervene in the competition.

5:2-4 MANNER OF OBJECTIONS

The attorney wishing to object should stand up and do so at the time of the violation, except as set forth in Rule 5:2-6. When an objection is made, the judge will ask the reason for it. Then the judge will turn to the attorney who asked the question, and that attorney usually will have a chance to explain why the objection should not be accepted (“sustained”) by the judge. The judge will then decide whether a question or answer must be disregarded because it has violated a rule of evidence or mock trial procedure (“objection sustained”) or whether to allow the question or answer to remain on the trial record (“objection overruled”). When objecting to a competition rule or procedural violation, student attorneys should be prepared to refer to the appropriate rule number in this workbook if requested to do so by judges. All objections should be made succinctly, with the reason for the objection publicly stated.

5:2-5 FORM OF OBJECTIONS

Following are some examples of the standard forms of evidentiary objections allowed in the Mock Trial Competition. However, counsel need not parrot the exact words of the provided forms.

Irrelevant evidence: “I object, your Honor. This testimony is irrelevant to the facts of the case.”

Leading question: “Objection. Counsel is leading the witness.” (Remember, this is only objectionable when done on direct examination.)

Unfair extrapolation: “Objection. The witness’ testimony is ‘unfair extrapolation’ in violation of R.5:4-6 in that it goes beyond the witness’ statement/deposition or any reasonable inference to be drawn therefrom.”

Improper character testimony: “Objection. The witness’ character or reputation has not been put in issue.”

Hearsay: “Objection. Counsel’s question/the witness’ answer is based on hearsay.” (If the witness makes a hearsay statement, the attorney should also say, “and I ask that the jury be directed to disregard the statement.”)

Opinion: “Objection. Counsel is asking the witness to give an opinion.”

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

Speculation: “Objection. The question calls for speculation on the part of the witness.”

Non-responsive answer: “Objection. The answer is not responsive.”

Compound question: “Objection. Counsel is asking the witness a compound question.”

Mischaracterization of testimony: “Objection. Counsel is mischaracterizing the witness’s testimony.”

Assuming facts not in evidence: “Objection. Counsel’s question (or closing argument) assumes facts which are not in evidence.”

Lack of proper foundation: “Objection. Counsel has not laid a proper foundation for the question (or for admission of an exhibit).

Narrative answer: “Objection. Counsel’s question calls for a narrative answer.”

Conclusion of law improperly called for by the question: “Objection. Counsel is calling for the witness to make a conclusion of law.”

Argumentative question: “Objection. Counsel’s question is argumentative.”

While there is no limit on the number of objections attorneys may raise, teams should be aware that judges may assess scoring penalties for objections which are frivolous.

5:2-6 OBJECTIONS TO OPENINGS AND CLOSINGS

The presiding judge may interrupt an attorney’s opening or closing statement to ask questions. However, attorneys may not interrupt or object during the opposition’s opening or closing, but must raise any objections to openings or closings immediately after the opposing attorney concludes. The presiding judge will then rule on the objections and instruct the jury as may be necessary.

RULE 5:3 PROCEDURE REGARDING ATTORNEYS

5:3-1 MANDATORY ATTORNEY PARTICIPATION IN EXAMINATIONS

Each attorney shall conduct the examination of three witnesses (1 direct and 2 cross-examinations or 2 direct and 1 cross-examination).

5:3-2 ATTORNEY OPENINGS/CLOSINGS

Each team must present an opening statement and closing argument. An attorney for a team presenting the opening statement may not make the closing argument. An attorney is not permitted to advise the jury of facts in opening for which there is no good faith basis in the Mock Trial Workbook materials. In closing argument, an attorney is not permitted to comment on evidence that was not presented or evidence which was excluded by the presiding judge. In an opening or closing, an attorney is allowed to make arguments from a fair extrapolation of the facts in the Mock

Trial Workbook. “Fair extrapolation” refers to an inference that can be reasonably made from the facts stated in the Mock Trial Workbook or from testimony adduced during the course of the trial. The defendant’s attorney shall make the first closing statement, followed by the prosecuting/plaintiff attorney. No rebuttal statements are permitted. Students should be prepared for interruptions by judges who may question the attorneys during closing argument.

5:3-3 DESIGNATION OF ATTORNEY PERMITTED TO OBJECT

Only one attorney may address any one witness. The attorney who will examine or cross-examine the witness is the only attorney who may make an objection. Likewise, only the attorney who will open may object to the opposition’s opening statement and only the lawyer who will close may object to the opposition’s closing.

5:3-4 USE OF NOTES BY ATTORNEYS

Attorneys are permitted to use notes in presenting their cases.

5:3-5 COMMUNICATION BETWEEN AND AMONG TEAM MEMBERS AND OTHERS

A. During a trial, law instructors, coaches, and all other observers may not talk to, signal or otherwise communicate, in any manner whatsoever, with or, in any way, coach or attempt to coach any members of the team.

B. No team member shall seek to communicate, verbally, non-verbally or in writing, with any witness who is in the act of testifying.

C. Only the two participating student-attorneys may communicate with each other during the five-minute pre-summation recess.

Failure to comply with the aforementioned shall be considered a violation of the mock trial rules. Should any team member participating in that round observe any conduct which is in violation of this rule, s/he shall immediately and unobtrusively bring the alleged violation to the attention of the appropriate student attorney. The student attorney, at his/her discretion, may then object to the presiding judges. Any such objection must be made at the time the violation is noted, and in the case of Section B above, prior to the witness leaving the witness stand.

The judge(s) shall immediately make an inquiry into the matter and may deduct one or more points at their discretion. The deduction may come from the score of the witness, the attorney(s), and/or the overall team score.

5:3-6 COMMUNICATION WITH JUDGES

No one affiliated with a competing team is permitted to have any contact with competition judges before or during the competition. Only student-attorneys and student-witnesses may communicate with the judges during a trial. After a trial has concluded, judges may meet privately with the attorney-coach, or teacher-coach if the attorney-coach is not present, for at least five minutes in order to answer specific questions and to provide additional evaluation of students’ performances.

RULE 5:4 WITNESS TESTIMONY

5:4-1 FACTS RELIED UPON FOR TESTIMONY

Each witness is bound by the facts contained in his/her own witness statement, the facts contained in the Statement of Facts, if provided, and the necessary documentation provided in the competition workbook. A witness is not bound by facts contained in other witness statements.

5:4-2 WITNESS’ PHYSICAL APPEARANCE

A witness’ physical appearance in the case is as he or she appears in the trial enactment.

5:4-3 WITNESS’ GENDER

Contestants cannot change the gender of witnesses as provided in the case unless it is indicated that a witness can be male or female. Male or female contestants, however, may play the roles of any witnesses.

5:4-4 REQUIRED EXAMINATION OF WITNESSES

Each team of attorneys must engage in either the direct examination or cross-examination of each witness. Direct examination is limited by the scope of the affidavits and/or the exhibits contained in the workbook.

5:4-5 DIRECT EXAMINATION

On direct examination, each witness is bound by the facts contained in his/her own witness statement, the Statement of Facts, if present, and/or any necessary documentation provided in the workbook relevant to his/her testimony. A witness is not bound by facts contained in other witness statements. On direct examination, a witness is not permitted to quote from the witness statement of another witness. Fair extrapolation, as defined in R. 5:4-6, is permitted.

5:4-6 FAIR EXTRAPOLATION

A witness who is testifying may use fair extrapolations from his or her own statement. “Fair extrapolation” refers to an inference that can be reasonably made from the facts stated in the witness statement of the testifying witness. A witness who is testifying on direct examination, in responding to questions of counsel, may utilize the reasonable and logical inferences from his or her own statement. Testimony which is unsupported by the facts in a witness’ own statement and/or intended solely for the purpose of materially strengthening his or her team’s position, is “unfair extrapolation” and is in violation of the rules and spirit of the competition. If a witness invents an answer which is favorable to his or her side, but not fair extrapolation, the opposition may object; the judge will decide whether to allow the testimony. An exception to this rule can occur when an attorney on cross-examination asks a question, the answer to which is not included in the witness statement. The witness is then free to “create” an answer.

5:4-7 CROSS-EXAMINATION

On cross-examination, a witness is permitted to invent an answer which is not included in his/her witness statement only as permitted by R.5:4-6. If that answer is inconsistent with any other evidence, including statements of that witness, the Statement of Facts, or any other stipulations, the cross-examining attorney may impeach or object as may be appropriate. For example, he or she may object to an answer as being non-responsive.

5:4-8 IMPEACHMENT

On cross-examination, the attorney may want to show the court that the witness should not be believed. This is called impeaching the witness. A witness may be impeached by showing that he or she has given a prior statement that differs from his or her trial testimony, that he or she has some interest in the outcome of the case, that he or she has a bias for or against any other party or person, that he or she has some other motivation to either lie or be untruthful, or that he or she is simply mistaken as to what he or she has seen or heard.

5:4-9 USE OF NOTES BY WITNESSES

Witnesses are not permitted to use notes while testifying during the trial.

5:4-10 REQUIRED WITNESSES

All three witnesses for each side must testify. Teams may not call another team’s witnesses.

5:4-11 SEQUESTERING WITNESSES

Sequestering witnesses is not permitted.

5:4-12 LEADING QUESTIONS

Leading questions are not permitted on direct examination or re-direct examination. However, leading questions are permitted on cross-examination and re-cross-examination.

In direct examination, attorneys call and question witnesses. Witnesses may not be asked leading questions by the attorney who calls them. A leading question is one that suggests to the witness the answer desired by the examiner, and often suggests a “yes” or “no” answer. Direct questions generally are phrased to evoke a set of facts from the witness.

Example of a direct question: “Mr. Hudson, when did you meet June Harris?”

Example of a leading question: “Mr. Hudson, isn’t it true that you first met June Harris on April 14, 1981?”

In cross-examination, attorneys question the other side’s witnesses. An attorney may ask leading questions when cross-examining the opponent’s witnesses. Questions tending to evoke a narrative answer should be avoided (these usually begin with “how,” “why” or “explain”).

5:4-13 NARRATIVE QUESTIONS

Narrative questions (questions that call for a narrative answer) and narrative answers are generally not permitted.

While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions should not be so broad that the witness is allowed to wander or narrate a whole story.

Example of a narrative question: “Mr. Hudson, what went wrong with your marriage?”

Narrative answers: At times, a direct question may be appropriate, but the witness’ answer may go beyond the facts for which the question asked.

5:4-14 SCOPE OF DIRECT EXAMINATION

Direct examination may cover all facts relevant to the case of which the witness has firsthand knowledge. It is limited by the scope of the witness statements and/or the exhibits in this workbook. Any factual areas examined on direct examination may be subject to cross-examination.

5:4-15 SCOPE OF CROSS-EXAMINATION

The scope of cross-examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness’ statement, including all reasonable inferences that can be drawn from those facts and matters. Opposing counsel may also inquire into any omissions from the witness’ statement that are otherwise material and admissible and/or into any issue potentially affecting the credibility of the witness.

5:4-16 SCOPE OF RE-DIRECT AND RE-CROSS EXAMINATION

After cross-examination, additional questions may be asked by the direct-examining attorney, but questions must be limited to matters raised by the opposing attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on re-cross, but such questions must be limited to matters raised on re-direct.

Re-direct and re-cross are optional, to be used at the discretion of the team. One minute will be allowed for re-direct and re-cross respectively. Judges should not deduct points if a team decides not to re-direct or re-cross.

RULE 5:5 EVIDENCE RULES

5:5-1 CHARACTER EVIDENCE

Evidence about the character of a party may not be introduced unless the person’s character is an issue in the case.

5:5-2 OPINION TESTIMONY

- A. No witness may give an opinion about how the case should be decided. This is called the “ultimate issue” question. In addition, witnesses may not give testimony in the form of an opinion unless it fits within one of the exceptions below.
- B. A lay (non-expert) witness may offer testimony in the form of opinions or inferences if those opinions or inferences are (1) rationally based upon the perception of the witness and (2) helpful to a clear understanding

of the witness' testimony or the determination of a fact in issue.

- C. A lay witness may offer testimony in the form of an opinion based on the common experience of laypersons in the community and of which the witness has firsthand knowledge.
- D. An expert witness may offer testimony in the form of an opinion only if the subject matter is within the expert's area of expertise.

Certain witnesses who have special knowledge or qualifications may be qualified as "experts." An expert must be qualified by the attorney for the party for which the expert is testifying; this means that before an expert can be asked an expert opinion, the questioning attorney must bring out the expert's qualifications and experience. A witness may not testify to any matter of which the witness has no personal knowledge.

Example: If Mrs. Davis was not present at the scene of an intersectional collision between a Ford Explorer and a bus, she could not say, "The bus went through the red light."

5:5-3 HEARSAY

Hearsay is defined as any evidence of a statement made by someone *who is not a witness in the case* which is offered to prove the truth of a fact, a piece of evidence or any witness' testimony. A witness is not permitted on direct examination to quote from the witness statement of another witness.

Example: Mrs. Mills is testifying. Her witness statement contains the following statement: "Mr. Hudson told me he was at the scene of the crime." This is inadmissible hearsay (if offered to prove that Mr. Hudson was at the scene of the crime) unless Mr. Hudson is also a witness in the case. If Mr. Hudson is a witness in the case, then the statement is not hearsay.

Example: Mrs. Mills is testifying. Mr. Hudson is a witness in the case. His witness statement contains the following statement: "I heard Mrs. Harris threaten my son." There is no reference in the witness statement of Mrs. Mills about Mr. Hudson hearing Mrs. Harris threaten his son. Mrs. Mills may *not* testify that "Mr. Hudson said that Mrs. Harris threatened his son." The statement is not contained in the witness statement of Mrs. Mills. Such testimony is inadmissible hearsay and also violates the mock trial rule that prohibits a witness on direct examination from quoting from the witness statement of another witness.

