

2014 MANUAL (INCLUDING RULES)

Prepared for
School Participants

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1. INTRODUCTION

The Law Society of Western Australia welcomes participants to the 28th Mock Trial Competition.

Community Endorsed Program

The WA Curriculum Education recognised and approved the competition as a Community Endorsed Program in 2010. Students can gain up to 5 points (one WACE unit) in a 3 year period of their participation i.e. from Year 10 to 12. The points awarded from this program can be added with another Community Endorsed Program. Further information can be found on the School Curriculum and Standards Authority's (the "SCSA"), (previously Curriculum Council) website www.scsa.wa.edu.au under Senior Secondary/Endorsed Programs/Community Organisations.

Each student, including the reserves will be issued with a Certificate of Completion when they have completed their participation in the competition. Therefore, a student must attend each trial to complete the relevant level or a Certificate of Completion will not be issued by the Society.

- Level 1 equates to completing the first 3 Rounds
- Level 2 equates to completing the 4th Round
- Level 3 equates to completing the 5th Round
- Level 4 equates to completing the 6th Round and
- Level 5 (one WACE unit) equates to competing in the Grand Final

Replacement Certificates

due to loss or incorrect spelling of the student's name will incur a cost.

Appearance Rolls

are to be completed by teachers at each mock trial and handed to the Court Orderly in attendance at the trial. The Mock Trial Coordinator shall collect the roll and use the roll for the preparation of the Certificate of Completion based on the students' details on the appearance roll. Teachers will no longer be contacted by the Mock Trial Coordinator to confirm the spelling of student names; their number of trial participation and current school year. An Appearance Roll can be found after the Notice of Appearance. This is in compliance with the School Curriculum and Standards Authority's (formerly Curriculum Education) requirements for Community Endorsed Programs.

This Manual explains the rules and procedures used in the competition. **Please read it carefully.** If there are any areas which need clarification please contact the Mock Trial Coordinator.

Previous Grand Final Winners

1987	Christ Church Grammar School	2001	Morley Senior High School
1988	Mercedes College	2002	St Hilda's Anglican School for Girls
1989	Servite College	2003	Methodist Ladies College
1990	Morley Senior High School	2004	Carmel School
1991	Bunbury Cathedral Grammar School	2005	Methodist Ladies College
1992	St Mary's Anglican Girls' School	2006	Mercedes College
1993	Wesley College	2007	Christ Church Grammar School
1994	Wesley College	2008	Shenton College
1995	Perth College	2009	St Hilda's Anglican School for Girls
1996	Frederick Irwin Anglican Community School	2010	St Hilda's Anglican School for Girls
1997	Carmel School	2011	Wesley College
1998	Guildford Grammar School	2012	Presbyterian Ladies' College
1999	Santa Maria College	2013	Mt Lawley Senior High School
2000	Christ Church Grammar School		

CHECK LIST

- ☐ Blank Score Sheet
- ☐ Notice of Appearance completed by the Prosecution team
- ☐ Attendance Roll completed by each teacher and handed to the Court Orderly
- ☐ A bell for the Court Orderly provided by the Prosecution team (**NOT mobile phones**)
- ☐ Time Sheet for the Court Orderly
- ☐ Objection Sheet for Judge's Associate
- ☐ Time Sheet for Judge's Associate
- ☐ Exhibits List (when applicable) prepared by the Judge's Associate
- ☐ Copies of case material for the Barristers and Solicitors to refer
- ☐ Post-It notes for the Solicitor to pass to their Barristers
- ☐ Extended ruler for passing Post-It notes
- ☐ Folder for Solicitor's notes clearly identifying the school name and their role i.e. the Prosecution team or the Defence team

We hope you enjoy participating in the 28th Mock Trial Competition.

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The Mock Trials Competition is proudly sponsored by the Department of the Attorney General and endorsed by the WA School Curriculum and Standards Authority. The Law Society of Western Australia is appreciative of their support and commitment to the Competition.

2. COMPETITION TIME TABLE

Administration

Registration of Schools, Coaches and Judges **due by Monday 17 February 2014**

A Registration fee of \$70.00 per school team must be paid at time of registration. Schools may enter more than one team.

Registrations are to be completed by following the Registration link for the Mock Trial Competition page of the Law Society's website at <http://www.lawsocietywa.asn.au/mock-trials.html>.

Upon registrations, schools will receive a Tax Invoice Receipt. Please forward a copy of this to the Mock Trial Coordinator by [email](#) as confirmation of your registration. We are anticipating registrations to proceed smoothly, but there have been some problems in the past with payments not being recorded for some schools. These problems should be avoided by sending a copy of your receipt.

Workshops

All workshops will be held at the Old Court House Museum, which is located next door to the Supreme Court, Stirling Gardens, Barrack Street, Perth.

Subject to interest, a teacher's workshop can be arranged and will focus on court procedures and student preparation. There will also be an outline of how the 'Most Outstanding Mock Trial student' for the Murdoch University, School of Law Scholarship will be selected. The teacher's workshop will be held from 5.15pm to 6.15pm on an agreed date prior to the start of the competition.

It is encouraged that teachers attend the workshop, particularly those new to the competition. Please contact the Mock Trial Coordinator to express your interest by Friday 15 February 2014.

There will also be a coaches and judges workshop in February, depending on interest. These will be advised at a later date.

