

2022 RULES OF COMPETITION AND EVIDENCE

OF THE

GEORGIA HIGH SCHOOL MOCK TRIAL COMPETITION

These rules are in effect October 1, 2021 through September 30, 2022.

I. Rules of the Organization

A. The Problem

1. Rules
2. Problem
3. Witness Bound by Statements
4. Unfair Extrapolation
5. Witnesses
6. Voir Dire

B. The Team

7. Mock Trial Team
8. Activities Permitted During the School Day

C. The Trial

10. Resolution of Section B Rules Violations
11. Statewide Competition
12. Virtual Competition
13. *[Reserved]*
14. Team Presentation
15. Team Duties
16. Swearing of Witnesses
17. Trial Sequence and Time Limit
18. Timekeeping
19. Time Extensions
20. Prohibited and Permitted Motions
21. Sequestration
22. Bench Conferences
23. Supplemental Material/Costuming/
Illustrative Aids
24. Trial Communication
25. Viewing a Trial
26. Videotaping/Photography

D. Judging and Scoring

27. Decisions
28. Composition of Panel
29. Scoresheets/Ballots
30. Completion of Scoresheets/Judging
Guidelines
31. Power Matching and Team Advancement
32. Round Matching for Regional Competitions
33. Seeding and Round Matching for District
Competitions
34. Seeding and Round Matching for the State
Finals Competition
35. Bye Process

E. Dispute Settlement

37. Reporting a Rules Violation/Inside the Bar
38. Dispute Resolution Procedure/Inside the Bar
39. Effect of Violation on Score
40. Reporting a Rules Violation/Outside the Bar

II. Rules of Procedure

A. Before the Trial

41. Team Roster
42. Stipulations
43. The Record

B. Beginning the Trial

44. Jury Trial
45. Standing During Trial
46. Student Work Product

C. Presenting Evidence

47. Argumentative/Ambiguous Questions and
Non-Responsive Answers
48. Assuming Facts Not in Evidence
49. Lack of Proper Predicate/Foundation
50. Procedure of Introduction of Exhibits
51. Use of Notes
52. Redirect/Recross

D. Special Mock Trial Objections

53. Special Mock Trial Objections

E. Critique

54. The Critique

III. The Georgia High School Mock Trial Competition Rules of Evidence

- | | |
|-------|---|
| §100 | General Provisions |
| §200 | Judicial Notice |
| §300 | Presumptions in Civil Actions and Proceedings |
| §400 | Relevancy and its Limits |
| §500 | Privileges |
| §600 | Witnesses |
| §700 | Opinions and Expert Testimony |
| §800 | Hearsay |
| §900 | Authentication and Identification |
| §1100 | Miscellaneous Rules |

I. RULES OF THE ORGANIZATION

A. THE PROBLEM

Rule 1. Rules

- (a) The Georgia Mock Trial Competition, and all of the Special Projects sponsored by the Georgia High School Mock Trial Committee, including, but not limited to, the Law Academy and the Court Artist Competition, are governed by the Rules of the Organization, the Rules of Procedure, and the Georgia High School Mock Trial Rules of Evidence. Specifically, the Code of Ethical Conduct identified in Rule 7(m), and the disciplinary processes outlined in Rule 10 are applicable to the Competition and to the Special Projects noted above. Additionally, all policies of the Georgia Mock Trial Competition contained in the Policy Manual and Coaches Manual are binding on participating teams. Any clarification of rules or case materials will be issued in writing to all participating teams and/or students.
- (b) These Rules provide governance for an in-person season. Rules governing virtual aspects of the competition are maintained in a reserve appendix. In the event that it becomes necessary to conduct all or part of the competition levels in a virtual format, those rules will be published by the Georgia Mock Trial Competition as soon as practicable.
- (c) When a team registers to compete in this program, that team agrees to comply with the rules, the policies, and the Code of Ethical Conduct of the Georgia High School Mock Trial Competition. The Rules Subcommittee has the authority to remove a team or individual team members or coaches from the Georgia High School Mock Trial Competition for non-compliance with these rules, with competition policy and/or the Code of Ethical Conduct.
- (d) Any modification to the rules of a competition made on-site must be reduced to writing and signed by the trial coordinator and the teacher or attorney coaches of the affected teams.
- (e) Individual scoring judges have within their discretion the ability to discount points for violations of these rules.
- (f) The Mock Trial season shall extend from October 1 through the Final Round of the State Finals tournament.

Rule 2. The Problem

The problem will be an original fact pattern, which may contain any or all of the following: statement of facts, indictment, stipulations, witness statements/affidavits, jury charges, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered. Only three witnesses per side will be called.

...

Rule 3. Witness Bound by Statements

- (a) Each witness is bound by the facts contained in his/her own witness statement and/or any exhibits relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 4, outside the scope of the problem.
- (b) If, in cross-examination, an attorney asks for unknown information, the witness may or may not respond, so long as any response is consistent with the witness' statement or affidavit and does not materially affect the witness' testimony.
- (c) Students shall be prohibited from responding with new material facts which are not in their witness statements or consistent with the Statement of Facts.
- (d) A witness is not bound by facts contained in other witness statements or testimony of other witnesses presented during the trial.
- (e) The Case Summary (or Statement of Facts), if provided, is meant to serve as background information only. It may not be used for substantive evidence, cross-examination, or impeachment.

Rule 4. Unfair Extrapolation

(Additional explanations regarding this rule may be found in the Coaches Manual)

- (a) An extrapolation is a fact brought into the trial that is not contained in the case materials.
 - 1. A fair extrapolation is one that provides no advantage to either side.
 - 2. An unfair extrapolation is one that materially affects the witness' testimony or any substantive issue of the case and serves to provide an adversarial advantage or disadvantage to one side.
- (b) Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial.
- (c) Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting an unfair extrapolation. If a witness is asked information not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue of the case.
- (d) Attorneys for the opposing team may refer to Rule 4 in a special objection, such as "unfair extrapolation" or "This information is beyond the scope of the statement of facts."
- (e) Possible rulings by a judge include:
 - 1. No extrapolation has occurred;
 - 2. An unfair extrapolation has occurred; or
 - 3. The extrapolation was fair.
- (f) When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings.
- (g) The decision of the presiding judge regarding extrapolations or evidentiary matters is final.
- (h) Points should be deducted from individual scores of participants who make unfair extrapolations or ask questions that call for unfair extrapolations. Witnesses and attorneys making unfair extrapolations and attorneys who ask questions that require the witness to answer with an unfair extrapolation should be penalized by having a point or points deducted from their individual scores.

- (i) The number of points deducted should be determined by the severity of the extrapolation. If a team has several team members making unfair extrapolations, the offending team's overall points should also be reduced accordingly.
(See Rule 29 for the treatment of rule infractions.)

Rule 5. Witnesses

Any student may play any witness role, regardless of the student's race, religion, ethnicity, sex, physical attributes, or disability. Where a witness is specifically described as being of a particular sex, religion, or race or as having a particular physical attribute, injury, or disability, any student of any sex, religion, race, physical attribute, or disability may play that role. At no time will an examining attorney or witness make an issue of the student's actual race, religion, ethnicity, sex, physical attributes, or disability at trial, but both will be confined to the case's description of the witness role being portrayed. The gender of students will be clearly indicated on the Trial Squad Roster form.