The following are exceptions to the hearsay rule:

5:5-4 HEARSAY EXCEPTION—ADMISSION AGAINST INTEREST

Hearsay may be admissible if it was said by a party in the case and contains evidence which goes against that party's interest (e.g., in a murder case, the defendant told someone he committed the murder).

5:5-5 HEARSAY EXCEPTION—STATE OF MIND

Hearsay may be admissible if it consists of evidence of what someone said which describes that particular person's state of mind at the time it was being said.

5:5-6 HEARSAY EXCEPTION—RELIED UPON BY EXPERT

Hearsay may be admissible if it was relied upon by an expert witness and forms the basis for the expert's opinion.

5:5-7 RELEVANT EVIDENCE

Only relevant testimony and evidence may be presented. Relevant evidence is that which tends to make a fact which is important to the case more or less probable than the fact would be without the evidence.

5:5-8 EXCLUDABLE RELEVANT EVIDENCE

Relevant evidence may be excluded at the discretion of the presiding judge if it is unfairly prejudicial, may confuse the issue, or is a waste of time.

RULE 5:6 INTRODUCTION OF PHYSICAL EVIDENCE

5:6-1 PRE-TRIAL CONFERENCE

Physical evidence must be relevant to the case and the attorney must be prepared to define its use on that basis. In an actual trial an attorney introduces a physical object or document for identification and/or use as evidence during the trial. **For the purposes of this mock trial competition, there will be a pre-trial conference, lasting no more than five minutes, in which both prosecution's/plaintiff's and defendant's attorneys get together to present pre-marked exhibits for identification before trial.**

The purpose of the pre-trial procedure is to avoid eroding into each team's time limitations during the trial and to help students understand that attorneys, while they are adversaries, can also work cooperatively to benefit their clients. During this pre-trial, students should introduce themselves and the roles they will play. Remember to give the judges scoresheets with the names of the students at this time. See "Important Notice" preceding scoresheets for details.

5:6-2 ADMISSIBILITY

The statements of witnesses, whether in affidavit or deposition format, are not admissible into evidence, but may be used during cross-examination for impeachment purposes. All other exhibits in the problem may be admitted (without objection) by any party wishing to utilize them.

After the exhibits have been agreed upon, the attorneys may ask witnesses about the documents.

For example, an attorney may show a letter (already agreed upon as an exhibit by both sides) to a witness. "Mr. Davis, do you recognize this document which is marked Plaintiff's P1 for identification?" (The witness should say yes and identify the document.)

At this point the attorney may proceed to ask the witness a series of questions about P1.

If the attorney wishes to place the document into evidence, say, "Your Honor, I offer this letter for admission into evidence as Plaintiff's P1 and ask the court to so admit it."

Get a ruling from the court on admission and hand the document to the judge.

Bringing physical evidence to the trial, e.g., a weapon in the case of a murder trial, is prohibited unless otherwise indicated. It is sufficient to rely upon the documents provided in this workbook for exhibits. Use of props, visual and illustrative aids, other than what is specified in this workbook, is prohibited. See R. 5:1-1.

PART VI

GUIDELINES FOR ATTORNEY TEAM ADVISERS

The rules of evidence governing trial practice have been modified and simplified for the purposes of this mock trial competition (see Part V of this packet.) Other more complex rules are **not** to be raised during the trial enactment.

Team members cannot contradict the witness statement sheets for the case (see Part VIII of this packet) nor introduce any evidence that is not included in this packet of materials.

ALL WITNESSES MUST TAKE THE STAND.

The decision of the judge(s) in any mock trial enactment determines which team advances. This decision is to be based on the quality of the students' performance.

The preparation phase of the contest is intended to be a cooperative effort among students, teacher-coach and attorney-adviser. **Remember:** The official representative of a mock trial team is the teacher-coach, **not** students, lawyer-coaches or others. All communications regarding a mock trial team will be made by and through the teacher-coach as official team representative.

When assisting students, attorney-advisers should avoid use of highly complicated legal terminology unless such terminology is pertinent to the comprehension of the case.

Attorneys should not “script” or prepare the cases for the students. As part of the educational goals of the competition, students are expected to read, study and analyze the case. Attorney-coaches may then help students to refine their strategy.

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

- answering questions which students may have concerning general trial practices;
- explaining the reasons for the sequence of events/procedures 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.

A second and subsequent session with students 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 constructive observer and critic-teacher, i.e., listening, suggesting, demonstrating to the team.

Courtroom Visit—In order to provide a “real life” look at a trial, attorney-coaches should consider arranging, through the local courthouse, a courtroom visit for their team(s).

GENERAL GUIDELINES TO PRESENTATIONS FOR JUDGES

Under contest rules, student-attorneys are allowed to use notes in presenting their cases; witnesses may **not** use notes in testifying.

Attorneys and witnesses may neither contradict the witness statement sheets for the case nor introduce any evidence that is not included in this packet of materials.

Only **one** opening and closing statement is allowed.

Except for opening the court, general procedural instructions, rulings on objections, etc., it is best to keep judicial involvement/participation to a minimum during the trial enactment.

Each attorney (two for each side) shall conduct the examination of three witnesses. See R.5:3-1.

The rules of evidence governing trial practice have been modified and simplified for the purposes of this mock trial competition (See Part V of this packet). They are to govern proceedings. Other more complex rules are **not** to be raised during the trial enactment.

Witness statements may be used by attorneys to “refresh” a witness’ memory and/or impeach the witness’ testimony in court.

Attorneys have been asked to keep their presentations within the following guidelines: Opening Statements—4 minutes; Closing Statements—8 minutes; Direct Examination—6 minutes/witness; and Cross-Examination—7 minutes/witness. Regarding objections, the clock will stop. One minute will be allowed for re-direct and re-cross respectively. See rule 2:9 on “Time Limits” for details. Judges should **not** deduct points if a team decides not to re-direct or re-cross.

The decision of the judge(s) determines which team advances and which team is eliminated.

In the event of a tie score, the judge(s) shall make a final determination based on overall team performance. Judges may award an additional point to the team with the better overall team performance in order to break a tie. See Part IX for details.

Judges may include in their rating of overall team performance an evaluation of civility and compliance with the Code of Conduct in this workbook as well as compliance with mock trial rules.

If a team fails to adhere to the established guidelines/rules set forth for the competition, a judge may (depending upon the circumstances of the violation) lessen his/her rating of that team.

The student jury will render the verdict. The judge will decide which team wins. The judge should explain that these two decisions are separate. Winning the verdict does not necessarily mean that the team has won the competition.

Better understanding is promoted among students and teachers if the judge(s) in a mock trial takes a few minutes following the enactment to explain his/her decision(s) regarding the teams’ presentation. Judges will provide a qualitative evaluation of each team’s performance. They will not release numerical scores. Judges may also offer their opinions regarding the legal merits of the case after the student jury has rendered a verdict. Judges are also encouraged to meet privately with the attorney-coach, or teacher-coach if the attorney-coach is not present, for at least five minutes after the contest has concluded in order to answer specific questions and to provide additional evaluation of students’ performances.

The judges’ decisions are final.

PART VII

MOCK TRIAL VIDEOTAPE LOAN PROGRAM

In order to help as many teachers and students as possible participate in the Mock Trial Competition, the Foundation will lend a 65-minute videotape to contestants. The videotape, which is available in one-half inch VHS and DVD, was taped at the New Jersey Law Center in 1995. The Mock Trial Instructional Videotape or DVD may be borrowed for a period of two weeks, after which time it must be returned.

You may also purchase this videotape or DVD at cost plus postage and handling. If you would like to purchase a copy, send your request with a check or money order in the amount of \$10 payable to the New Jersey State Bar Foundation (address follows on the next page).

The following videotapes of the 1998 and 2001 National High School Mock Trial Championships and DVDs of the 2007–2009 American Mock Trial Invitational Finals are available for loan only:

“1998 National High School Mock Trial Championship Final Round”—In this final round of the 1998 National High School Mock Trial Championship conducted in Albuquerque, New Mexico, on May 9, New Jersey’s 1997-98 statewide championship team, Cherry Hill High School East of Camden County, defeated Guam for the national title. The Cherry Hill High School East team represented the defendant in this criminal trial dealing with homicide. Please note that the national rules differ from those of the Vincent J. Apruzzese High School Mock Trial Competition. (2 hours, available in videotape only)

“2001 National High School Mock Trial Championship Final Round”—On May 12, in the final round of the 2001 National High School Mock Trial Championship in Omaha, Nebraska, Iowa narrowly defeated New Jersey’s 2000–2001 statewide championship team, Montclair High School of Essex County. In the 2001 national case, high school senior Chris Hall is charged with possession of methamphetamine, a controlled substance. Hall maintains that rival Taylor Jennings, a student who is in competition with Hall for senior class valedictorian, planted the drugs in his/her backpack. Please note that the national rules differ from those of the Vincent J. Apruzzese High School Mock Trial Competition. (3 hours, 31 minutes, available in videotape only)

“2007 American Mock Trial Invitational (AMTI) Final Round”—On May 4, Family Christian Academy of Tennessee defeated University Preparatory Academy of Washington State at the New Jersey Law Center in New Brunswick. The case deals with aggravated manslaughter and death by vehicular homicide. Photo montage of our group trip to the Ellis Island Immigration Museum is also included. Please note that AMTI rules differ from those of the Vincent J. Apruzzese High School Mock Trial Competition. (2 hours, available in DVD only)

“2008 American Mock Trial Invitational (AMTI) Final Round”—On May 20, D.H. Hickman High School of Missouri defeated Gray Stone Day of North Carolina at the Mecklenburg County Courthouse in Charlotte, NC. In this case, Bailey Kissner, who was a young, up-and-coming amateur golfer, is suing Polk Hospital, a private psychiatric facility, for negligence in allowing Martin Dutcher to be released from 24-hour supervised care without ensuring he no longer posed a threat to himself or others. Dutcher assaulted Kissner in a road rage incident, then later Dutcher took his own life. Kissner seeks monetary damages for pain and suffering and pecuniary losses arising from the assault and battery. The trial will determine issues of liability and damages. Please note that the AMTI rules differ from those of the Vincent J. Apruzzese High School Mock Trial Competition. (1 hour, 49 minutes, available in DVD only).

“2009 American Mock Trial Invitational (AMTI) Final Round”—On May 19, Menlo School of California defeated Victory Christian Center School of North Carolina at the Middlesex County Courthouse in New Brunswick, NJ. In this case, a teenager severely burned in a fire in a barn illegally converted to a casino, sues the owner of the barn. The owner claims no knowledge of the use to which renters put the barn. AMTI rules differ from those of the Vincent J. Apruzzese High School Mock Trial Competition. (101 minutes, available in DVD only)

To borrow a mock trial videotape or DVD, send your request to:

**High School Mock Trial Video/DVD, New Jersey State Bar Foundation,
One Constitution Square, New Brunswick, NJ 08901-1520**

Please enclose a \$50 security deposit for each videotape or DVD you want to borrow. This will be returned to you when you return the videotape(s) or DVD(s). **Videotapes and DVDs must be returned via insured U.S. mail, certified mail or UPS so that shipments may be tracked.** Orders will be filled on a first-come, first-served basis. **We cannot fill orders over the phone. Specify which videotape(s) or DVD(s) you want.**

Please handle with care as we have only a limited number. **A fee will be assessed in the event borrowed tapes or DVDs are not returned or are damaged.** Thank you for your cooperation.

PART VIII

Capella v. Petzicon Products, Inc.

STATEMENT OF FACTS

1. Sally, a female West Highland Terrier, was purchased in October 2009 from an apparent reputable breeder in Chestnut Hill, Virginia, by Carmen Capella.
2. After one year, Carmen Capella had successfully shown Sally in local, state and regional dog shows. As a two-year-old, Sally earned the nation's most coveted award, Best in Show, at the prestigious American Accredited Breed Dog Show.
3. Shortly afterward, Carmen Capella observed some minor discomfort in Sally, which s/he initially thought to be anxiety related. Upon closer examination, s/he determined Sally was reacting to a minor flea irritation.
4. Carmen Capella's first course of action was to apply an unnamed flea bath product. Sally experienced no noticeable relief.
5. Carmen Capella's second course of action was to immediately apply a topical flea treatment manufactured by Petzicon Products, Inc. Minutes following the treatment, Sally began exhibiting neurological problems, the loss of function of her rear legs and disorientation.
6. The following day, Sally was examined by a veterinarian and remained at the clinic for intensive care for an "apparent toxic event."
7. Two days following Sally's admission to the clinic, she died.
8. No necropsy was performed.

The plaintiff has instituted a civil action and alleges negligence on the part of the defendant, Petzicon Products, Inc. for creating an "unreasonably dangerous product." The plaintiff further alleges to have suffered damages as a result of the death of his/her dog Sally.

The defense denies any responsibility for the allegations stated in the complaint. It also contends that the plaintiff cannot meet its burden of proof by demonstrating by a preponderance of credible evidence that a Petzicon product was the proximate cause of Sally's death.

Exhibits

1. Champion Show Dogs and Their Earnings
2. Memorandum from Bill Thomas
3. Photo of Sally
4. Sally's Estimated Expenses

Stipulations

1. Witnesses may be male or female.
2. All witness statements and reports are deemed to be sworn and signed. If asked, a witness must acknowledge swearing an oath or certifying to the contents of the document on the date indicated therein, and also to signing the document.
3. Costumes, make-up and "props" are prohibited.
4. The trial judge shall dispense with the reading of the jury charge, and it shall be stipulated that all jurors are familiar with its contents.
5. Sally had no history of any significant medical problems.
6. Jamison St. Clair and Val Popinjay are experts in the valuation of show dogs.
7. Dr. Delani is an expert in veterinary science and care.
8. Sam Stone is an expert in chemical engineering and the effect of drugs and other substances on dogs and other domestic pets.