Rule 6. Voir Dire

Voir dire examination of a witness is not permitted.

B. THE TEAM

Rule 7. Mock Trial Team

"Competition levels" are defined in Rule as the separate stages of the season's competition: Regions, District, and State Finals.

- (f) *Competing and Non-Competing Team Members*— Each team must field a minimum of six and maximum of twelve "competing" team members, the students competing during a specific level of competition. A team may use different competing students between each level of the competition. All other students on the team are designated "non-competing" team members for that level of competition. All competing and non-competing team members must be listed on their team's/school's Team Member List (due in January), their team's Competition Roster (due at competition registration), and sign the Code of Ethical Conduct form (due at competition registration) for their team (see Rules 7(l) and (m)).
- (g) *Team Composition*—Six of the team's competing team members will present one side of the case in any given round, with three serving as attorneys and three serving as witnesses. Competing team members not participating in a specific round (students beyond the six participating for that side) are considered "idle" for that round.
 - 1. Prior to each round of competition, each team will be assigned to present the prosecution/plaintiff or the defense side of the case for that particular round.
 - 2. Prior to each round of competition, roles and responsibilities of a team's competing team members presenting for their side of the case must be identified and listed on the Trial Roster Form (see Rule 41).
 - i. From one round to the next, roles and responsibilities of the six to twelve competing team members may be interchanged within each team but may not be interchanged between teams from the same school.
 - ii. However, once declared per Rule 7(g)(1), no substitutions by a non-competing team member for a competing team member may be made during the entirety of that competition level. Non-compliance with this portion of Rule 7, at any level or round of the season's competitions, may result in penalties being applied by the trial coordinator under Rule 38(b) and (c).
 - 3. In the case of an emergency occurring *during a round of competition*, a team may participate with less than six members. In such a case, a team may continue in the trial round by making substitutions to achieve a two-attorney/three witness composition. Any team competing under this emergency arrangement will have the points for the doubled-up attorney role entered as 0 for ranking purposes and will be ineligible to advance the next level of competition.
 - i. The affected team may be allowed to complete the level of competition to provide the team's remaining students the opportunity to finish their competition as well as provide continued opposition to the other teams in the competition and avoid the need to use the bye rule.
- (h) *Substitution During a Competition Level*—If an emergency arises during the competition involving a competing team member, the team must make adjustments to fill vacant roles with the competing team members remaining.
- (i) *Unable to Field a Full Competition Team*—A team unable to field a full team of at least six students will not be allowed to compete.
- (j) *Timekeepers* – Each team must supply one timekeeper in each round of competition. The timekeeper may be one of the team's idle competing team members or a non-competing team member.
 - 1. If a team only has six students and cannot provide a timekeeper per Rule 7(j), two of the team's witness students will keep time, switching as needed for each to testify. Teams should prepare for this option and the appropriate students should be ready to keep time if needed.
- ...
- (m) *Ethics*—The Code of Ethical Conduct governs all participants, observers, guests, and parents at Georgia Mock Trial Competition events, including, but not limited to, the Competition itself, the Law Academy, and the Court Artist Competition. A copy of the Code must be signed by all students and coaches listed as part of the team prior to any of the events outlined above and must be delivered at registration to the coordinator of the event. Participants are responsible for making guests and parents aware of the code and all rules regarding conduct during the event.
- (n) *Decorum*—Counsel should treat opposing counsel with courtesy and tact. Attorneys should conduct themselves as professionals in these proceedings. Therefore, opposing counsel, witnesses, and the presiding judge must be treated with the appropriate courtesy and respect. All participants, including coaches, presiding judges and attorneys on the judging panel, are expected to display proper courtroom decorum. A trial coordinator has the authority to refuse entry to or remove a coach and/or other spectator from a courtroom before or during a trial round, as well as the competition site, if the trial coordinator feels that the actions of the coach and/or spectator in the courtroom is causing or may cause an undue distraction to the teams competing in that courtroom.
 - 1. The Plaintiff/Prosecution team shall be seated closest to the jury box.

2. No team shall rearrange the courtroom without prior permission of the judge.
3. Appropriate courtroom attire is expected of all team members.
4. Small children and food should not be brought into the courtroom.

C. THE TRIAL

Rule 14. Team Presentation

- (a) Teams will present one side of the case at a time in each round of competition, thus requiring just six students to compete each round.
- (b) Teams must be prepared to present both the Prosecution/Plaintiff and Defense/Defendant sides of the case.
- (c) Any team who arrives, at any level of the competition, with less than six students will be immediately withdrawn from the competition and not allowed to compete in any round.
- (d) Should a team be forced to withdraw, final determination of an emergency forfeiture will be made by the trial coordinator, in consultation with available Committee leaders. Under extraordinary circumstances, the trial coordinator, in consultation with available Committee leaders, may declare an emergency prior to the competition round.

Rule 15. Team Duties

- (a) Competing team members must handle all aspects of the trial during a competition round, including any rules disputes (see Rule 37) at the conclusion of the trial round.
- (b) The team may divide the duties for each side of the case between the competing team members as they see fit.
- (c) Idle competing team members may either act as a timekeeper or observe the trial outside the bar.
- (d) Teams will be guaranteed to present each side of the case at least once during the Regional competition and both sides during the District competition.
- (e) Idle competing team members may either act as a timekeeper or observe the trial outside the bar.
- (f) The team may change the composition and/or roles of their plaintiff/prosecution or defense amongst their competing team members between rounds.
- (g) The six competing team members on a side are to divide their duties evenly. Each of the three attorneys will conduct one direct and one cross-examination; in addition, one will present the opening statements and another will present closing arguments. In other words, the eight attorney duties for each team will be divided as follows:
 - Attorney 1: Opening Statement, Direct Examination of a Witness, Cross Examination of a Witness
 - Attorney 2: Direct Examination of a Witness, Cross Examination of a Witness
 - Attorney 3: Direct Examination of a Witness, Cross Examination of a Witness, and Closing Argument (including Rebuttal) [See Rule 15(i)]
- (h) Opening Statements must be given by both sides at the beginning of the trial, with the Prosecution/Plaintiff giving their opening statement first.
- (i) Closing Arguments must be presented by both sides at the conclusion of the defense's case in chief. The Prosecution/Plaintiff gives their closing argument first but may reserve all or a portion of its closing time for a rebuttal.
- (j) The attorney who will examine a particular witness on direct examination is the only person who may make the objections to the opposing attorney's questions of that witness' cross-examination. The attorney who will cross-examine a witness will be the only attorney permitted to make objections during the direct examination of that witness.
- (k) The attorneys who make the opening statement or the closing argument during a trial round are the only people who may make an "objection" to an opponent's opening statement or closing argument, as outlined in Rule 53(a).
- (l) Each team must call three witnesses. Witnesses may be called only by their own team and must be examined by both sides. A team may not treat its own witness as a hostile witness unless expressly authorized within the case materials. Witnesses may not be recalled by either side. Witnesses may be called in any order, regardless of the order in which they are listed on the Trial Roster Form or in which they have been called in earlier rounds of the competition.