The plaintiff's witnesses follow:

Carmen Capella

Jamison St. Clair

Alexander/Alexandra Delani, D.V.M.

The defense will call as witnesses:

W. Pat O'Connell

Samuel/Samantha Stone

Val Popinjay

All characters, institutions, events and other facts contained herein are fictitious and not intended to represent any individual, living or dead. The "facts" presented in this case were created for the purpose of teaching mock trial skills and not for any other purpose.

JURY CHARGE

Ladies and gentlemen, now that you have heard the evidence and the arguments of counsel, it is my duty to instruct you as to the applicable law in this case. It is your duty as jurors to follow the law as I now instruct you and to apply that law to the facts as you find them from the evidence you have heard. You, as jurors, are charged with the duty to be the fact-finders in this case. You must consider the evidence, weigh and sift it, and reach a decision as to what the facts of this case are from the versions of the evidence presented by the parties. I must caution you not to isolate any single instruction alone as stating the whole of “the law.” Rather, you must consider all of my instructions together as stating the law you must apply.

It is not your responsibility to be concerned with the wisdom or correctness of any rule of law about which I charge you. Regardless of any personal opinion you may have as to what you think the law ought to be, it is a violation of your sworn duty as jurors to base your verdict on any view of the law other than that which I give you in these instructions.

It is your further sworn duty to consider in an impartial and unbiased manner all of the evidence which has been presented in order to determine the facts from the evidence you have heard, and then to apply the law as I state it to reach your verdict. Your decision in this case is to be based only upon the evidence which you have heard and seen presented during this trial. The evidence in this case consists of the sworn testimony of the witnesses that have been presented and the exhibits that have been marked into evidence. You are free to judge the credibility (that is, the believability) of each witness as he or she testified and to weigh that testimony accordingly.

You jurors are the sole judges of any witness’ credibility and of the weight that his or her testimony deserves. By that I mean that you may choose to believe or to disbelieve any witness’ testimony. You may be guided in your determination of believability by your everyday experience in making judgments about people. For example, you may consider the appearance and conduct of each witness, the manner in which each witness testified, the nature of the testimony given, or the weight of the evidence and testimony contrary to that witness’ testimony. You should pay careful attention to all of the testimony given, the manner in which it was given, and the circumstances under which it was given. You may also consider a witness’ intelligence, motive, state of mind, and his or her demeanor and manner as he or she testified. You may also consider the witness’ ability to observe the matters to which he or she testified, and whether he or she impressed you as having an accurate recollection of those matters. You may also consider whether your potential verdict will directly or indirectly benefit the witness in a way that may affect his or her testimony. Finally, you may consider the fact that a given witness’ testimony is supported or contradicted by other testimony or evidence.

Any inconsistency or discrepancy in the testimony of a witness, or between the testimonies of different witnesses, may not be significant. Two or more persons witnessing an event or a transaction may see or hear it somewhat differently; such innocent mis-recollection, or failure of recollection, is not an uncommon experience. In weighing the effect of any discrepancy, you should consider whether the discrepancy pertains to a matter of importance or to an unimportant detail, whether the discrepancy results from an innocent error or from intentional falsehood, and whether the discrepancy accords with a reasonable or logical sequence to the testimony.

When making your judgment, which is yours alone to make, you may give the testimony of each witnesses as much or as little weight as you think it may deserve, including no weight at all.

A witness may be discredited or “impeached” by contradictory evidence, by showing that he or she testified falsely concerning a material matter, or by evidence that at some other time the witness has said or done something, or has failed to say or do something, which is inconsistent with the witness’ present testimony. If you believe that any witness has been so impeached, then it is your exclusive responsibility to give the testimony of that witness such credibility or weight, if any, as you may think it deserves.

If a witness is shown knowingly to have testified falsely concerning any material matter, you have a right to distrust such witness’ testimony in any other particulars, and you may reject all of the testimony of that witness or give it such credibility as you may think it deserves.

The term “credible evidence” means evidence that, in the light of reason and common sense, is worthy of belief. In order

to be believed, testimony should not come from credible witnesses, but it also must be credible in itself.

The evidence also includes the exhibits which have been received into evidence. You are free to attach whatever weight to such evidence as you feel is appropriate.

During your deliberations in the jury room as you consider the evidence you have seen and heard presented in the trial, you are permitted to draw reasonable inferences from the facts you find, based upon your own experiences. What is an inference? An inference is a deduction or conclusion which your reason and common sense leads you to draw from the facts which have been provided to you. This does not mean, however, that you may consider something which has not been presented in evidence. Anything you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded.

Furthermore, as I have instructed you throughout the trial, any information to which an objection has been made and sustained, or which I ordered to be stricken from the record, must, likewise, be entirely disregarded. It is not evidence in this case, and it would violate your sworn duty as a juror to consider such information as evidence.

Also, you should keep in mind that during the course of the trial I may have instructed you that some evidence is admitted for a limited purpose only. When I have instructed you that an item of evidence has been admitted for a limited purpose, you must consider it only for that limited purpose and for no other purpose.

The statements and arguments made by the attorneys during the trial are also not evidence. The attorneys are not witnesses. Any statements made by them when questioning a witness that suggested the existence of a fact are not evidence. Similarly, the opening statements and closing arguments which each attorney made to you in the course of the trial are not evidence.

The matter before you now for your deliberation and verdict is a civil matter. Under the laws of this state the plaintiff has the burden of proving negligence on the part of the defendant Petzicon Products, Inc. This burden never shifts to the defendant. There is no burden of proof that is imposed upon the defendant. In order for the plaintiff to prove its case in this matter, the plaintiff must sustain its burden by a preponderance of the evidence.

The term “preponderance of the evidence” means that the amount of evidence that causes you to conclude that the allegation is probably true. To prove an allegation by the preponderance of the evidence, a party must convince you that the allegation is more likely true than not.

If the evidence on a particular issue is equally balanced, that issue has not been proven by a preponderance of the evidence. Therefore, the party having the burden of proof for that issue has failed with respect to that particular issue.

You, as jurors, should find the facts from the evidence adduced during the trial. Evidence may be either direct or circumstantial. Direct evidence means evidence that directly proves a fact, without an inference, and which in itself, if true, conclusively establishes that fact. On the other hand, circumstantial evidence means evidence that proves a fact from which an inference of the existence of another fact may be drawn.

An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts established by the evidence.

It is not necessary that facts be proved by direct evidence. They may be proved by circumstantial evidence or by a combination of direct and circumstantial evidence. Both direct and circumstantial evidence are acceptable as a means of proof. Indeed, in many cases, circumstantial evidence may be more certain, satisfying and persuasive than direct evidence. In any event, both circumstantial and direct evidence should be scrutinized and evaluated carefully. A finding on behalf of the plaintiff may be based on circumstantial evidence alone or in combination with direct evidence, provided, of course, that it convinces you the plaintiff has met his/her burden as to a preponderance of the evidence.

A simple illustration may be helpful. Let us assume that we wanted to prove that it snowed during the night. Let us assume further that someone went to sleep after looking outside and seeing it snow, while another person in the same house did not look outside until the next morning. One way to prove that it snowed is by direct evidence. The person who observed

the snow coming down would testify that he or she observed snow falling during the night. Circumstantial evidence, on the other hand, would be testimony of the other person, indicating that there was no snow on the ground before the witness went to bed, and that when he or she arose in the morning, it was not snowing, but the ground was snow covered.

The former goes directly to prove the fact that snow fell during the night while the latter establishes facts from which the inference that it snowed during the night can be drawn.

As a general rule, witnesses can testify only as to facts known by them. The rule ordinarily does not permit the opinion of a witness to be received as evidence. However, an exception to this rule exists in the case of an expert witness, who may give his/her opinion as to any matter in which he/she is versed and which is material to this case. In legal terminology, an expert witness is a witness who has some special knowledge, skill, experience or training that is not possessed by the ordinary juror and who thus may be able to provide assistance to the jury in understanding the evidence presented and determining the facts in this case.

It is always within the special function of the jury to determine whether the facts on which the answer or testimony of an expert is based actually exist. The value or weight of the opinion of the expert is dependent upon, and is no stronger than, the facts on which it is based. In other words, the probative value of the opinion will depend upon whether from all of the evidence in the case, you find that those facts are true. You may, in fact, determine from the evidence in this case that the facts that form the basis of the opinion are true, are not true, or are true in part only, and, in light of such findings, you should decide what effect such determination has upon the weight to be given to the opinion of the expert. Your acceptance or rejection of the expert opinion will depend, therefore, to some extent on your findings as to the truth of the facts relied upon. The ultimate determination in this matter is whether or not the plaintiff has proven by a preponderance of the evidence that the actions of the defendant Petzicon Products, Inc. constitute negligence. Negligence may be defined as a failure to exercise, in the given circumstances, that degree of care for the safety of others, which a person of reasonable prudence would exercise under similar circumstances. It may be the doing of an act which the reasonable prudent person would not have done, or the failure to do that which the reasonable prudent person would have done, under the circumstances then existing.

Negligence is the failure to use that degree of care, precaution and vigilance which a reasonably prudent person would use under the same or similar circumstances. It includes both affirmative acts which a reasonably prudent person would not have done and the omission of acts or precautions which a reasonably prudent person would have done or undertaken in the circumstances.

By "a reasonably prudent person," it is not meant the most cautious person nor one who is unusually bold, but rather one of reasonable vigilance, caution and prudence.

In order to establish negligence, it is not necessary that it be shown that Petzicon Products, Inc. had an evil heart or intent to do harm.

To summarize, every person is required to exercise the foresight, prudence and caution which a reasonably prudent person would exercise under the same or similar circumstances. Negligence then is a departure from that standard of care.

One of the allegations given by the plaintiff here is that the product in question contained a manufacturing defect. Let me give you some applicable concepts which deal with the claim of manufacturing defect, and then I will explain what the plaintiff must prove in order to win a manufacturing defect case.

A manufacturing defect may be established by proof that, as a result of a defect or flaw which happened during production or while in defendant's control, the product was unsafe and that unsafe aspect of the product was a substantial factor in causing the harm to plaintiff's dog as s/he has alleged.

To establish his/her claim for a manufacturing defect Carmen Capella must prove all of the following elements by a preponderance of the credible evidence:

1. The Petzicon flea treatment contained a manufacturing defect which made that product not reasonably safe. To determine if the Petzicon flea treatment had a manufacturing defect, you must decide that the condition of the Petzicon flea treatment as planned should have been according to defendant's design specifications or performance

standards and what its condition was as it was made. If you find there is no difference between the two conditions, then there was no manufacturing defect. If there was a difference, you must decide if that difference made the Petzicon flea treatment not reasonably safe for its intended or reasonably foreseeable uses. If the answer is “yes”, then you have found the Petzicon flea treatment to be defective. Plaintiff need not prove that defendant knew of the defect nor that defendant caused the defect to occur.

Whether there was a manufacturing defect in the Petzicon flea treatment may be shown to you by Carmen Capella in one of three ways. First of all, it may be demonstrated by direct evidence, such as a direct defect. Second, you may infer that there was a defect by reasoning from the circumstances and facts shown. Third, if you find from the evidence that there is no other cause for the event other than a manufacturing defect, you may find that a defect existed.

Carmen Capella says that Petzicon flea treatment was defective because it led to the death of his/her dog Sally. Petzicon Products, Inc. says that Petzicon flea treatment was not defective. You have the opportunity to rely upon the expert testimony of the parties in determining whether that allegation has been proven.

This element may be established by proof that Petzicon flea treatment deviated from the maker’s own design specifications or performance standards.

2. That the defect existed before Petzicon flea treatment left the control of Petzicon Products, Inc.
3. That when the event happened the product was not being misused, or it had not been substantially altered in any way that was not reasonably foreseeable.

Carmen Capella must prove that at the time of the event Petzicon flea treatment was being used properly for its intended purpose and for an intended or reasonably foreseeable purpose. To prove this, plaintiff must show that the product was not being misused in any way that was neither intended nor was reasonably foreseeable. In this case Petzicon Products, Inc. contends that at the time of the event Petzicon flea treatment was being misused.

Plaintiff must also show that when s/he used the product, it had not been substantially altered after it left the defendant’s control. A substantial alteration is a change or modification made to the product after it was manufactured or sold which both alters the design or function of the product and has a significant or meaningful effect on the product’s safety when used. In this case the defendant contends that Petzicon flea treatment was not being used properly. In considering this issue, you must determine whether there has been a subsequent misuse or substantial alteration to the product. If you find such to exist, you must determine whether such misuse or alteration was reasonably foreseeable at the time the product left the control of the defendant.

Reasonably foreseeable does not mean that the particular misuse or substantial alteration was actually foreseen or could have been actually foreseen by Petzicon Products, Inc. at the time Petzicon flea treatment left its control.

This is a test of objective foreseeability. You may consider the general experience within the industry as to what was known or what could have been known with exercise of reasonable diligence when Petzicon flea treatment was manufactured, sold or distributed. Then decide whether a reasonably careful manufacturer, seller or distributor could have anticipated the particular misuse or substantial alteration alleged herein of Petzicon flea treatment. If the alteration reasonably could have been anticipated, and if that alteration made the product reasonably unsafe, the defendant is still responsible. Carmen Capella has the burden to show that a typical manufacturer or seller of the product could foresee that the product would be altered or that despite the alteration the original defect was nonetheless a cause of the death of Sally, the plaintiff’s dog.

4. That Carmen Capella was a direct or reasonably foreseeable user, or a person who might reasonably be expected to come in contact with Petzicon flea treatment.
5. That the manufacturing defect was a proximate cause of the death of Sally.

Proximate cause means that the manufacturing defect was a substantial factor which singly or in combination with another cause or causes brought about this event. Carmen Capella need not prove that this same event could have been anticipated so long as it was foreseeable that some significant harm could result from the manufacturing defect. If the manufacturing defect does not add to the risk of the occurrence of this event and therefore is not a contributing factor to the happening of this event, then plaintiff has failed to establish that a manufacturing defect was a proximate cause of the event.

If Carmen Capella has proven each of the above five elements by a preponderance of the credible evidence, then you must find for Carmen Capella. If, on the other hand, Carmen Capella has failed to prove any of these elements, then you must find for Petzicon Products, Inc.

One of the other claims which the plaintiff has brought in this matter is a failure to warn of potential defects. If a product fails to contain an adequate warning or instructions, it is defective. Carmen Capella says that Petzicon flea treatment did not contain an adequate warning or instruction because the potential that his/her dog may die was not disclosed. Petzicon Products, Inc. says the Petzicon flea treatment did contain adequate warning or instruction.

Petzicon Products, Inc., as the manufacturer or seller of the product, has a duty to provide adequate warnings or instructions about the dangers Petzicon flea treatment may present. Petzicon Products, Inc. had this duty even if the Petzicon flea treatment were perfectly designed and manufactured. To decide the plaintiff's failure to warn claim, you must determine what warnings and instructions the defendant provided and whether those warnings and instructions were adequate. I want to speak to you for a moment about what consists of a warning or instruction. Warnings or instructions may consist of statements that a product should not be used at all under certain circumstances, that it should be used only in a particular way, or that it should be used with particular care. Warnings or instructions may be in the form of words, symbols or pictures. They must be in a form which will effectively convey the information essential to make the use of the product reasonably safe.

To be adequate, the warning or instruction must be the kind of warning or instruction which a reasonably prudent manufacturer or seller in the same or similar circumstances would have provided to people intended to use the product. Adequate information may be required to be given to others in the chain of distribution of the product such as from the manufacturer and the seller to the buyer, or from the manufacturer and the seller directly to the user. An adequate warning or instruction will communicate sufficient information on the dangers of the product and how to use the product safely. When deciding whether the information provided is adequate, you should take into account the characteristics of the people reasonably expected to use the product and ordinary knowledge. In deciding whether the warning or instruction given in this case was adequate, you must assume that Petzicon Products, Inc. knew of the dangers of Petzicon flea treatment at the time Petzicon flea treatment was sold or distributed. With that assumption you must then decide whether Petzicon Products, Inc. acted in a reasonable, prudent manner in marketing Petzicon flea treatment without any warnings with the particular form of warning that was provided. In this case Petzicon Products, Inc. contends that the potential for the death of the pet was not knowable at the time Petzicon flea treatment was manufactured or sold. If Petzicon Products, Inc. proves that the danger in question was not knowable by it at the time of manufacture or sale, then it had no duty to warn of the danger and cannot be held liable for the failure to do so. In evaluating this defense of Petzicon Products, Inc., you may consider evidence relating to Petzicon Products, Inc.'s knowledge of the danger of Petzicon flea treatment. A duty to warn arises only if Petzicon Products, Inc. actually knew or should have known of the need to issue a particular warning.

In determining what Petzicon Products, Inc. should have known, you must understand that the law requires a manufacturer or seller to keep reasonably familiar with and to know reliable information generally available or reasonably obtainable in the industry. In that regard, Petzicon Products, Inc. is deemed to be an expert in its field. This information may come from experts and literature in the field. Moreover, information from other sources such as complaints from users, sellers or distributors of an untoward effect of a product may be sufficient to require an appropriate warning.

A manufacturer or seller such as Petzicon Products, Inc. may also have responsibility to warn purchasers and consumers of dangers discovered after the product was sold or distributed. This duty arises when subsequently obtained knowledge, either actual or constructive, was available either at the time of distribution or in sufficient time before the event so that an effective and reasonable supplemental warning could have been given. In this regard it is the defendant who must prove that the information about the danger was not reasonably available or obtainable either at the time of distribution or in sufficient time before the event herein.

To establish a claim of failure to warn, Carmen Capella must prove all of the following elements by a preponderance of the credible evidence:

1. That Petzicon flea treatment failed to contain an adequate warning or instruction.
2. That the failure to adequately warn or instruct existed before Petzicon flea treatment left the control of Petzicon Products, Inc.
3. That at the time the event happened Petzicon flea treatment was not being misused nor had it not been substantially altered in any way that was not reasonably foreseeable.

Carmen Capella must prove that at the time of the event Petzicon flea treatment was being used properly for its intended purpose or for an intended or reasonably foreseeable purpose. To prove this, plaintiff must show that the product was not being misused in a way that was neither intended nor was reasonably foreseeable. In this case, Petzicon Products, Inc. contends that at the time of the event Petzicon flea treatment was being misused. Carmen Capella must also show that when s/he used Petzicon flea treatment, it had not been substantially altered after it left Petzicon Products' control. A substantial alteration is a change or modification made to the product after it was manufactured or sold which both alters the design or function of the product and has a significant or meaningful effect on the product's safety when used. In this case the defendant contends that Petzicon flea treatment was substantially altered in its use.

In considering this issue, you must determine whether there has been a subsequent misuse or alteration of Petzicon flea treatment. If you find that to exist, you must determine whether that misuse or alteration was reasonably foreseeable at the time the product left the control of Petzicon Products, Inc. Reasonably foreseeable does not mean that the particular misuse or alteration was actually foreseen or could have been actually foreseen by Petzicon Products, Inc. at the time Petzicon flea treatment left its control.

This is a test of objective foreseeability. You must consider the general experience within the industry when Petzicon flea treatment was manufactured, sold or distributed. Then decide whether a reasonable careful manufacturer, seller or distributor could have anticipated the misuse or alteration of Petzicon flea treatment. If the alteration reasonably could have been anticipated, and if the alteration made the product not reasonably safe, the defendant is still responsible. Carmen Capella has the burden to show that a typical manufacturer or seller could foresee that the product would be altered or that despite the alteration the original defect was nonetheless a cause of the injury.

4. That Carmen Capella was a direct or reasonably foreseeable user, or a person who might reasonably be expected to come in contact with Petzicon flea treatment.
5. That Carmen Capella would have followed an adequate instruction or warning if it had been provided.

In this case, Carmen Capella claims that Petzicon flea treatment was defective because there was no adequate warning or instruction. If you find that Petzicon flea treatment was defective because adequate warnings or instructions were not given, then you must decide whether the lack of an adequate warning or instruction was a proximate cause of Sally's death.

Petzicon Products, Inc. has introduced evidence seeking to show that Carmen Capella would not have read and followed an adequate warning or instruction even if one had been provided by the defendant.

You have to decide whether plaintiff would have read and heeded a warning or instruction had one been given or that s/he would not have read and heeded a warning or instruction had one been given. Plaintiff has the burden to prove by a preponderance of the credible evidence that s/he would have followed an adequate warning or instruction if it had been provided.

6. That the failure to adequately warn or instruct was a proximate cause of the event herein.

Proximate cause means that the failure to warn or instruct was a substantial factor which singly or in combination with other causes or causes brought about the event. Carmen Capella need not prove that this event could have been anticipated so long as it was foreseeable that some harm could result from the failure to warn/instruct. If an adequate warning/instruction would have reduced the risk of the occurrence of this event, you may find that its absence was a contributing factor to the happening of this event. If, on the other hand, the failure to warn/instruct does not add to the risk of the occurrence of this event and therefore is not a contributing factor to the happening of the event, then plaintiff has failed to establish that the failure to warn/instruct was a proximate cause of the event.

If Carmen Capella has proven each of the six elements by a preponderance of credible evidence, then you must find for the plaintiff.

If, on the other hand, Carmen Capella has failed to prove any of the elements, then you must find for the defendant.

7. Was the plaintiff negligent?

Petzicon Products, Inc. contends that Carmen Capella was at fault for the happening of this event. To win on this defense, Petzicon Products, Inc. must prove that Carmen Capella voluntarily and reasonably proceeded to encounter a known danger and that Carmen Capella's action was a proximate cause of the event. The failure of Carmen Capella to discover inadequate warnings or instructions or to guard against the possibility of inadequate warnings or instructions is not a defense. Rather, to win on this defense, Petzicon Products must prove that Carmen Capella had actual knowledge of the particular danger presented by Petzicon flea treatment and that Carmen Capella knowingly and voluntarily encountered that risk.

8. Was plaintiff's negligence a proximate cause of the event?

9. Comparative fault; apportionment of fault; ultimate outcome. If both plaintiff and defendant are found to be at fault, which is a proximate cause of the event, the jury must compare their fault in terms of percentages. On the verdict sheet which will be provided to you at the end of these instructions, you will be able to make that determination as to prospective amounts of fault.

In this matter the plaintiff alleges to have suffered damages as a result of the death of his/her dog Sally. If you ultimately find that Carmen Capella did suffer a loss or damage as a result of the negligence of Petzicon Products, Inc., s/he would be entitled to a verdict in his/her favor. Plaintiff would be entitled to money damages from Petzicon Products, for the loss suffered.

The measure of damages for such a loss is the difference between the market value of the personal property before and the market value after the damage occurred. If Sally had no market value, then the measure of damages is the difference between her value before the damage occurred and any value thereafter. The damage alleged herein is limited to any specific monetary value that can be ascribed to the loss of Sally. The law in the jurisdiction of Metropolitan does not allow for the award by a jury for the loss of a pet other than for any monetary award which the plaintiff can prove by a preponderance of the evidence was lost as a result of Sally's death. The actual death of Sally does not incorporate a portion of the damages but rather, only any monies which the plaintiff has proven to you were lost as a result of Sally's death.

In determining the amount of money, if any, to be awarded to Carmen Capella for Sally's death, you may consider, but are not bound by, the testimony of the expert as to his or her opinion of the loss which the plaintiff has sustained as a result of Sally's death as well as the testimony of Carmen Capella.

JURY VERDICT SHEET

RESPONSIBILITY:

MANUFACTURING DEFECT:

1. Did Carmen Capella prove by a preponderance of the credible evidence that the Petzicon Flea Treatment was manufactured in a defective manner?

Yes _____ No _____ Vote:

If "No", proceed to Question 4. If "Yes", proceed to Question 2.

2. Did Carmen Capella prove by a preponderance of the credible evidence that the defect existed before the Petzicon Flea Treatment left the control of Petzicon Products, Inc.?

Yes _____ No _____ Vote:

If "No", proceed to Question 4. If "Yes", proceed to Question 3.

3. Did Carmen Capella prove by a preponderance of the credible evidence that the manufacturing defect of the Petzicon Flea Treatment was a proximate cause of harm to Sally?

Yes _____ No _____ Vote:

Proceed to Question 4.

FAILURE TO WARN:

4. Did Carmen Capella prove by a preponderance of the credible evidence that the Petzicon Flea Treatment did not contain an adequate warning or instruction?

Yes _____ No _____ Vote:

If "Yes", proceed to Question 5. If "No", proceed to Question 8.

5. Did Carmen Capella prove by a preponderance of the credible evidence that there was no adequate warning or instruction when the Petzicon Flea Treatment left the control of Petzicon Products, Inc.?

Yes _____ No _____ Vote:

If "Yes", proceed to Question 6. If "No", proceed to Question 8.

6. Did Carmen Capella prove by a preponderance of the credible evidence that s/he would have followed an

adequate instruction of warning, had one been provided?

Yes _____ No _____ Vote:

If "Yes", proceed to Question 7. If "No," proceed to Question 8.

7. Did Carmen Capella prove by a preponderance of the credible evidence that the absence of an adequate warning or instruction was a proximate cause of harm to Sally?

Yes _____ No _____ Vote:

Proceed to Question 8, ONLY IF: Your answer to Question 3 is "Yes" OR your answer to Question 7 is "Yes" OR your answers to both Questions 3 and 7 are "Yes". Otherwise, ANSWER NO OTHER QUESTION: you have reached a verdict for Petzicon Products, Inc.

8. Did Petzicon Products, Inc. prove by a preponderance of the credible evidence that Carmen Capella was negligent on October 19, 2011?

Yes _____ No _____ Vote:

If "Yes", proceed to Question 9. If "No", proceed to Question 11.

9. Did Petzicon Products, Inc. prove by a preponderance of the credible evidence that Carmen Capella's negligence was a proximate cause of harm to Sally?

Yes _____ No _____ Vote:

If "Yes", proceed to Question 10. If "No", proceed to Question 11.

10. You have found that both Carmen Capella and Petzicon Products, Inc. are responsible for harm to Sally. Please allocate the harm between those parties by percentages. The percentages must add up to 100%.

Petzicon Products, Inc.: _____ %

Carmen Capella: _____ %

TOTAL: 100 % Vote:

If you have allocated to Carmen Capella more than 50% of responsibility, ANSWER NO OTHER QUESTION. You have reached a verdict for Petzicon Products, Inc. Otherwise, proceed to Question 11.

DAMAGES:

11. What amount of money (if any) will fully, fairly and reasonably compensate Carmen Capella for harm proximately caused by Petzicon Products, Inc.?

\$ _____ Vote:

YOU HAVE REACHED YOUR VERDICT.

AFFIDAVIT OF CARMEN CAPELLA

Let me start by telling you about my wonderful little dog, Sally. She was a beautiful, ivory-colored West Highland Terrier. I purchased her in October 2009 from a reputable seller in Chestnut Hill, Virginia, after doing much research on the breed and the facility where she was born. They said this dog was exceptional in appearance and temperament, and I had to agree. The first time Sally and I made eye contact, it was like love at first sight. We were to be friends forever. So, I wrote a check for \$2000, happily finalized the sale, and took her back to my home in New Jersey.