Rule 16. Swearing of Witnesses

- (a) The following oath may be used before questioning begins: "Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?"
- (b) The swearing of witnesses will be conducted by the presiding judge at the start of the trial. No religious texts or references to a deity may be used.

Rule 17. Trial Sequence and Time Limits

- (a) The trial sequence and time limits are as follows:
 1. Opening Statement: 5 minutes per side
 2. Direct Examination (and optional Redirect): 25 minutes per side
 3. Cross Examination (and optional Recross): 20 minutes per side
 4. Closing Argument: 5 minutes per side
- (b) Redirect and Recross examinations must conform to restrictions in Rule 611(d).
- (c) The Prosecution/Plaintiff's closing rebuttal is not limited to the scope of the Defense's closing argument.
- (d) Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial *will not* be transferred to another part of the trial.
- (e) Even if a team has exhausted its time for direct and/or cross-examination, Rule 15(j) requires that each witness be called and subjected to direct and cross examination. Accordingly, attorneys out of time will be allowed only one question in direct: "Will the witness please

state your name for the record?" The opposing team will then be permitted to conduct a cross-examination of the witness. No questions will be allowed on cross-examination if a team has used all of its allotted time for cross-examination.

(See Rule 30(b) for the treatment of rule infractions.)

Rule 18. Timekeeping

(Additional explanations regarding this rule may be found in the Team and Coaches' Manual)

- (a) Per Rule 7(j), each team must supply one timekeeper per round. Timekeepers may be an idle competing team member or a non-competing team member.
- (b) Time limits are mandatory and will be enforced.
- (c) Time for objections, extensive questioning from the judge, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements.
- (d) Time does not stop for introduction and admittance of evidence.
- (e) A master copy of the Time Sheet is provided on the website.
- (f) Time card templates are provided on the website. Time cards must be printed on yellow paper. Using the Time Remaining Charts (located on the website), timekeepers must signal the time remaining by holding the appropriate time card up for the courtroom to see. When the time allowed for a category has expired, the timekeeper will raise the STOP card so that it may be visible to the judge and both counsels. If, at the expiration of time, the STOP card is raised and the attorney continues without permission from the judge to do so, the appropriate attorney for the opposing team may object, stating that "the time has expired," to bring the matter to the judge's attention.
- (g) At the end of each task during the trial presentation (i.e. at the end of each opening, at the end each witness examination, at the end of each cross-examination and at the end of each closing argument), the timekeepers will confer with each other regarding the amount of time remaining. If there is more than a 15-second discrepancy between the teams' timekeepers, the timekeepers must notify the presiding judge of the discrepancy. The presiding judge will then investigate the discrepancy, rule on a resolution to the discrepancy, and the timekeepers will synchronize their stopwatches accordingly; the trial will continue. No time disputes will be entertained after the trial concludes.
- (h) At the conclusion of the round, the presiding judge will ask the timekeepers to present their forms. It is the sole discretion of the scoring judges as to how they will interpret and weigh violations of time limits, and their decisions will be final.

Rule 19. Time Extensions and Scoring

The presiding judge has sole discretion to grant time extensions. If time has expired, the attorney may not continue without permission from the Court. Judges are encouraged to allow the completion of an answer that is in progress at the moment time is called. If an attorney pleads for additional examination after time is called, judges may permit a time extension but are strongly encouraged to limit any time extension to one question only.

Rule 20. Prohibited and Permitted Motions

- (a) No pre-trial motions may be made. A motion for directed verdict, acquittal, or dismissal of the case at the end of the Plaintiff/Prosecution's case may not be used. No motions may be made unless expressly provided for in the problem.
- (b) A motion for a recess may be used only in the event of an emergency (e.g., health emergency). To the greatest extent possible, team members are to remain in place. Should a recess be called, teams are not to communicate with any observers, coaches, or instructors regarding the trial.
- (c) In the event that a team member attorney believes, during the course of a trial round in which that team member attorney is competing, that the presiding judge has materially departed from the rules of the mock trial competition, the team member attorney may move for compliance with the rules of the mock trial competition. Such motions must be presented respectfully, must direct the presiding judge's attention to the applicable rule, and must be raised at the time of the presiding judge's alleged departure from the rules. No claim that the presiding judge has departed from the rules of the mock trial competition may be made after the judging panel has returned to the courtroom for debriefing.

Rule 21. Sequestration

Teams may not invoke the rule of sequestration, nor ask the judge for constructive sequestration.

Rule 22. Bench Conferences

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

Rule 23. Supplemental Material/Costuming/Illustrative Aids

(Additional explanations may be found in the Coaches Manual)

- (a) Teams may refer only to materials included in the case materials. No illustrative aids of any kind may be used, unless provided in the case materials. No enlargements or alterations of the case materials (as listed in the Coaches'/Policy Manual) by teams will be permitted. If any team member has a disability and requires special assistance, services, or printed materials in alternative formats, in order to participate in the Georgia Mock Trial Competition, the teacher or attorney coach must contact the State Mock Trial Coordinator well in advance of the regional competition date to receive modified case materials or make arrangements for special assistance or services.
- (b) Absolutely no props, uniforms, or costumes are permitted, unless specifically authorized in the trial materials. Costuming is defined as hairstyles, clothing, accessories, and makeup, which are case specific.
- (c) The only documents which the teams may present to the presiding judge or judging panel are the team roster forms and individual exhibits as they are introduced into evidence. Teams shall not show any copies of any exhibit to the judging panel other than the single

individual copy of any exhibit that has been admitted into evidence. Exhibit notebooks are not to be provided to the presiding judge or judging panel.

(See Rule 30 for the treatment of rule infractions.)

Rule 24. Trial Communication

For purposes of this rule, the trial begins when the judging panel enters the courtroom and ends after all closing arguments in that round, including rebuttals, have concluded and the judge has asked the evaluators to retire to calculate their scores.

- (a) Coaches, non-competing team members, idle competing team members, Court Artist contestants, and observers shall not talk to, signal, communicate with, or coach their teams during a trial round. No coach is allowed inside the bar at any time during a trial round. This rule remains in force during any recess time during the trial, which may occur.
- (b) Competing team members competing in a particular round may communicate among themselves during the trial; however, no disruptive communication is allowed. Signaling of time by the teams' timekeepers shall not be considered a violation of this rule.
- (c) Non-competing team members, idle competing team members, contest participants, teachers, and coaches must remain outside the bar in the spectator section of the courtroom. Only competing team members participating in the round may sit inside the bar and communicate with each other.
- (d) Except in the case of an emergency, no competing team member is allowed to leave a courtroom during a round without the permission of the court.
- (e) If a recess is taken during a trial for any reason, to the greatest extent possible, team members should remain seated in their appropriate positions within the courtroom until the trial resumes.
- (f) Competing team members may not use cell phones, tablets, laptops, or other personal electronic devices during a trial.
- (g) All electronic communication devices (belonging to team members, coaches, contest participants, and observers) should be turned off during the entirety of the trial.

Rule 25. Viewing a Trial

- (a) Non-competing and idle team members, alternates, coaches, spectators, and any other persons directly associated with a mock trial team are not allowed to view other teams in competition, so long as their team remains in the competition.
- (b) A team that has been eliminated from one level of the competition may not share its scoresheets, judging panel comment sheets, or other observations of an opponent's performance with another team that remains in the competition, until that team is eliminated from the competition entirely.
- (c) A violation of Rule 25(b) will be considered as occurring "outside the bar" and will be handled in accordance with the procedure outlined in Rule 40.

Rule 26. Videotaping/Photography

- (a) Any team has the option to refuse participation in videotaping, tape-recording, still photography, or media coverage.
 - (b) Media coverage and video production will be allowed by the two teams in the championship round at the State Finals.
 - (c) Media representatives authorized by the trial coordinator will wear identification badges.
-

D. JUDGING AND SCORING

(Additional explanations regarding this section may be found in the Coaches Manual)

Rule 27. Decisions

All decisions of the judging panel are FINAL.

Rule 28. Composition of Panel

- (a) All persons serving on a judging panel must be a member in good standing with the State Bar of Georgia or their state-licensing body; or a student in their third year of law school.
- (b) The judging panel will consist of at least three individuals. The composition of the judging panel and the role of the presiding judge will be at the discretion of the trial coordinator as follows:
 - 1. One presiding judge and two -scoring evaluators (all three complete score sheets); or
 - 2. One presiding judge and three scoring evaluators (scoring evaluators only complete score sheets).Law school students may only serve as scoring evaluators and each panel may only have a maximum of one law school student on the panel.
- (c) A championship round may have a larger panel at the discretion of the trial coordinator.
- (d) All presiding judges and scoring evaluators receive the judge's edition of the mock trial manual, which includes orientation materials and a bench brief and a briefing in a judges' orientation.
- (e) Judging panel members should turn off and/or not use their cell phones, pagers, PDAs, etc. during a trial round.
- (f) In the event of an emergency (ex. sudden illness, etc.), if a judging panel member must leave the courtroom, the presiding judge or scoring evaluator will call for a brief recess and notify the trial coordinator. The trial coordinator will attempt to assess whether the judging panel member will be able to return in a reasonably short period of time and then resume the proceedings upon the panel member's return to the courtroom. During the entirety of any type of recess, Rule 24(a) applies to the teams in the courtroom.
 - 1. If the panel member is unable to return to the courtroom, the trial coordinator will adjust the panel composition to best meet the requirements of the rules and the round should resume.

Rule 29. Scoresheets/Ballots

- (a) The term “ballot” will refer to the decision made by a scoring judge as to which team made the best presentation in the round. The term “scoresheet” is used in reference to the paper or electronic form on which speaker and team points are recorded. Scoresheets are to be completed individually by the scoring evaluators. Scoring evaluators are not bound by the rulings of the presiding judge. The team that earns the highest points on an individual evaluator’s scoresheet is the winner of that ballot. The team that receives the majority of the three ballots wins the round. The ballot votes determine the win/loss record of the team for power-matching and ranking purposes. While the judging panel may deliberate on any special awards (i.e., Outstanding Attorney/Witness), the judging panel may not deliberate on individual scores.
- (b) Judging panel members may not discuss the individual speaker or team points from their individual ballot with team members, team coaches, or any other individual directly related to a team in the competition. In addition to the critique, judging panel members will be provided with an optional judging panel worksheet on which they may record any individual observations they wish to share with a team or team member. Team members, team coaches and other individuals directly related to a team in competition may not challenge a judging panel member with respect to his/her scores.
- (c) When exceptional presentations are made, the judging panel has the option of recognizing one Outstanding Attorney and one Outstanding Witness per competition round. This award is determined by a majority vote of the judging panel and will be announced at the closing assembly following preliminary rounds.
- (d) Any questions regarding the accuracy of mathematical computations on a completed scoresheet, blanks on a completed scoresheet, and/or the accuracy of a team’s final record at any given level of the competition must be brought to the attention of the trial coordinator on site by the primary teacher or attorney coach within 30 minutes of the announcement of the teams advancing to the next stage of the competition.

Rule 30. Completion of Scoresheets/Judging Guidelines

- (a) Scoresheets are to be completed in four steps; three by the scoring evaluator and one by the scoring Coordinator:
 - 1. *Speaker Points*—The scoring evaluator will record a number of speaker points (1-10) for each portion of the trial.
 - 2. *Team Points*—The scoring evaluator will give a number of points (1-10) to each team in the Team Points box. **NO TIE IS ALLOWED IN THE TEAM POINT BOX.**
 - 3. *Tie Breaker*—The scoring evaluator will circle the team designation that should receive the tiebreaker in the event that the Final Point Total is tied. (In the event the ballot is tied, the scoring Coordinator will award the designated team an additional point to break the tie.) At this point, the scoring evaluator will turn the ballot in to the Scoring coordinator for calculation.
 - 4. *Final Point Total*—The scoring Coordinator will add the Speaking Points and Team Points boxes to achieve a final point total for each team. **NO TIE IS ALLOWED IN THE FINAL POINT TOTAL BOX.** In the event of a tie, an additional point will be awarded to the team designated as the tiebreaker by the scoring evaluator. The team with the highest number of points in the Final Point Total box receives the ballot from that scoring evaluator.
- (b) Each scoring evaluator may wish to consider specific point deductions for rules violations, which the scoring evaluator has observed during the trial, whether or not the formal dispute process has been invoked. Deductions *may be considered* for violations and charged against the score of an individual speaker (in the Speaker Points categories) or against the entire team (in the Team Points category). Examples of rule violations include but are not limited to:
 - Unfair Extrapolations (Rule 4);
 - Excessive answers by witnesses on cross-examination in order to deplete the opposing team’s time, aka “time sucking” (Rule 7(m) and Ethics Code §1);
 - Exceeding Time Limits (Rule 14);
 - Use of Unapproved Supplemental Materials (Rule 20);
 - Improper Courtroom Decorum (Rule 40 and Ethics Code §1);
 - Student Work Product (Rule 41 and Ethics Code §3); and
 - Excessive or Frivolous Objections (Ethics Code §1).
- (c) Should only one scoring evaluator be available for a round, the presiding judge and lone scoring evaluator will complete a scoresheet. The Scoring coordinator shall average the scores from the two scoresheets to achieve the required third score.
 - 5. Fractions will be rounded to the nearest higher whole number.
 - 6. In the rare instance that the third scoresheet has a tie in the Final Point Total boxes, the philosophy outlined in Rule 31(a)(4) applies; only the point spread between the two actual scoresheets from the round will be compared. In this case, whichever team has the greatest point spread is the team that should receive the ballot of the third scoresheet. However, the Final Point Total of the third should remain as a tie and be factored into the point summaries used in power matching.
- (d) On a paper ballot, in cases where a scoresheet is submitted with a blank in a speaker point or team point box, the scoring Coordinator will make every effort to contact that evaluator to have the evaluator complete the scoresheet. In the event that the evaluator cannot be reached either by phone or in person to correct the scoresheet, the scoring Coordinator will fill in the blank by averaging the speaker points awarded by that evaluator for that team. The scoring Coordinator will add this averaged total to the blank box, initial the addition, note on the scoresheet that it is an averaged point award, continue with the calculation of the ballot, and notify the mock trial office.

.....