The first few months, I trained Sally to sit, beg, lie down, and offer her little paw. She was housebroken in just a few weeks. She didn't chew my slippers, gnaw at my furniture that much, or bark incessantly or jarringly like so many other puppies. From the start, it was clear that she just wanted to please me. We were very comfortable with each other and I was really delighted with how things were working out.

At around nine months of age, I began to bring her for regular grooming and puppy training sessions. The groomers would often comment on her exceptional lines and temperament, and suggested time and again that I should consider showing her but I figured they said that about all the dogs. The puppy trainers were always impressed by her ability to focus on the task at hand instead of cavorting with the other pups. I mean she was a gorgeous pup, had fine lines and was quick to learn commands, but I didn't really have time to look into it, nor was it my intention to show her in competitions.

That was until a grooming session in September 2010. A fellow approached me and introduced himself as Cesar Nylon, a dog trainer with experience working with dogs that have competed in the annual American Accredited Breed Dog Show. He said he could not help but notice what a fine example of the Westie breed Sally was and asked if he could "handle" her. A handler is a personal trainer and agent in one and all the show dogs have one. I thought it an odd request, out of the blue, but with some prodding from the groomer I allowed it. Cesar remarked on Sally's excellent bone structure and showed me what judges look for when examining each dog. He told me that she would be a highly favored dog in competition and emphatically said it would be a wonderful experience for me and Sally to train her for shows. And while there would be some initial expenses such as training and entrance fees, he also mentioned that the prizes in some competitions exceeded \$10,000. Sally was a little over a year old and fully grown by this time, and he stressed that the time to begin was now.

I took his card and pondered the possibilities. A few days later, I set up an initial training session with Cesar. Over the next several weeks, he was more convinced than ever about Sally's potential show career. He said she had a natural stride, perfect measurements, and would be sure to place or even win in our county dog show. For a small entrance fee, we entered her. There were about 40 dogs entered, basically broken down by size into five groups. To my delight, she won not only Best in Breed, but Best in Show! There was no monetary prize, but Sally did receive a lovely trophy and really seemed to enjoy her time in the spotlight.

After that, there was no stopping us. I entered her in state and regional shows over the next several months and she was winning in her division each time. She did take home another Best in Show prize. For that, we took home \$10,000, a nice plaque shaped like a dog bone, and a basket of Petzicon dog food, dog treats, a collar, shampoo, conditioner, and flea treatment. Judges from all of these events continued to tell me that she was ready for "the big one." That is, the American Accredited Breed Dog Show held every year in Washington, D.C. Winning that contest meant national recognition, a \$100,000 Best in Show Prize, and the possibility of endorsements from all the major dog food manufacturers in the country. I imagined Sally's face on every dog food can in every cupboard in America. With her track record, I knew we should do it.

It was a very exciting experience. On October 15, 2011, we arrived in Washington with her trainer and favorite groomer and checked into a four-star hotel (paid for by the winnings from her recent show). It was kind of funny since this hotel normally would not allow pets of any kind. Imagine what the lobby looked like, overrun by dogs of all shapes and sizes. We checked out the convention center located next door and prepped Sally's grooming station for the next day. She was scheduled to compete during the afternoon of the first day of the show and we had high hopes.

It was clear from the beginning that she was the front runner of her group. She excelled in every area and the judges smiled broadly whenever they looked at her. She won first prize in her division and we received a \$10,000 check. The next day it was time to judge Best in Show for the grand prize. It became clear immediately that it was between Sally and a yellow Labrador from Ohio. The announcement was made. Sally won Best in Show! We were immediately inundated with press, photographers, and pet product representatives from all over the country wanting to know if Sally had an agent and how to get in touch with us for endorsement proposals. It was a really happy time.

On the advice of several other dog owners, I met a vendor at the show who offered insurance on prized pets. He contacted me at my hotel and convinced me to buy an insurance policy on Sally. It covered things like veterinary

55 bills and lost income in the event Sally was unable to complete her endorsement responsibilities due to death, injury,
56 disfigurement, etc. It wasn't very expensive, just under \$6000, and so I used part of the proceeds from the win to buy the
57 policy.

58 When we got home from Washington on October 19, I noticed that Sally was scratching a lot and trying to gnaw
59 at the top of her tail. I chalked it up to a little anxiety at first, but when I went to groom her, I noticed the telltale sign of
60 fleas. She was around a lot of dogs at the show, of course, and I assumed she must have picked up a flea or two while
61 there. I gave her a bath using the flea shampoo I had around the house from one of the shows she had won the prior
62 year. I dried her off and hoped for the best. Unfortunately, I could see that the fleas were back, only this time, she really
63 seemed uncomfortable from all the bites. Looking in the Petzicon basket, I came across some flea treatment and applied
64 it as directed.

65 Within minutes I knew something was terribly wrong. Sally's hind legs were dragging and she was leaning to
66 one side. She tried to jump onto the couch, but actually fell backwards, landing on her back. It was a terrible sight. It was
67 about 11 p.m. and the nearest vet didn't open until the next morning. I placed Sally in her dog bed with some water and
68 food nearby and prayed for her health. At 7 a.m. I awoke and took her immediately to the vet as her symptoms had not
69 changed.

70 Dr. Delani examined poor Sally and said right away that s/he thought this was the aftermath of an over-the-
71 counter flea product. S/he even mentioned Petzicon by name before I did. I learned from the vet that Petzicon anti-
72 flea products are dangerous pesticides and that many animals had become neurologically impaired or even died as a
73 result of using this product. It differs from prescribed anti-flea medicines in that those products do not kill vertebrates,
74 unlike Petzicon products which kill everything. The doctor thought Sally's immune system could have been a little
75 compromised from stress due to travel or that she was a little dehydrated causing her to have an adverse reaction.

76 But what of this product and how did it remain on the market? I wanted to know. The vet said it was sold
77 worldwide and used on literally millions of dogs and cats each year. And, although it does not harm most animals, it
78 does have a history of causing serious side effects on thousands of pets. The company, s/he said, makes so much money
79 on international sales that a few refund requests don't harm the company in any way. One cannot even sue the company
80 for any meaningful amount because animals are considered chattel, things, and not worth much in the eyes of the law. S/
81 he said s/he knew this because s/he was an emergency room veterinarian in New York City for 10 years and saw many
82 animals in distress due to the product. S/he also referred me to several websites describing the ill effects of the product
83 and the experiences of other pet owners.

84 I was relieved when Dr. Delani told me to go home, let Sally rest, and expect a full recovery in two or three
85 days. In my arms, she died two days later.

86 I lost the best pet I ever had and a part of my own future. The traveling, competitions, endorsements, and future
87 winnings had all evaporated with a single application of this dangerous product.

88

89 Carmen Capella

90 Carmen Capella

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96 Sworn to and subscribed before me, this 1st day of August, 2012.

97

98 Phyllis Levine

99 Phyllis Levine

100 Notary Public

AFFIDAVIT OF JAMISON ST. CLAIR

My name is Jamison St. Clair. I am 53 years old. For the past nine years I have been the President and CEO of the American Accredited Breed Dog Show. I personally oversee the annual competition held each year in Metropolitan as well as affiliated dog shows throughout the year. I am well respected in the dog show community, and am at the forefront of the whole dog show world. Companies come to me to launch new products...I probably turn away 80% of the companies who come to me. I probably couldn't count on two hands how many companies have gone under simply because I wouldn't allow their products to "sniff" one of my shows. I am fully accredited with the USA Kennel Club, as well as the Metropolitan Feline Club (connected to the Feline Fancier's Association,) and have become a leading figure in the monetary valuation of dog and cat breeds. I have testified as an expert in over 10 civil trials, in nine different states, in this capacity.

The American Accredited Breed Dog Show has been running for the past 36 years. The previous CEO, Gerry Fleck, founded AABDS as the Mayflower Kennel Dog Show in Philadelphia back in the early 1970's. Unfortunately, Gerry ran the show without much vision; some people used to say that Gerry had two left feet when it came to the show. What really ran the show were the owners and the dogs. The show started to become popular just as all of the designer breeds became popular. It seemed like people couldn't get enough of all of the different combinations that could be made. In the dog show world, we were oblivious to the outside pressures to cross breeds. We were all about the pure breeds! Also, this was when 24-hour television was becoming popular as well. I bet the young people today have no concept of what used to be ESPN back in the 80's!

I used to compete in the old Mayflower back in the late 80's and early 90's. I had a Pointer named Casey that was quite successful. He had the most beautiful gait. I was never a hunter, and to be quite honest, I was a little skeptical about having a hunting dog. But when I took him out for walks, his natural instincts would kick in. When he saw a rabbit, look out! When I first heard of the Mayflower, I wasn't sure what to think. But as soon as I showed Casey for the first time, he seemed to thrive in the spotlight. He couldn't get enough of the attention. I showed Casey six times in the show. He never won Best in Show. One year we made it to the final three, losing out to Wink, a Norwich Terrier.

For most of this time, I was working as a chemical engineer. I had gotten my degree from Metropolitan University in 1982. My first job out of college was for a pharmaceutical company, MPharm, right along the Route 1 corridor near Princeton. I was doing okay financially, but I wasn't really happy. At night, I went back for my M.B.A. at Met U. They had just started a night program. It took me two years, going three times a week. They didn't have online classes back then. I had to trudge myself to the classes after working all day. I graduated at the top of my class and wasn't afraid to let people know!

I never married. To be honest, I never even looked for someone. I wasn't lonely or anything, but when someone at work asked me if I wanted a puppy, I took him up on it. Enter my life: Casey! He was the world to me. And because of the shows, I found a whole new world that I enjoyed. In 1990, I left MPharm to go to work for Petzicon, at the time the leading manufacturer of pet-related products. Because of my background, I was put in charge of developing dog shampoos. It took about 12 years in development to come up with a new waterless shampoo, one that owners would just spray on the dogs and wipe off with a chamois. It had to be the specific chamois that came with the product. It said it explicitly on the bottle.

The chemicals interacted with the chamois and would leave the dog's coat shiny and clean. Unfortunately, even though we spent another three years in testing and marketing research, the product didn't test too well. Too many owners were using a terrycloth towel to dry the dog. If too much of the chemical was left on the dog, the skin would become irritated and dry. It was my first product line and it didn't go too well.

By the early 2000's, Gerry Fleck had taken the Mayflower as far as he was going to take it. Some of the owners started to spread rumors that the show was going to go bankrupt or fold. I was approached by these owners to see if I would be interested in taking control of the show. It was my understanding at the time that Gerry was looking to sell. It wasn't until the process had started that I realized that Gerry was being forced out. I had only a small monetary stake in the buyout, but because of my experience, as well as my M.B.A., I was put in charge of the show. Because Gerry had control of the name Mayflower Dog Show, for legal reasons, I changed the name to American Accredited Breed Dog Show. After the first year of the show, I also made the decision to bring the competition to Metropolitan. It opened up a whole new market for us. It brought more exposure. I also made the decision to have yearlong competitions, conducted in all the major cities, leading up to the AABDS in Metropolitan. By way of numbers, a champion dog can bring a six-figure income to the owner. When I first started, it cost us more to show a dog than what we won! I personally feel responsible for this change in livelihood among my dog owners.

I had brought a lot of change to the AABDS. A couple of the owners, not the ones who approached me to take

55 over, were upset that I was still working at Petzicon. They said that it was a conflict of interest for me to work at a pet
56 company, while being in charge of the AABDS. To be honest, I was looking for a way out of the company for a number
57 of years anyway. I had started to butt heads with the CEO of the company, W. Pat O'Connell, over the whole shampoo
58 fiasco. Also, there had been rumors circulating that a company employee had been misappropriating funds. Because of
59 the funds lost and the failure of the shampoo line, Petzicon was forced to look elsewhere for the chemicals and supplies
60 for their products. I had been letting the higher-ups know that the product quality had been suffering. It was for this
61 reason that I left Petzicon, and later made the decision to not allow Petzicon products to be used at my competitions.
62 I am aware that there are rumors that I was forced out at Petzicon. I cannot comment on that allegation due to a
63 confidentiality agreement signed by me and the company when I left three years ago.

64 Losing a sponsor like Petzicon hurt the AABDS at first. Some of the dog owners were reluctant to switch. That's
65 one of the faults in the dog show world - not being able to see the big picture. I was able to work out contracts with
66 some of the other companies to make up the difference. I banned all Petzicon products from the competition, both in
67 sponsorship and in use. I had developed contingency plans for this. KodaCo, Petzicon's biggest competitor, was signed
68 on to be the official pet products of the AABDS. KodaCo then re-upped to be the title sponsor of the competition series
69 for six years...at \$3.2 million a year. KodaCo is even going to run AABDS-labeled products in their next line. With this,
70 the AABDS is set to thrive for the next decade.

71 I have also worked for the past five years in cases involving pet deaths due to negligent veterinary and shelter
72 care. We have been working with the USA Kennel Club and the Feline Fancier's Association to push for legislation to
73 protect pet owners who have sued for damages citing sentimental value of their pet to the family, as well as valuation
74 for competitive show dogs. I have testified as an expert in court at civil trials, including the two most recent: *MacArthur*
75 *v. Crane* in California, where an owner filed a lawsuit after her dog died due to negligence following an operation, and
76 *Melvin v. Dallas Animal Shelter*, where a family pet was wrongly euthanized by an animal shelter. In both cases, the
77 United Veterinary Medical Association worked to stop the lawsuits, claiming the high rate of malpractice insurance
78 needed to cover the costs. In the *MacArthur* case, the plaintiff lost her case because the court ruled that the loss of
79 companionship is not a compelling argument. In fact, over 30 states have had cases similarly decided. Other than what I
80 already mentioned, a gag order does not allow me to talk about the *Melvin* case any further, since it is still in litigation.

81 In regards to this case, I am aware of the allegations that Carmen Capella has made. While I am not happy that
82 Mr./Ms. Capella used a Petzicon product on his/her dog, I am also not surprised by the claims. I have never used the
83 product on my dogs, would never use the product on my dogs, and would shout it on the rooftops to people that no one
84 should use the product on their dogs.