E. DISPUTE SETTLEMENT

Rule 37. Reporting a Rules Violation: Inside the Bar

- (a) Disputes which involve team members competing in a competition round and occur inside the bar must be filed with the presiding judge immediately following the conclusion of that trial round.
- (b) The dispute procedure described in this rule may not be used to challenge an action by the presiding judge, which a team believes materially departs from the rules of the mock trial competition. If a team believes that such a material departure has occurred during the trial round, one of its team member attorneys must move for compliance with the rules of the mock trial competition in accordance with Rule 20(c). (See Rule 38(a) for resolution procedure)
- (c) If any team believes that a substantial rules violation has occurred that was not handled during the course of the trial, one of its team member attorneys must indicate that the team intends to file a dispute. The complainant team will record in writing the nature of the dispute on an Inside the Bar Dispute Form. The team member may communicate with their co-counsel, and/or witnesses before lodging the notice of dispute or in preparing the form.
 1. At no time in this process may team coaches communicate or consult with the team member attorneys. Only team member attorneys may invoke the dispute procedure.
- (d) Rules violations and/or disputes which involve teams, individual team members, or coaches during the course of the round or during the competition day, which are not brought to the attention of the presiding judge during a round (under Rule 37(a)) or to the trial coordinator's attention during the competition day by a teacher or attorney coach (under Rule 40), but which are discovered in the normal course of organizing and running the business of the competition on competition day and which are discovered by the trial coordinator or one of his/her coordinating team members, should be dealt with on-site (see Rule 40(b) & (c) for resolution procedure).

Rule 38. Dispute Resolution Procedure: Inside the Bar

- (a) The presiding judge will review the written dispute and determine whether the dispute should be granted a hearing or be denied. If the dispute is denied, the judge will record the reasons for this, announce her/his decision to the Court, retire to complete his/her scoresheet (if applicable), and turn the dispute form in with the scoresheets. If the judge feels the grounds for the dispute merit a hearing, the form will be shown to opposing counsel for their written response. After the team has recorded its response and transmitted it to the judge, the judge will ask each team to designate a spokesperson. After the spokespersons have had time to prepare their arguments (not to exceed three minutes), the judge will conduct a hearing on the dispute, providing each team's spokesperson three minutes for a presentation. The spokespersons may be questioned by the judge. At no time in this process may team coaches communicate or consult with the team member attorneys. The presiding judge shall offer no ruling on the dispute.
- (b) Rules violations and/or disputes identified by trial coordinators and/or a member of the coordinating team must be dealt with on site and in consultation with the appropriate Director of Competitions, the Rules Subcommittee Chair, the State Coordinator, the Chair of the Committee, either Vice Chair of the Committee and/or the Special Consultant to the Committee. The trial coordinator should request a verbal explanation of the violation and/or dispute from the offending team, individual, or coach before contacting the appropriate and/or available HSMTC leader. In consultation, the trial coordinator and the HSMTC leader(s) contact will decide the outcome of the situation. All decisions in this process made by the trial coordinator in consultation with HSMTC leadership will be considered final.
 1. If a trial coordinator, in consultation with HSMTC leadership, determines that a rules violation did occur as described in Rules 37(e) and 38(b), the trial coordinator and HSMTC leader(s) may choose to impose one or more of the consequences outlined in Rule 10(e) 1-5.

Rule 39. Effect of Violation on Score

The scoring evaluators may consider the weight of the dispute/rules violation in completing their scoresheets. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring evaluators.

Rule 40. Reporting of Rules Violation: Outside the Bar

- (a) Time is of the essence in all matters during any level of the competition. Coaches and team members are expected to communicate before and after competition rounds on a variety of competition-related topics, in addition to student performance. Moreover, coaches should communicate with each other during the course of the competition day so that they are aware, within a reasonable amount of time, of events that occur during the competition that relate to their competition team, including any potential outside the bar rules violation/dispute that may have occurred.
- (b) A Rules Violation/dispute, which involves individuals other than team members and/or occurs outside the bar only during a trial round on competition day, may be brought by the primary teacher or attorney coaches exclusively. Such disputes must be brought to the attention of the trial coordinator as soon as possible, but in no event more than 30 minutes after the end of the round in which the alleged violation occurred. The complaining party must complete a dispute form in order for the dispute to be heard. The form will be taken to the tournament's communication's center, whereupon a dispute resolution panel will 1) notify all pertinent parties; 2) allow time for a response, if appropriate; 3) conduct a hearing; and 4) rule on the charge.
 1. The trial coordinator and/or his/her designated dispute resolution panel must handle all disputes of this type on site and on the day of the competition. The dispute resolution panel may notify the judging panel of the affected courtroom of the ruling on the charge.
 2. The dispute resolution panel will be composed of designees, including available HSMTC leaders, appointed by the trial coordinator, who may also sit on the panel.
 3. The decision of the dispute resolution panel in these matters will be considered final and no appeals will be heard.
 4. If a trial coordinator, in consultation with HSMTC leadership, determines that an "outside the bar" rules violation did occur, the trial coordinator and/or HSMTC leader(s) may choose to impose one or more of the consequences outlined in Rule 10(e)(1-5).

- (c) Teams shall not bring outside the bar disputes/issues that arise on competition day directly to the state mock trial office for consideration at any time.
- (d) If a coach discovers a potential outside the bar violation after the 30-minute time frame for disputes has elapsed, but on the same day that the alleged violation occurred, and wishes to have the matter reviewed, that coach is required to bring the issue to the attention of the trial coordinator before leaving the competition site. The trial coordinator will then convene the dispute resolution panel to review the matter as described in sections (b) through (e) of this rule. If a coach leaves the competition site knowing that a potential outside the bar rules violation/dispute has occurred, but without formally bringing it to the attention of the trial coordinator, the team forfeits the right to file the complaint or have the matter reviewed in any way.
- (e) Only under the most extenuating of circumstances, which must be described in writing, may a coach bring a complaint of an outside the bar rules violation/dispute to the Rules Chair on the Monday after that level of the competition has concluded. If the Rules Chair determines that the issue could not be brought to the attention of the trial coordinator at the competition site, s/he will review the issue and may choose to request a response from the alleged offender in order to gain a clearer understanding of the situation. The Rules Chair may resolve the dispute at the time it is submitted; if the Rules Chair determines that a violation did occur, s/he, in consultation with other HSMTC leaders and with the advice of the State Coordinator, may impose one or more of the consequences outlined in Rules 10(e)(1-5) on the offending team, coach, or individual team member.
 1. The Rules Chair, in his/her sole discretion, may also elect not to resolve the dispute but to include the issue in the rules review at the next meeting of the Subcommittee on the Rules. Regardless of whether the dispute is resolved, it will have no bearing on the outcome of any competition round(s) during the competition level at which the dispute arose.

II. RULES OF PROCEDURE

A. BEFORE THE TRIAL

Rule 41. Trial Roster Form

The Trial Roster Form must be completed and be ready to be distributed by each team for each side of the case prior to start of the competition level. Teams must only be identified by their pre-assigned team code. No information identifying team origin (school name, team name, etc.) should appear on the form. Witness lists should identify the gender of each witness as being portrayed so that references to such parties will be made with the proper gender pronouns.