85 Mr./Ms. Capella had won the 2011 Best in Show Award with his/her West Highland Terrier, Sally. With this,
86 he/she was awarded a top prize of \$100,000. I have been asked to determine the value that this dog, Sally, would have
87 brought to Mr./Ms. Capella. It is my estimation, with years of experience, as well as all available research and analysis,
88 that the West Highland Terrier, Sally, would have competed in the AABDS shows for the next 4-5 years at a high level.
89 With the money that is available to successful owners, taking into account the costs of grooming, veterinary care, and
90 training, Mr./Mrs. Capella would have earned, or netted, upwards of \$500,000 had the dog competed at the AABDS and/
91 or other dog shows, as well as through endorsements. This is not taking into account appearance fees, or any emotional
92 or sentimental value. If called to testify as an expert, I will affirm these numbers. I prepared a chart outlining the earnings
93 of champion show dogs in recent years.

94
95 Jamison St. Clair
96 Jamison St. Clair
97
98

99 Sworn to and subscribed before me, this 14th day of August, 2012.

100 Judy Mason Pitt

101 Judy Mason Pitt

102 Notary Public

AFFIDAVIT OF ALEXANDER/ALEXANDRA DELANI, D.V.M.

My name is Dr. Delani and Sally, the West Highland White Terrier (WHT) belonging to Carmen Capella, has been a patient of mine since October 2009. I have been her primary care veterinarian since that time. I am sorry for the loss and I know that Sally will be missed by Carmen Capella and my hospital staff and me.

My background in veterinary medicine is a mixed animal practice (both large and small animals). I have been a vet for fifteen years, which included an internship and residency in small animal internal medicine, followed by ten years in an emergency care center for small animals. During that time, I have treated at least two to three cases a year with pyrethroid toxicity. Due to patient/doctor confidentiality, I am not at will to release specifics on these cases, although I can say each patient and his/her toxicity was totally specific to that case and no generalized conclusions could be determined. I would also like to add that in my experience as an emergency room vet and longtime pet owner, I would not personally use any over-the-counter products on my animal. However, this is common practice for many people, due to commercialization, cost and ease of use.

I am a member of the American Holistic Veterinary Medical Association. I do not subscribe to non-holistic products except when needed for disease treatment and/or emergency care. Again, I professionally do not condone the use of these products and this decision is totally based on experience with tragedies due to many over-the-counter veterinary products. In addition, I attended St. George's University in Grenada, where this toxicity was common, due to availability of products in the Caribbean and a relatively uneducated population of pet owners on dangers of over-the-counter products. I was there for three years and witnessed three fatalities due to pyrethroid toxicity. During my clinical year at the University of Florida, similar cases did occur and 75% were fatal or left the patient with permanent neurologic damage. I currently run a large and small animal practice where my main focus is on canine and equine medicine. My practice is incredibly diverse and I see cases from flea allergies to equine colics. I feel this practice keeps me current on veterinary medicine.

Sally presented to me on October 20, 2011 with advanced clinical signs consistent with acute pyrethroid toxicity, based on Sally's examination and the history of recent exposure to pyrethroid-containing pesticides.

Mr./Ms. Capella told me s/he had given Sally a flea bath with an unnamed flea shampoo on October 19, but the shampoo did not provide sufficient relief. So Mr./Ms. Capella applied a spot-on flea treatment by Petzicon. Within minutes of this application, Mr./Ms. Capella reported seeing something "terribly wrong." The clinical signs s/he described were characteristic of a neuro-toxicity (e.g., hind leg weakness, disorientation, falling down). However, Mr./Ms. Capella waited until the following morning to bring Sally in for an examination and treatment after s/he found the clinical signs had not changed overnight.

I could tell that Mr./Ms. Capella was very distraught over his/her decision to wait and I certainly wish that s/he had had the knowledge to act more quickly. S/he told me of the guilt s/he would feel if, in fact, something did happen to Sally. I told him/her that even if s/he had, there was no assurance that the outcome would have been different and/or positive for Sally. I do believe s/he found some solace in this information, but knowing my client, I know that s/he will most likely never forgive him/herself and or the product that led him/her into this situation. I warned him/her that guilt will do no good, that s/he should focus his/her attention on positive thoughts for Sally, and not to forget what a good pet owner s/he had been to Sally.

In situations where a product is used by a client on his/her pet and a negative reaction occurs to the pet, I find the client is more distraught than the patient and is almost as fragile as the patient. This is why these occurrences are so difficult to deal with as a primary care veterinarian with a long-term client. Especially because I am put in a position where a good client acted on his/her own thinking s/he was doing a good thing for his/her pet and at the same time explaining to him/her that I do not sell these products, never have and never will. My client did something I never told him/her to do and of which I had no knowledge, although certainly s/he was not aware how dangerous this product could be. After this experience my practice drafted a client mailer on dangers of over-the-counter products, and clients will be given information on public claims on any and all over-the-counter products. I am aware that one of my duties as a veterinarian is client education, and I plan to add this to my list of common and unknown dangers of pet care.

Sally, a 2-year-old intact female WHT, presented with the following clinical signs: dyspnea (difficulty breathing); hind leg paresis (slight or incomplete paralysis); hyperthermia (temperature of 103.5° F, normal temperature is 100.5-102.5° F); tachycardia (increased heart rate of 150 bpm, above the normal range of 60-100); dehydration; lethargy and overall disorientation. I advised Mr./Ms. Capella of the severity of Sally's condition and recommended that s/he leave the dog with me for intensive care. I explained my concern about Sally's condition, and while hopeful that we would be able to at least stabilize her, if not provide a complete recovery, warned Mr./Ms. Capella of the possibility that Sally may succumb to this apparent toxic event, which may have precipitated a severe allergic or immune-mediated reaction.

55 Additionally, other compounding factors may have been involved, but could not be determined without additional testing
56 that may result in further trauma.

57 Sally was initially evaluated and was given the proper supportive care. A mild detergent bath with very slow
58 rubbing (not scrubbing) motion was given with cool water, which is the normal first step for such toxicity in the earlier
59 stages of exposure. However, she remained dyspneic, her temperature increased to 104° F, and she became more lethargic.
60 Therefore, IV fluids were started immediately, and she was placed in an oxygen chamber, with her vital signs checked
61 every 30 minutes. Sally experienced a seizure the following day at 11a.m., which was controlled by diazepam (Valium),
62 the indicated anti-seizure medication under these circumstances. Unfortunately, from this point on, Sally's condition
63 deteriorated. I called Mr./Ms. Capella on October 22 and advised him/her to come back to the clinic because Sally's
64 condition was not likely to improve and her death was imminent. Sally had another seizure before Mr./Ms. Capella
65 returned and then collapsed in respiratory failure in her owner's arms. No necropsy was requested by owner.

66 These are the events to the best of my knowledge, and I can only speak of my treatment with 100% accuracy, and
67 the history, as provided by Mr./Ms. Capella. There is no medical record, to my knowledge, of previous medical conditions
68 that could have made Sally more susceptible to any condition described here. I did not see the Petzicon flea treatment
69 used by Mr./Ms. Capella, but I was told that all labeled directions were followed. Again, I only can say what I did with
70 confidence, and although I believe the client is a responsible pet owner, I cannot vouch for anything more than was
71 provided by the owner to me upon presentation of Sally at my clinic.

72 I find within a reasonable degree of medical certainty that this Petzicon product was the proximate cause of
73 death. Admittedly, a necropsy would have been helpful in making this determination, but it was not requested, and is not
74 necessary for me to make a determination of cause of death.

75

76 Alexander/Alexandra Delani, D.V.M.

77 Alexander/Alexandra Delani, D.V.M.

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80 Sworn to and subscribed before me, this 29th day of August, 2012.

81 Ryan Reynolds

82 Ryan Reynolds

83 Notary Public

AFFIDAVIT OF W. PAT O'CONNELL

My name is W. Pat O'Connell. I am the President and CEO of Petzicon Products, Inc., a publicly owned corporation. I have worked in the pet products industry for the past 35 years. When I was offered the opportunity to take the reins of one of the fastest-growing pet products manufacturers, I didn't hesitate. It was one of the best decisions I ever made and I'm proud to say I have been with Petzicon for the past 10 years.

We are ranked 6th among the top 10 highest grossing pet products manufacturers with sales slightly over \$2 billion in a \$50 billion U.S. market. Although we consider ourselves a global corporation, only 5% of our gross is international. Most of Petzicon's revenue, approximately 75%, is generated from our pet food division. The remaining 25% comes from Petzicon's non-food products division, which includes the pharmaceutical group. Both are marketed under our own brand through retail partnerships with all the leading domestic outlets.

When I assumed the leadership of this company 10 years ago, my first priority was to insure that pet owners were receiving the safest and highest quality pet products available. I know this may sound a little self-serving or trite, but that's the way I wanted to run this company. Anyone who knows me will tell you, I created a corporate environment that has a "zero tolerance" for unsafe products for both the pet and the pet owner. This is something that didn't happen overnight. We annually set aside slightly over 25% of our gross for research and development. The majority of that allotment goes to our food group, which is the top earner. I know I ruffled a few board members' feathers along the way with this R&D commitment, but it's not always about the bottom line.

I also knew we had to educate pet owners. A few years ago I started a cutting-edge consumer awareness program unheard of in the pet products industry at the time. Every single piece of media advertising that left Petzicon carried with it the message: "Be a responsible pet owner." We also reached out to veterinarians by providing them with all the product information they would need to make intelligent decisions.

Despite our best efforts, we would still hear the horror stories. For example, one pet owner decided that putting three flea collars on a pet would provide "triple the protection." Another pet owner took a topical flea and tick preventative liquid meant to be applied between the pet's shoulder blades and administered it on top of the pet's food. It goes on and on, but even in the most bizarre product misuse, we still expect the pet to survive.

I don't believe this is wishful thinking. For the past 10 years Petzicon has determined product risk using mathematical and scientific criteria. We employ what we call a "risk assessment continuum." In layman's terms, it's all based on the probability of product risks occurring and the possible dangers associated with those risks. We feel this allows for total risk avoidance or at the very least, to control the impact of "unfortunate events."

Obviously, most EPA complaints concerning Petzicon are usually related to our pesticide products. These include flea collars, spot on, sprays, dusting powders and dips. All of which are designed to "prevent, destroy, repel, or mitigate fleas or ticks." The chemicals in all of the products are registered with the EPA and are approved by the EPA.

I understand the chemical currently getting most of the negative attention at the moment is a family of organic compounds called pyrethroids, found in the extract of the chrysanthemum. This compound is in all our flea and tick products to some degree. It acts as a neurotoxin and is quite effective in incapacitating insects that would normally feed on pets. The Type I pyrethroids are best suited to small-scale individual applications, while the Type II pyrethroids involve large-scale applications and are much more potent, which we no longer use. Currently we are using only Type I pyrethroids. Thankfully, animals are far less sensitive to the effects of pyrethroids than the insects they are intended to destroy, requiring doses thousands of times larger before they are toxic.

In defense of pyrethroids, they have always been regarded as a major advancement in insecticidal activity. Additionally, second generation pyrethroids are extremely cost effective and have allowed us to deliver to the consumer an excellent product at a fair price.

So why do pets like Mr. /Ms. Capella's die? I think the simplest explanation is usually the right one: I simply do not know. What I do know is that there are literally millions of pet owners using Petzicon flea and tick products on their pets with no adverse effects.

I am certain there will always be some negative feelings about pesticides, regardless of how safe or effective they may be. In this same vein, I'm aware of at least one internal memo addressed to me that has been made public by a disgruntled employee. Perhaps I'm understating what actually happened. Shortly after his termination, Mr. Bill Thomas, former Director of Product Research and Development, made a video of himself reading the memo to his children and the family dog. It has since gone viral. Is it funny? I think it's sad. I've had some problems with Mr. Thomas in the past, but this time I really think he lost it. I have very little tolerance for cynicism and paranoia. I guess you might say his self-proclaimed loyalty is another figment of his imagination.

I decided the best way to handle the entire situation was not to dignify Mr. Thomas' actions. I certainly was not

55 going to be a victim of the “Streisand Effect” by deciding to respond. Did it hurt our image? Absolutely not. I think Mr.
56 Thomas’ attempt at a little “shock value” missed the mark. I sincerely hope he gets the help he desperately needs.

57 We will always continue to explore sensible alternatives to pesticides. One such alternative is the use of insect
58 growth regulators or IGRs. These are not pesticides but chemicals that arrest the growth and development of young fleas.
59 At this point in time, we have not drawn any firm conclusions regarding the practicality of IGRs. I would like to make
60 it abundantly clear that when we do make product changes, it’s not necessarily because of any attendant risks to humans
61 and their pets. Rather, we are simply evolving as a business entity in a competitive marketplace.

62 I would be remiss if I didn’t express my personal condolences to Mr. /Ms. Capella and to all pet owners
63 who may have lost a pet to an illness. As a corporation, we will continue to do our part by assigning risk levels to
64 any chemicals we use in our products. We will also continue to respond not only to needs of pet owners but to the
65 veterinarians who care for their pets – whether it be exposure, ingestion or misuse of any product in our pharmaceutical
66 line.

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W. Pat O’Connell

W. Pat O’Connell

72 Sworn to and subscribed before me, this 11th day of September, 2012.

73 Sandra Stanicki

74 Sandra Stanicki

75 Notary Public

AFFIDAVIT OF SAMUEL/SAMANTHA (SAM) STONE

My name is Sam Stone. My background is in chemical engineering. I graduated from Metropolitan University and hold a master's degree in chemical engineering. I have written articles and given lectures on the effects of special chemicals for animal health. I am a dog lover myself and I have used Petzicon products on my dog for many years. My dog Rusty just gobbles up the Petzicon foods. I have investigated many of the products produced by Petzicon.