Before beginning a trial, the teams must exchange copies of the Trial Roster Form. Copies of the Trial Roster Form should also be made available to each member of the judging panel and the presiding judge before each round. The Trial Roster Form is available as a fillable and savable PDF on the HSMT website and should be completed in typed form whenever possible.

Rule 42. Stipulations

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

Rule 43. The Record

The stipulations, the indictment/complaint and answer, and the Charge of the Court will not be read into the record.

.....

B. BEGINNING THE TRIAL

Rule 44. Jury Trial

The case will be tried to a jury; arguments are to be made to judge and jury. Teams may address the scoring evaluators as the jury.

Rule 45. Standing During Trial

Attorneys who are able will stand while giving opening and closing statements, during direct and cross examinations, and for all objections. (See Rule 30(b) for the treatment of rule infractions.)

Rule 46. Student Work Product

All opening statements and closing arguments, all direct and cross-examinations, and all objections shall be substantially the work product of team members and not be scripted by coaches. (See Rule 30(b) for the treatment of rule infractions.)

.....

C. PRESENTING EVIDENCE

Rule 47. Argumentative/Ambiguous Questions and Non-Responsive Answer

- (a) *Argumentative*—An attorney shall not ask a question which asks the witness to agree to a conclusion drawn by the questions without eliciting testimony as to new facts; provided, however, that the Court may in its discretion allow limited use of argumentative questions on cross examination.
- (b) *Ambiguous Questions*—An attorney shall not ask questions that are capable of being understood in two or more possible ways.
- (c) *Non-Responsive Answer*—A witness' answer is objectionable if it fails to respond to the question asked.

Rule 48. Assuming Facts Not in Evidence

An attorney shall not ask a question that assumes unproved facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by the evidence.

Rule 49. Lack of Proper Predicate/Foundation

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

Rule 50. Procedure for Introduction of Exhibits

The following procedure for introducing evidence is accepted practice. All teams should be prepared to follow these steps and all presiding judges should allow students to utilize this procedure for the introduction of evidence during competition rounds. All evidence will be pre-marked as exhibits. Timekeepers will not stop time during the introduction of evidence.

1. To the witness: "I now show you what has been marked as Exhibit No. ___ for identification."
2. Ask the witness to identify the exhibit. "Would you identify it please?"
3. Witness answers with identification only.
4. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No. ___ into evidence at this time. The authenticity of this exhibit has been stipulated."
5. *Court:* "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
6. *Opposing Counsel:* "No, your Honor," or "Yes, your Honor." If the response is "Yes," the objection will be stated on the record. *Court:* "Is there any response to the objection?"
7. *Court:* "Exhibit No. ___ is/is not admitted."
8. If the exhibit is admitted into evidence, the attorney may now solicit testimony on its contents.

Rule 51. Use of Notes

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

Rule 52. Redirect/Recross

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

.....

D. SPECIAL MOCK TRIAL OBJECTIONS

Rule 53. Special Mock Trial Objections

- (a) *"Objections" during Openings/Closings:* No objections may be raised during opening statements or during closing arguments. If a team believes an objection would have been proper during the opposing team's opening statement or closing argument, one of its attorneys (per Rule 15(e)) may, following the opening statement or closing argument, stand to be recognized by the judge and may say, "If I had been permitted to object during [opening statement or closing argument], I would have objected to the opposing team's statement that _____." The opposing team is allowed a response. The presiding judge will not rule on the "objection." Presiding and scoring judges will weigh the "objection" and response (if given) individually.
- (b) *Scope of Closing Arguments:* Closing Arguments must be based on the actual evidence and testimony presented during the trial, including rebuttal.
- (c) *Excessive and/or Intentionally Evasive and/or Non-Responsive Answers from Witnesses:* If a team believes that an opposing team's witness has engaged in excessive or intentional evasiveness and/or excessive or intentional non-responsive answers on cross, solely to use up an opponent's allotted cross examination time, and the attorney handling the cross-examination of that witness has exhausted all methods of attempting to control that witness, that attorney may, at the end of that cross examination make an "objection" to "excessive/intentional evasiveness/non-responsiveness" on the part of that witness.
 1. If an attorney makes this mock trial "objection", s/he may stand at the end of his/her cross-examination and ask to be recognized by the presiding judge saying, "Your honor, I object to the excessive/intentional evasiveness/non-responsiveness displayed by Witness X. I believe his/her sole purpose for using this tactic was to use up my allotted time during cross examination."
 2. The presiding judge shall allow no response to the objection from the opposing team. The presiding judge shall not rule on this objection; however, the presiding judge may indicate to scoring evaluators that they may consider the "objection" at their discretion when completing their scoresheet (see Rule 30(b) for point deductions for rules infractions).
 3. Evaluators may deduct points from any witness or witnesses and any team whose conduct properly draws such an objection or reasonably could have properly drawn such an objection even if no objection is made. Evaluators may also award additional points to attorneys or teams that effectively control witnesses/teams that use such delaying tactics during the cross examination, regardless of an "objection" under this rule being made.

.....

E. CRITIQUE

Rule 54. The Critique

- (a) The judging panel is allowed 10 minutes for debriefing. The timekeepers will monitor the critique following the trial. Presiding judges are to limit critique sessions to the 10 minutes' total time allotted.
 - (b) Judges shall not make a ruling (verdict) on the legal merits of the trial. Judges may not inform the students of scoresheet results or the awarding of outstanding attorney or witness certificates.
-
-

III. GEORGIA HIGH SCHOOL MOCK TRIAL COMPETITION RULES OF EVIDENCE

In American trials, complex rules are used to govern the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial or otherwise improper. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the evidence will probably be allowed by the judge. The burden is on the mock trial team to know the Georgia High School Mock Trial Competition Rules of Evidence and to be able to use them to protect their client and fairly limit the actions of opposing counsel and their witnesses.

For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence, and its numbering system. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure. Text in *italics* or underlined represent simplified or modified language.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate.

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

Article I. General Provisions

Rule 101. Scope

These rules govern proceedings in the *Georgia Mock Trial Competition*.

Rule 102. Purpose and Construction

These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

Rule 105. Limited Admissibility (Reworded for 2022 Season)

If the court admits evidence that is admissible against a party or for a purpose — but not against another party or for another purpose — the court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly.

Rule 106. Remainder of or Related Writings or Recorded Statements (Reworded for 2022 Season)

If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part — any other writing or recorded statement — that in fairness ought to be considered at the same time.

Article II. Judicial Notice

Rule 201. Judicial Notice of Adjudicative Facts

- (a) This rule governs judicial notice of an adjudicative fact only, not a legislative fact.
- (b) The court may judicially notice a fact that is not subject to reasonable dispute because it is a matter of mathematical or scientific certainty. For example, the court could take judicial notice that $10 \times 10 = 100$ or that there are 5280 feet in a mile.
- (c) The court must take judicial notice if a party requests it and the court is supplied with the necessary information.
- (d) The court may take judicial notice at any stage of the proceeding.
- (e) A party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed.
- (f) In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

Article III. Presumptions in Civil Actions and Proceedings (Not applicable in criminal cases)

Rule 301. Presumptions in General in Civil Actions and Proceedings

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

Article IV. Relevancy and its Limits

Rule 401. Test for Relevant Evidence

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

Rule 402. General Admissibility of Relevant Evidence

Relevant evidence is admissible unless these rules provide otherwise. Irrelevant evidence is not admissible.

Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Rule 404. Character Evidence; Crimes or Other Acts

(a) Character Evidence.

1. **Prohibited Uses.** Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.
2. Exceptions for a Defendant or Victim in a Criminal Case. The following exceptions apply in a criminal case:
 - a. a defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it;
 - b. a defendant may offer evidence of an alleged victim's pertinent trait, and if the evidence is admitted, the prosecutor may:
 - i. offer evidence to rebut it; and
 - ii. offer evidence of the defendant's same trait; and
 - c. in a homicide case, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.
3. **Exceptions for a Witness.** Evidence of a witness's character may be admitted under Rules 607, 608, and 609.

(b) Other Crimes, Wrongs, or Other Acts.

1. **Prohibited Uses.** Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.
2. **Permitted Uses.** This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

Rule 405. Methods of Proving Character

- (a) **By Reputation or Opinion.** When evidence of a person's character or *character trait* is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. *On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct.*
- (b) **By Specific Instances of Conduct.** When a person's character or *character trait* is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.

Rule 406. Habit, Routine Practice

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

Rule 407. Subsequent Remedial Measures

When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove:

- negligence;
- culpable conduct;
- a defect in a product or its design; or
- a need for a warning or instruction.

But the court may admit this evidence for another purpose, such as impeachment or — if disputed — proving ownership, control, or the feasibility of precautionary measures.

Rule 408. Compromise Offers and Negotiations

(a) **Prohibited Uses.** Evidence of the following is not admissible — on behalf of any party — either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

1. furnishing, promising, or offering — or accepting, promising to accept, or offering to accept — a valuable consideration in compromising or attempting to compromise the claim; and
2. conduct or a statement made during compromise negotiations about the claim — except when offered in a criminal case and when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative, or enforcement authority.

- (b) **Exceptions.** The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Rule 409. Offers to Pay Medical and Similar Expenses (*civil case only*)

Evidence of furnishing, promising to pay, or offering to pay medical, hospital, or similar expenses resulting from an injury is not admissible to prove liability for the injury.

Rule 410. Pleas, Plea Discussions, and Related Statements

- (a) **Prohibited Uses.** In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:
1. a guilty plea that was later withdrawn;
 2. a nolo contendere plea;
 3. a statement made during a proceeding on either of those pleas under Federal Rule of Criminal Procedure 11 or a comparable state procedure; or
 4. a statement made during plea discussions with an attorney for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea.
- (b) **Exceptions.** The court may admit a statement described in Rule 410(a)(3) or (4):
1. in any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or
 2. in a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

Rule 411. Liability Insurance

Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. But the court may admit this evidence for another purpose, such as proving a witness's bias or proving agency, ownership, or control.

.....
Article V. Privileges

Rule 501. General Rule

There are certain admissions and communications excluded from evidence on grounds of public policy. Among these are:

1. communications between spouses;
2. communications between attorney and client;
3. communications among grand jurors;
4. secrets of state; and
5. communications between **medical or mental health care providers and patient.** (Reworded for 2022 Season)

.....
Article VI. Witnesses

Rule 601. General Rule of Competency

Every person is competent to be a witness.

Rule 602. Need for Personal Knowledge

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under Rule 703. (*See Rule 2.2*)

Rule 603. Oath or Affirmation

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation, administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so. [*The mock trial oath is provided in the Rules of the Competition at Rule 16(a).*]

Rule 604. Interpreters

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

Rule 607. Who May Impeach a Witness

Any party, including the party that called the witness, may attack the witness's credibility.

Rule 608. A Witness's Character for Truthfulness or Untruthfulness

- (a) **Reputation or Opinion Evidence.** A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

- (b) **Specific Instances of Conduct.** Except for a criminal conviction under Rule 609, extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:
1. the witness; or
 2. another witness whose character the witness being cross-examined has testified about.

By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness's character for truthfulness.

Rule 609. Impeachment by Evidence of a Criminal Conviction

- (a) **In General.** The following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:
1. for a crime that, in the convicting jurisdiction, was punishable by death or by imprisonment for more than one year, the evidence:
 - a. must be admitted, subject to Rule 403, in a civil case or in a criminal case in which the witness is not a defendant; and
 - b. must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant; and
 2. for any crime regardless of the punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime required proving — or the witness's admitting — a dishonest act or false statement.
- (b) **Limit on Using the Evidence After 10 Years.** This subdivision (b) applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect.
- (c) **Effect of a Pardon, Annulment, or Certificate of Rehabilitation.** Evidence of a conviction is not admissible if:
1. the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the person has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or
 2. the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.
- (d) **Juvenile Adjudications.** Evidence of a juvenile adjudication is admissible under this rule only if:
1. it is offered in a criminal case;
 2. the adjudication was of a witness other than the defendant;
 3. an adult's conviction for that offense would be admissible to attack the adult's credibility; and
 4. admitting the evidence is necessary to fairly determine guilt or innocence.
- (e) **Pendency of an Appeal.** A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency is also admissible.

Rule 610. Religious Beliefs or Opinions

Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility.

Rule 611. Mode and Order of Interrogation and Presentation

- (a) **Control by the Court; Purposes.** The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:
1. make those procedures effective for determining the truth;
 2. avoid wasting time; and
 3. protect witnesses from harassment or undue embarrassment.
- (b) **Scope of cross-examination.** The scope of the cross examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, **including** all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.
- (c) **Leading Questions.** Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness' testimony). Ordinarily, leading questions are permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used. A hostile witness may only be called pursuant to Rule ~~12(f)~~ 15(k).
- (d) **Redirect/Re-cross.** 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 or re-cross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.
- (e) **Permitted Motions.** The only motion permissible is one requesting the judge to strike testimony following a successful objection to its admission.

Rule 612. Writing Used to Refresh a Witness's Memory (Reworded for 2022 Season)

- (a) **Scope.** This rule gives an adverse party certain options when a witness uses a writing to refresh memory:
1. while testifying; or
 2. before testifying, if the court decides that justice requires the party to have those options.
- (b) **Adverse Party's Options.** An adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness about it, and to introduce in evidence any portion that relates to the witness's testimony.

Rule 613. Witness's Prior Statement

- (a) **Showing or Disclosing the Statement During Examination.** When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's attorney.
- (b) **Extrinsic Evidence of a Prior Inconsistent Statement.** Extrinsic evidence of a witness's prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision (b) does not apply to an opposing party's statement under Rule 801(d)(2).

Article VII. Opinions and Expert Testimony

Rule 701. Opinion Testimony by Lay Witness

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- (a) rationally based on the witness's perception;
- (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and
- (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Rule 702. Testimony by Experts (Reworded for 2022 Season)

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

- (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; and
- (b) the testimony is based on sufficient facts or data.

Rule 703. Bases of an Expert's Opinion Testimony

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.