I have been employed by the Petzicon Company for over 25 years. I initially started with the company in the chemical division and worked in the area of research and development. In doing this, I tested various chemicals for their effects and used these results in the development of a number of products for Petzicon. For the past 15 years, I have been the lead investigator for Petzicon. A large part of my job is to investigate the use of the product and its effect on animals.

As part of my duties, when an unusual reaction is discovered through the use of any Petzicon products, I immediately advise the company and all distributors of any harmful effects that can be caused. The decision to remove the product from further distribution or to recall the product is made by upper management. Petzicon does extensive research before authorizing any product for the public's use, but research and experiments do not reveal every possible side effect that may be caused. Five years ago, Petzicon produced a shampoo in concentrate form with specific instructions on the use and the amount of shampoo that should be applied. The amount of shampoo was to be mixed with water; if too much of the liquid shampoo was added or not enough water, the mixture became toxic and would cause dogs to lose hair. Some dogs would eat less and lose body weight. Even though the product came with instructions on the use of a specific amount of water, many users did not follow instructions. Petzicon was sued in a class action lawsuit. The matter was settled without any finding of negligence on the part of Petzicon.

The death of a well-known and champion show dog, Sally, was big news in the industry. In my capacity as investigator for Petzicon, Inc., I was called to investigate the cause of Sally's death. This type of investigation is routine whenever a champion show dog such as Sally becomes ill, dies, or otherwise is affected for unknown reasons and the animal was given a product produced by Petzicon.

My investigation begins with contact with the owner of the dog to discuss the feeding, care, grooming and general health of the animal. I am particularly interested in the manner in which the Petzicon product was used, the dosage, whether other products were used including products from other companies, and the medical history. All known and potentially harmful effects are disclosed as part of the labeling of each Petzicon product. As with people, every dog is different and the product can affect one animal but not others. Petzicon has a customer service hotline for anyone who wants to call and seek information on the use of the product.

At the time I was called to make this investigation, the body of the dog, Sally, was no longer available for viewing. There were also no toxicology reports or a veterinarian's report on the cause of death. This is unfortunate because if a necropsy had been performed, we would have known the definitive cause of death - whether from exposure to one or several products or the result of some physical abnormality not previously detected, or a combination of the two. Sally had just won a prestigious dog show. I know from past experience that the competition is very intense. The owners have their dogs looking their best. They each use different products, and will mix different products to achieve the look they are seeking. Petzicon provides specific information on the use of all of its products and which one can be safely applied in conjunction with another.

In my meeting with Ms./Mr. Capella, s/he informed me that Sally had competed in a show on October 15, 2011. Her/his dog Sally was groomed for a competition over two days, but s/he did not know what her/his trainer had used to prepare Sally for the competition. Four days later they were back home when Sally was itching on arrival. Itching is symptomatic of many conditions and cannot be used to identify any illness. Ms./Mr. Capella then used a shampoo, believing Sally had picked up fleas. When this did not work, she then applied a treatment to the neck, still believing fleas were the problem. This occurred late at night. After no change the next morning, s/he brought Sally to the veterinarian. Another two hours elapsed before the veterinarian actually examined Sally.

Other than the shampoo, Ms./Mr. Capella reported s/he used only the flea treatment. S/he did not know how old the product was but assumed it was a Petzicon product. After one year, the Petzicon flea treatment will begin to break down. All Petzicon products come with a warning not to use after the recommended period. This warning exists because when the treatment in this case is used after the recommended period, it can become toxic.

Previous medical history from Sally's veterinarian revealed that Sally had been in good health. Ms./Mr. Capella had taken good care of Sally to the time of the competition. When Sally continued to itch after the use of the shampoo, that was a warning sign that Sally did not arrive home in sound condition. Ms./Mr. Capella stated s/he did not use much of the flea treatment. However, when an adverse reaction develops in less than 15 minutes, that indicates the product was

54 likely overused. Sally's small size made the reaction that much quicker. Unfortunately, Ms./Mr. Capella had disposed of
55 the product after it was used.

56 From my investigation, the age of the product and the manner in which the product was used remain uncertain.
57 For these reasons, I cannot find there was sufficient evidence of harm due to the use of a Petzicon product or to conclude
58 that Sally's death was caused by the use of a Petzicon product.

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60 Samuel/Samantha Stone
61 Samuel/Samantha Stone
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65 Sworn to and subscribed before me, this 18th day of October, 2012.

66 George Scribner
67 George Scribner
68 Notary Public

AFFIDAVIT OF VAL POPINJAY

My name is Val Popinjay. I am 53 years old. I have a Bachelor's degree in accounting as well as an MBA from Metropolitan University. I am a Certified Public Accountant. I am also certified as a financial advisor, and I am available to counsel people of means about investing their hard-earned savings in this challenging economic environment. I am a founding partner at Popinjay and Finch, Public Accountants. Most of my time is spent counseling wealthy people on tax issues and where to keep their assets, including offshore solutions.

I have become well known as an expert in the valuation of show animals, and I have pursued this sideline for many years. I have testified in four cases, but I would have testified in more had my expert reports not given plaintiffs pause before they pursued their claims in front of a jury. I have authored over fifty expert reports.

You could say that this expertise of mine stems from my childhood experiences. You see, my mother fancied herself a dog breeder and handler. After her folks died, she blew the entire inheritance on a kennel and some rather expensive dogs. Most of them never got to even sniff a ribbon, let alone win in competition. My younger brother Steve and I had cherished some hopes that she would abandon the whole scheme, until Star came along. Star was a West Highland Terrier, just as Sally was. Now, Westies aren't too smart. In fact, neuropsychologist Stanley Coren, in his seminal *The Intelligence of Dogs: A Guide to the Thoughts, Emotions, and Inner Lives of our Canine Companions*, rates Westies at the back of the pack, as it were. His calculation, based upon the opinions of over a hundred breeders and dog experts, was that Westies were merely fair in their intelligence, as determined by their learning abilities. You have to practice a command as many as 40 times for the dog to repeat it and get his reward.

Star was no better. But for Ma, Star was going to be our meal ticket. Instead, Star ended up depleting our already meager resources. I can't remember how many times poor Steve (may he rest in peace) and I would get franks and beans for dinner while Star feasted on chicken breast cooked in olive oil, because Ma's handler said that Star needed more luster and sheen in his coat.

Star got a rosette, a fancy prize ribbon, at a local dog show, and, before you knew it, we were traveling the entire East Coast to attend other competitions. True to his name, our lives came to revolve around Star. Like the time we spent Christmas at a faraway veterinary hospital because Star had a bladder stone. The vet didn't even have a Christmas tree. After that, the vet insurance policy went up, and Ma dropped it.

Ma was never good with figures, so I took over the family books at a young age. I kept a special ledger of Star's expenses. I didn't need a ledger for his winnings. Ma had that memorized. To make a long story short, after a couple of years, I was able to show that Star was actually *costing* us money.

Actually, Star himself helped me settle matters. Westies are known to "go to ground," which is another way to say that they tend to dig holes everywhere. One day Star dug up some Jimson weed (also known affectionately as "loco weed") root and ate it. Star went nuts, and the vet bill for pumping his stomach cost us a couple months of gas and electricity.

For most people, expenses like that are all unexpected and underestimated, while show winnings and endorsements are fully expected. It is akin to expecting to win the lottery, and ignoring the money you spend on the tickets. I stuck to my ledgers, and I can tell you that most show dogs are like boats: the happiest days are when you buy a boat and when you finally unload it.

Jamison St. Clair gives this pie-in-the-sky figure of "upwards of \$500,000," not even counting "appearance fees." Sure, Sally won the top prize in the dog show industry, \$100,000. That is the top prize. The rest are mainly small potatoes. I mean, the AKC Eukanuba National Championship last year gave out \$225,000 total, to all the winners, including the best of each of the innumerable breeds represented there. I doubt that lightning was going to strike twice for Sally.

Let's get real. Carmen Capella admits that s/he has had a trainer for some time. S/he says that all show dogs have handlers. Really, all people that are amateurs in the business have handlers, like him/her. S/he would have continued paying handler fees. We're talking \$60 to \$100 a day at shows. A win at a prestigious show might mean paying a bonus of \$500 or so. In specialty shows the handler could demand hundreds of dollars.

Westies require regular grooming. Nothing indicates that Capella ever learned to do that him/herself. And I doubt s/he got it done at a discount place like Petsmart, either. Vet bills add up, even without the dog getting at Jimson weed or chocolate (I still have a scar from where my dog Pepper bit me when I tried to get a Snickers bar out of his mouth. Try to do a dog a favor!). I include food in my calculations. I am sure Sally never ate cheap dog food (unlike me and poor Steve – that's another long story).

Traveling to shows must be considered. The four-star hotels Capella apparently likes to frequent are expensive. Air travel requires a \$150 fee each way (for that, the dog should get his or her own doggy seat!).

55 Perhaps St. Clair is considering the earnings that would have been made from breeding Sally. Not so fast. You
56 wouldn't breed Sally with the mutt next door. So you have to pay a stud fee to get a male Westie to mate with her. There
57 are prebreeding tests. There are vet expenses, and if the dog has to deliver Caesarian, it costs even more (I don't add this in).

58 As with intelligence, Westies aren't the most fecund breed of the dog world, either. They average 3.5 puppies a
59 litter. How much will each whelp fetch (moneywise, that is)? I cannot say for sure. Neither can St. Clair. While all the
60 costs associated with showing and breeding dogs are easily calculated, the valuation for puppies of high-breed lineage
61 fluctuates based upon supply and demand, the economy and how cute the puppy is. Also, Westies are prone to genetic
62 maladies, and while Sally herself exhibited no genetic defects, that does not mean that she was not a carrier for such
63 common defects as craniomandibular osteopathy, also known as "lion's jaw" or "Westie jaw." Such a dog would not
64 only be precluded from being shown, but may not be able to chew or swallow food correctly. Other conditions include
65 abdominal hernias and skin disorders like hyperplastic dermatitis and atopic dermatitis. For all we know, Sally was
66 exhibiting signs of the much less serious *atopic* dermatitis when Capella reached for the flea treatment.

67 I have prepared a chart outlining future anticipated expenses for Sally. The earnings are just too speculative. In
68 my professional experience in accounting and in showing dogs, I estimate that Sally would barely have earned her keep.
69 I estimate that, as a Westie, Sally would have had an anticipated lifespan of 12-14 years. Of course, that assumes that a
70 Petzicon product was the cause of death, and that Sally did not die from some other malady.

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74 Val Popinjay
75 Val Popinjay
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79 Sworn to and subscribed before me, this 2nd day of November, 2012.

80 Devin Walsh

81 Devin Walsh

82 Notary Public

EXHIBIT P1

Champion Show Dogs and Their Earnings

Prepared by Jamison St. Clair



\$400,000 Winnings and Endorsements,
\$400,000 Breeding (potentially)
Blochy – Pekingese
AKC/Eukanuba Winner \$50,000
Westminster Kennel Club Best in Show
(runner-up) silver trophy (no money)



\$300,000 Winnings and Endorsements,
\$300,000 Breeding (potentially - \$100,000 so far)
Simplicity – Standard Poodle
AKC/Eukanuba Winner



\$250,000 Winnings,
\$250,000 Endorsements (Dog Food),
\$150,000 Breeding
Bruno – West Highland Terrier
AABDS Best in Show

EXHIBIT P2

Petzicon Products, Inc.

"A Healthy Pet Is a Happy Pet"

Memorandum – Urgent

To: W. Pat O'Connell, President and CEO

From: Bill Thomas, Director of Research and Development

Date: April 18, 2011

Re: Risk Assessment for Topical Pest Series

Per your request, I ran the numbers a second time on the Topical Pest Series. The risk levels are off the charts. I can only revise the baselines so many times before the continuum loses all its integrity. You pay me as head of R&D to do my job and that's what I'm trying to do.

Pat, believe me, it doesn't matter how much money you throw at this, morally and ethically it's just not right. I think we should consider halting production until we can determine what our exposure will be. Has anyone consulted legal on any of this yet? You and I both know how fragile public sentiment can be. And what about the vets? If we lose them, it's not just about the topicals anymore.

This may be out of line, but I need your assurances that if this all goes south, I'm not going to be out of a job. I know you hired me when you came in and I appreciate that. I have a wife and two children now, and they are my main concern. I just feel, when you don't return my calls and won't see me, something is going on.

Please advise.

cc: File

EXHIBIT P3



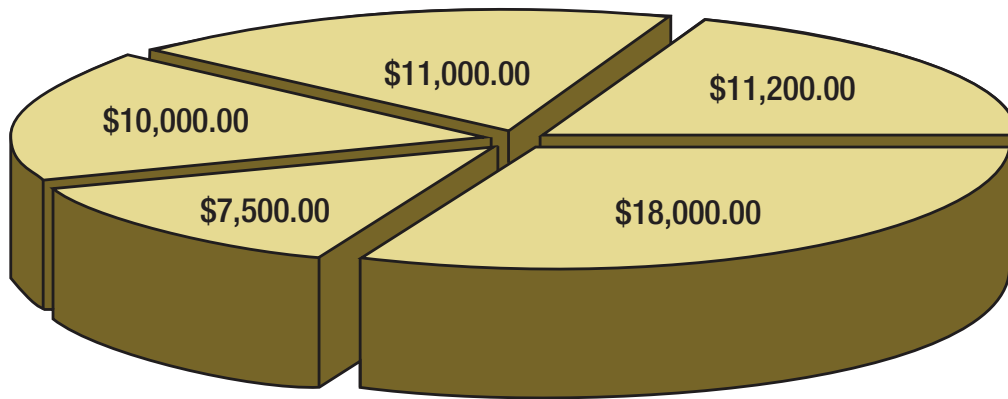
Mary Bloom © AKC

Photo of Sally at Age Two.

EXHIBIT D1

Sally's Estimated Expenses over a Normal Lifespan

Prepared by Val Popinjay



\$11,200.00 – Handlers Fees – 36 days/yr. – 4 years

\$18,000.00 – Lodgings, travel expenses

\$7,500.00 – Vet bills (excluding breeding)

\$10,000.00 – Breeding (tests, stud fees, etc.)

\$11,000.00 – Food, kennels, medications, misc.

PART IX

EXPLANATION OF PERFORMANCE RATINGS USED ON MOCK TRIAL COMPETITION SCORESHEETS

Participants will be rated in the categories listed in the scoresheet on a scale of 1–10 (with 10 being the highest). The judge(s) will score student performance in each category, not the legal merits of the case. Each category must be evaluated separately. **Fractional points are not to be awarded.**

One team must be awarded more total points than the other. **There are no ties.** The tiebreaker category is overall team performance. In the event of a tie score, the judge(s) shall make a final determination based on overall team performance. While this category must be rated as are all other categories, judges may award an additional point to the team with the better overall team performance in order to break a tie. This category is designed to measure whether the team stayed within established time limits, followed mock trial rules and procedures and demonstrated excellent teamwork. See Part VI for more information.

All post-trial evaluations by the judge(s) will be qualitative. Numerical scores will not be released. The purpose is to re-emphasize the educational goals of the competition. Judges may discourage invention by deducting points, at their discretion, for non-responsive answers.

EVALUATIVE CRITERIA

OPENING AND CLOSING STATEMENTS

Poor to Below Average—1–4

Disorganized presentation. Inadequate preparation. Communication lacks clarity or is ineffective. Lacks depth in terms of knowledge of task and materials.

Average—5–6

Communication is clear and understandable, but could be stronger in fluency and persuasiveness. Makes some of the main points for the team's case. Partially successful in attaining objectives.

Very Good—7–8

Fluent, persuasive, clear and understandable. Confident delivery. Very good organization of material and thought. Makes the most of the main points for the team's case. Successful in attaining objectives.

Excellent—9–10

Thinks well on feet. Thorough understanding of issues and very persuasive on all the main points. Exhibits mastery of case and materials. Clearly outlines team's case or position. Closing incorporated examples from actual trial. Demonstrated elements of spontaneity, not entirely based on prepared text (especially relevant to the closing).

ATTORNEYS—DIRECT EXAMINATION

Poor to Below Average—1–4

Some leading questions; some narrative questions. Ineffective in asking straightforward questions. Does not bring out key information for team's side of case. Lack of adequate preparation. Fails to observe proper courtroom decorum. Lack of poise, poor interaction with witnesses. Improper phrasing and rephrasing of questions. Lack of adequate knowledge of mock trial rules of evidence and the case.

Average—5–6

Generally proper phrasing of questions. Fairly effective in asking straightforward questions and eliciting information for team's side. Generally appropriate response to objections. Adequate use of objections on cross. Observes proper courtroom decorum. Good interaction with witnesses.

Very Good—7–8

Questions are properly phrased. Effective in asking straightforward questions and eliciting information for team's side. Correct responses to objections. Good use of objections during cross-examination. Throughout questioning attorney made appropriate use of time. Poised, articulate and confident delivery.

Excellent—9–10

Very effective in asking straightforward questions and eliciting information. Ability to think fast on his/her feet. Can sort out essential from nonessential and use time effectively to accomplish major objectives. Clear understanding of fact, issues, and law. Superior qualities of fluency and clarity. Excellent in response to objections. Excellent in use of objections in cross-examination. Observed rules of competition at all times.

ATTORNEYS—CROSS-EXAMINATION

Poor to Below Average—1–4

Improperly phrased or ineffective questioning. Inability to effectively rephrase questions. Inappropriate or ineffective objections to direct examination of witnesses he/she crossed. Illogical, unsure of self. Performance lacks depth in terms of knowledge of task and materials. Difficulty in performing outside of script.

Average—5–6

Some skill in utilizing leading questions. Generally proper rephrasing of questions. Some proper objections to direct examination; some missed objections. Can perform outside of script, but with less confidence than when using script. Grasps major aspects of case but does not convey mastery.

Very Good—7–8

Demonstrates skills in utilizing leading questions in most instances. Good rephrasing of questions. Effective objections to direct examination. Demonstrated good understanding of trial procedures, rules of evidence, and issues. Shows poise, good preparation; articulate and confident delivery. Exposed contradictions in testimony and weakened other side's case.

Excellent—9–10

Creative, organized and convincing presentation. Demonstrates skill in utilizing leading questions. Proper rephrasing of questions. Very effective use of objections to direct examination. Very effectively exposed contradictions in testimony and weakened other side's case. Able to think fast on his/her feet. Deals confidently and appropriately with difficult witness(es). Ability to proceed without reading from prepared script.

WITNESSES—DIRECT

Poor to Below Average—1–4

Responses are not thorough. Does not get into role effectively. Characterization not believable. Inadequate preparation. Fails to abide by mock trial rules.

Average—5–6

Responses show only adequate preparation. Characterization adequate, but not always believable. Good but uninspiring performance.

Very Good—7–8

Responses show good preparation. Good characterization; realistic; stays in role. Convincing and persuasive testimony. Demonstrates understanding of mock trial rules.

Excellent—9–10

Knowledgeable about case facts and theory of team's case. Very effective in responding to questions. Poised and confident. Very articulate and persuasive in role. Excellent characterization and convincing testimony. Demonstrates mastery of mock trial rules.

WITNESSES—CROSS

Poor to Below Average—1–4

Unable to field questions with confidence and poise. Lacks ability to think fast on his /her feet. Lacks credibility. Deliberately evasive and non-responsive.

Average—5–6

Maintains confidence and poise, but has difficulty fielding questions effectively and in maintaining credibility.

Very Good—7–8

Able to respond well to questions posed. Well-prepared. Maintains credibility for the most part.

Excellent—9–10

Excellent responses to questions. Skillful in thinking fast on his/her feet. Able to field questions with confidence and poise. Highly credible in role.

IMPORTANT NOTICE

Teams must enter the names of the students and roles they are playing **on the score sheet** and submit same to the judge during the pre-trial conference. Prepare one sheet for the prosecution/plaintiff and one for the defense. Permission is granted to enlarge the score sheet on a photocopier if necessary in order to include this information. **Please type or print clearly.**

2012-2013 VINCENT J. APRUZZESE MOCK TRIAL COMPETITION Score Sheet

Prosecution/Plaintiff: _____ Defendant: _____
(Team Code) (Team Code)

Date: _____ **Competition Level:** _____ **Round:** _____

On a scale of 1 to 10 rate the Prosecution/Plaintiff and Defendant in the categories below.

DO NOT USE FRACTIONS.

<u>Poor</u>	<u>Average</u>	<u>Excellent</u>
1 2 3 4 5 6 7 8 9 10		

	PROSECUTION/PLAINTIFF		DEFENDANT	
	Name	Score	Name	Score
Opening Statements				
Prosecution/Plaintiff's First Witness				
Witness Performance — Direct Examination:				
Witness Performance — Cross Examination:				
Attorney — Direct Examination:				
Attorney — Cross Examination:				
Prosecution/Plaintiff's Second Witness				
Witness Performance — Direct Examination:				
Witness Performance — Cross Examination:				
Attorney — Direct Examination:				
Attorney — Cross Examination:				
Prosecution/Plaintiff's Third Witness				
Witness Performance — Direct Examination:				
Witness Performance — Cross Examination:				
Attorney — Direct Examination:				
Attorney — Cross Examination:				
Column Subtotals:				

(Continued on next page.)

2012-2013 VINCENT J. APRUZZESE MOCK TRIAL COMPETITION Score Sheet

Prosecution/Plaintiff: _____ Defendant: _____
(Team Code) (Team Code)

Date: _____ **Competition Level:** _____ **Round:** _____

On a scale of 1 to 10 rate the Prosecution/Plaintiff and Defendant in the categories below.

DO NOT USE FRACTIONS.

Poor	Average	Excellent
1 2 3 4 5 6 7 8 9 10		

	PROSECUTION/PLAINTIFF	DEFENDANT
	Name Score	Name Score
Defense's First Witness		
Witness Performance — Direct Examination:		
Witness Performance — Cross Examination:		
Attorney — Direct Examination:		
Attorney — Cross Examination:		
Defense's Second Witness		
Witness Performance — Direct Examination:		
Witness Performance — Cross Examination:		
Attorney — Direct Examination:		
Attorney — Cross Examination:		
Defense's Third Witness		
Witness Performance — Direct Examination:		
Witness Performance — Cross Examination:		
Attorney — Direct Examination:		
Attorney — Cross Examination:		
Closing Arguments		
Overall Team Performance		
Column Subtotals:		
Subtotals from preceding page		
Column Totals		

Please advise county or state coordinator of scores before critique.

Judge(s) Signature(s)



WINNER (P or D)

HONOR ROLL

PAST MOCK TRIAL COMPETITION WINNERS

1982–83	Voorhees High School Hunterdon County	2000–01	Montclair High School Essex County
1983–84	Middlesex High School Middlesex County	2001–02	High Point Regional High School Sussex County
1984–85	Holy Spirit High School Atlantic County	2002–03	Mainland Regional High School Atlantic County
1985–86	Cherry Hill High School West Camden County	2003–04	Kittatinny Regional High School Sussex County
1986–87	St. Mary High School Bergen County	2004–05	Torah Academy Bergen County
1987–88	Kittatinny Regional High School Sussex County	2005–06	Montclair High School Essex County
1988–89	Cherry Hill High School East Camden County	2006	Middle Township High School Cape May County, American Mock Invitational, Second Place
1989–90	Cherry Hill High School East Camden County	2006–07	Middle Township High School Cape May County
1990–91	Bergen Catholic High School Bergen County <i>(Winners of State and National Competitions)</i>	2007–08	Crossway Homelearners Atlantic County
1991–92	Atlantic City High School Atlantic County	2008	Crossway Homelearners Atlantic County, American Mock Invitational, Fourth Place
1992–93	Atlantic City High School Atlantic County	2008–2009	Mainland Regional High School Atlantic County
1993–94	Don Bosco Preparatory High School Bergen County	2009–2010	West Morris Mendham High School Morris County
1994–95	Hunterdon Central High School Hunterdon County	2010–2011	Middle Township High School Cape May County
1995–96	Lower Cape May Regional High School Cape May County	2011–2012	Oratory Preparatory School Union County
1996–97	Kittatinny Regional High School Sussex County		
1997–98	Cherry Hill High School East Camden County <i>(Winners of State and National Competitions)</i>		
1998–99	Hunterdon Central High School Hunterdon County		
1999–00	Bergen Catholic High School Bergen County		

PAST MOCK TRIAL CASES

Year	Case	Topic
1982–83	<i>St. Clair v. St. Clair</i>	Child custody
1983–84	<i>Vickers v. Hearst</i>	Host liability when serving alcohol
1984–85	<i>Hudson v. Daily Metropolis</i>	Freedom of press
1985–86	<i>State v. Percy Snodgrass</i>	Murder trial
1986–87	<i>Vincent Taylor v. Lance Memorial</i>	Male nurse claims sex discrimination
1987–88	<i>Barr v. Zuff</i>	Employment discrimination relating to AIDS
1988–89	<i>State v. Martha Monroe</i>	Battered Woman Syndrome
1989–90	<i>Elyse Roberts v. City of Metropolitan</i>	Sexual harassment in the workplace
1990–91	<i>State v. Diane Lynch</i>	Prosecution of mother for death of “cocaine baby”
1991–92	<i>Chris M. v. Dr. Terry Preece and Metropolitan School District</i>	Educational malpractice
1992–93	<i>State of New Jersey v. Jan Stover</i>	Hate crime
1993–94	<i>In the Matter of the Estate of Daniel Nugent</i>	Will contest
1994–95	<i>United States of America v. Luis Cosme-Sanchez</i>	Drug smuggling
1995–96	<i>Oliver Yanov and Annette Yanov v. Judy Williams and Kevin Williams</i>	Adoption
1996–97	<i>State of New Jersey v. Pat Peterson</i>	Fraternity hazing
1997–98	<i>Fran Wilkins v. Metropolitan School District</i>	Negligence
1998–99	<i>Brennan v. New Jersey Interscholastic Athletic Association</i>	Student is barred from playing baseball due to alleged performance-enhancing device
1999–00	<i>State of New Jersey v. Daniel Gunnet</i>	Student is charged with aggravated manslaughter and death by vehicular homicide
2000–01	<i>Betty Groom v. Metropolitan College and H.B. Williams</i>	Wrongful death suit involving a college junior who died at a campus rock concert

2001–02	<i>State v. Pat Petrecca</i>	Road rage
2002–03	<i>Melendino v. Cornwall</i>	Student is injured in fire in illegal casino
2003–04	<i>State v. Mel Perfect</i>	An honor student is charged with felony murder, conspiracy to commit burglary and conspiracy to commit computer theft
2004–05	<i>Farrow v. Simon</i>	Bullying
2005–06	<i>State v. Dagger</i>	Murder of reality TV show host
2006–07	<i>Fectious v. Tagen Burgers, LLC</i>	Food safety
2007–08	<i>State of New Jersey v. Avery Fisher</i>	Performance-enhancing drugs
2008–09	<i>AARCI v. Dillon Matthews</i>	Illegal downloading of music files
2009–2010	<i>State of New Jersey v. Loren Perry</i>	Kidnapping of a child
2010–2011	<i>Jordan Pederson v. J.E. Moody</i>	Distracted driving/walking
2011–2012	<i>State of New Jersey v. Pat Hopper</i>	Bias crime



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