Rule 704. Opinion on Ultimate Issue

- (a) **In General — Not Automatically Objectionable.** An opinion is not objectionable just because it embraces an ultimate issue.
- (b) **Exception.** In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.

Rule 705. Disclosing the Facts or Data Underlying An Expert's Opinion

Unless the court orders otherwise, an expert may state an opinion — and give the reasons for it — without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.

Article VIII. Hearsay

Rule 801. Definitions

The following definitions apply under this article:

- (a) **Statement.** "Statement" means a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.
- (b) **Declarant.** "Declarant" means the person who made the statement.
- (c) **Hearsay.** "Hearsay" means a statement that:
 - 1. the declarant does not make while testifying at the current trial or hearing; and
 - 2. a party offers in evidence to prove the truth of the matter asserted in the statement.
- (d) **Statements That Are Not Hearsay.** A statement that meets the following conditions is not hearsay:
 - 1. **A Declarant-Witness's Prior Statement.** The declarant testifies and is subject to cross-examination about a prior statement, and the statement:
 - a. is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;
 - b. is consistent with the declarant's testimony and is offered
 - i. to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or
 - ii. to rehabilitate the declarant's credibility as a witness when attacked on another ground; or (Added for 2022 Season)
 - c. identifies a person as someone the declarant perceived earlier.
 - 2. **An Opposing Party's Statement.** The statement is offered against an opposing party and:
 - a. was made by the party in an individual or representative capacity;
 - b. is one the party manifested that it adopted or believed to be true;
 - c. was made by a person whom the party authorized to make a statement on the subject;
 - d. was made by the party's agent or employee on a matter within the scope of that relationship and while it existed; or

e. was made by the party's coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not by itself establish the declarant's authority under (c); the existence or scope of the relationship under (d); or the existence of the conspiracy or participation in it under (e).

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these Rules.

Rule 803. Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant is Available as a Witness

The following are not excluded by the hearsay rule, regardless of whether the declarant is available as a witness:

1. **Present Sense Impression.** A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.
2. **Excited Utterance.** A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.
3. **Then-Existing Mental, Emotional, or Physical Condition.** A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.
4. **Statement Made for Medical Diagnosis or Treatment.** A statement that:
 - a. is made for — and is reasonably pertinent to — medical diagnosis or treatment; and
 - b. describes medical history; past or present symptoms or sensations; their inception; or their general cause.
5. **Recorded Recollection.** A record that:
 - a. is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;
 - b. was made or adopted by the witness when the matter was fresh in the witness's memory; and
 - c. accurately reflects the witness's knowledge.If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.
6. **Records of a Regularly Conducted Activity.** A record of an act, event, condition, opinion, or diagnosis if:
 - a. the record was made at or near the time by — or from information transmitted by — someone with knowledge;
 - b. the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;
 - c. making the record was a regular practice of that activity;
 - d. all these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with a statute permitting certification; and
 - e. the opponent does not show that the source of information nor the method or circumstances of preparation indicate a lack of trustworthiness.
7. **Absence of a Record of a Regularly Conducted Activity.** Evidence that a matter is not included in a record described in paragraph (6) if:
 - a. the evidence is admitted to prove that the matter did not occur or exist;
 - b. a record was regularly kept for a matter of that kind; and
 - c. the opponent does not show that the possible source of the information nor other circumstances indicate a lack of trustworthiness.
8. **Public Records.** A record or statement of a public office if:
 - a. it sets out:
 - i. the office's activities;
 - ii. a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law-enforcement personnel; or
 - iii. in a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and
 - b. the opponent does not show that the source of information nor other circumstances indicate a lack of trustworthiness.
10. **Absence of a Public Record.** Testimony that a diligent search failed to disclose a public record or statement if the testimony or certification is admitted to prove that:
 - a. the record or statement does not exist; or
 - b. a matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind.
16. **Statements in Ancient Documents.** A statement in a document was prepared before January 1, 1998 and whose authenticity is established.
18. **Statements in Learned Treatises, Periodicals, or Pamphlets.** A statement contained in a treatise, periodical, or pamphlet if:
 - a. the statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and
 - b. the publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.If admitted, the statement may be read into evidence but not received as an exhibit.
21. **Reputation Concerning Character.** A reputation among a person's associates or in the community concerning the person's character.
22. **Judgment of a Previous Conviction.** Evidence of a final judgment of conviction if:
 - a. the judgment was entered after a trial or guilty plea, but not a *nolo contendere* plea;
 - b. the conviction was for a crime punishable by death or by imprisonment for more than a year;
 - c. the evidence is admitted to prove any fact essential to the judgment; and

- d. when offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.

The pendency of an appeal may be shown but does not affect admissibility.

Rule 804. Hearsay Exceptions; Declarant Unavailable

- (a) **Criteria for Being Unavailable.** A declarant is considered to be unavailable as a witness if the declarant:
 1. is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies;
 2. refuses to testify about the subject matter despite a court order to do so;
 3. testifies to not remembering the subject matter;
 4. cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness; or
 5. is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure:
 - a. the declarant's attendance, in the case of a hearsay exception under Rule 804(b)(1) or (6); or
 - b. the declarant's attendance or testimony, in the case of a hearsay exception under Rule 804(b)(2), (3), or (4).

But this subdivision (a) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

- (b) **The Exceptions.** The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:
 1. **Former Testimony.** Testimony that:
 - a. was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and
 - b. is now offered against a party who had — or, in a civil case, whose predecessor in interest had — an opportunity and similar motive to develop it by direct, cross-, or redirect examination.
 2. **Statement Under the Belief of Imminent Death.** In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.
 3. **Statement Against Interest.** A statement that:
 - a. a reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and
 - b. is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.
 4. **Statement of Personal or Family History.** A statement about:
 - a. the declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption, or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or
 - b. another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage or was so intimately associated with the person's family that the declarant's information is likely to be accurate.
 6. **Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability.** A statement offered against a party that wrongfully caused — or acquiesced in wrongfully causing — the declarant's unavailability as a witness, and did so intending that result. *For the purposes of the mock trial competition, required notice will be deemed to have been given. The failure to give notice as required by these rules will not be recognized as an appropriate objection.*

Rule 805. Hearsay within Hearsay

Hearsay included within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

Rule 806. Attacking and Supporting Credibility (Reworded for 2022 Season)

When a hearsay statement — or a statement described in Rule 801(d)(2)(C), (D), or (E) — has been admitted in evidence, the declarant's credibility may be attacked, and then supported, by any evidence that would be admissible for those purposes if the declarant had testified as a witness. The court may admit evidence of the declarant's inconsistent statement or conduct, regardless of when it occurred or whether the declarant had an opportunity to explain or deny it. If the party against whom the statement was admitted calls the declarant as a witness, the party may examine the declarant on the statement as if on cross-examination.

Rule 807. Residual Exception (New for 2022 Season)

Under the following conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not admissible under a hearsay exception in Rule 803 or 804:

- 1) The statement is supported by sufficient guarantees of trustworthiness — after considering the totality of circumstances under which it was made and evidence, if any, corroborating the statement; and
- 2) It is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts.

.....

Article XI. Miscellaneous Rules

Rule 1103. Title

These rules may be known and cited as the Georgia High School Mock Trial Competition Rules of Evidence.