Rounds

ROUND 1	Tuesday 4 to Thursday 6 March Monday 10 to Thursday 13 March Monday 17 to Thursday 20 March
ROUND 2	Monday 5 to Thursday 8 May Monday 19 to Thursday 22 May Monday 26 to Thursday 29 May
ROUND 3	Monday 16 to Thursday 19 June Monday 23 to Thursday 26 June Monday 30 June to Thursday 3 July

Finals

ROUND 4 Monday 28 to Thursday 31 July (16 teams progress = 8 trials)

ROUND 5 Monday 18 to Thursday 21 August (8 teams progress = 4 trials)

ROUND 6 Monday 8 to Wednesday 10 September (4 teams progress = 2 trials)

GRAND FINAL TBA (POSSIBLY WEEK OF 20 OCTOBER)

3. RULES

3.1 Entries and Teams

1. The competition is open to students enrolled in years 10, 11 and 12 and who are not older than 18 years of age as at 31 December of the year of the competition.
2. A team shall consist of at least **EIGHT** students and no more than twelve students. It is advised that teams should include reserves (no more than 6). Each mock trial has 6 role players i.e. Barrister x 2; Solicitor; Witness x 2; and Judge's Associate or Court Orderly. This is to ensure there are no forfeitures due to "illness." It is highly recommended that each reserve for a trial is asked to prepare one of the 6 roles for that trial.
3. The names of all students registered in a team shall be entered on the original Registration form.
4. If for any reason the number of students in a team falls below eight, special written application advising the name of the student withdrawing and the student to be included can be made to the Coordinator. The amendment to the team does not become valid until the Coordinator has given the school confirmation of acceptance of the change to the team.
5. Only those persons whose name appears on the original entry form, or who are accepted by the Coordinator pursuant to Rule 4, may participate in the competition.
6. A student shall not be included in more than one team.
7. There shall be **no interchange of students** from one team to another.
8. The Coordinator may reject any entry form or application to change of students in a team.

3.2 Arranging the Mock Trials

9. The team listed first in the draw shall appear for the plaintiff/prosecution.
10. Mock trials are to take place at the Courts allocated by the Coordinator. The Grand Final will be held at the Supreme Court of Western Australia, Stirling Gardens, Barrack Street, Perth.
11. It is the responsibility of the plaintiff/prosecution school to arrange a mutually convenient time for the trial. This will mean the plaintiff/prosecution school will need to contact the opposing school (defendant/defence). Teams are requested to organise a trial date convenient to both schools. The Mock Trial Coordinator will provide teachers with the contact details for all schools.
12. If there is a failure by both teams to agree on a night for the trial, the prosecution team's teacher is to advise the Mock Trial Coordinator. A date will then be obtained by the Mock Trial Coordinator from the judge allocated for the trial. That date will be a date most suitable to the judge. If one or both teams are unavailable on that night, that team or teams shall forfeit the round.
13. All travel involved shall be at the school's expense.

3.3 Conduct of the Mock Trials

14. Teams must have at least four team members present within fifteen minutes of the scheduled commencement time. Failure to do so will mean the team shall forfeit that round.
15. If a team has four members but less than six present on a night for the trial, that team may re-organise and include substitutes from their opponent team's reserves. Substitutes from their opponent team's reserves can be used for the trial, but the students will not be awarded marks. The trial cannot commence until a full team is present. Teachers are urged to encourage their reserves to attend each trial.
16. **If the trial does not commence within fifteen minutes of the scheduled commencement time, the team responsible for the delay shall forfeit that round.**
17. A trial shall take no more than two and a half hours to complete. A warning bell (using a bell or a spoon and glass provided by the Prosecution/Plaintiff team) is to be sounded one minute prior to the end of each session of the trial by the Court Orderly. A second ring shall be sounded to signal the end of time allowed. Judges may at their discretion deduct points if team members go over time. Judges should not deduct points if a speaker finishes ahead of time unless they have not covered all of the material. Time Keepers are asked **NOT TO USE** their mobile phones for time keeping.
18. Witnesses must not refer to any written material while giving evidence at the mock trial. If a witness forgets evidence contained in his or her statement, it is the responsibility of the barrister to ask questions to prompt the witness. As a last resort, the Judge may read out any evidence omitted by the witness. No marks will be awarded to a witness who reads their statement or refers to their written statement during the trial.
19. The witnesses must disclose all of their witness statement. If they do not, the Judge shall read out what was not disclosed and deduct points for that witness.
20. No notes or other written material may be taken into the witness box or handed to a witness, or passed from witnesses to barristers or solicitors, other than documents that are exhibits in the trial.
21. Closing addresses are to be prepared solely by the barristers and solicitor of the team. There is to be no discussion between the barristers and solicitor of each team with any other participants or spectators during the break to prepare their closing address.
22. No coach or teacher is permitted to sit at the bar table or in any other position that may permit prompts or coaching of the students during a mock trial.
23. Teams are not to relay information between court rooms relating to the progress of argument in other courts occurring on the same night. This approach is not intended to prevent teams debriefing after their competition but this should only take place at the conclusion of all the hearings and the judge's comments.
24. School teams who are not competing on the night of the competition but will be appearing on a subsequent night using the **same case materials** cannot attend an earlier competition as observers, even to support another school team of theirs.

25. There shall be no coaching, prompting, or assistance of any kind given to any participating students at any time during the conduct of a mock trial. Failure to do so will **disqualify** that team from the competition.
26. Only exhibits, documents and information contained in the case material are permitted to be entered into evidence. This modification is made because of the time limitation and restriction of witnesses that can be called.
27. All exhibits provided in the case material are to be entered into evidence at the trial regardless of objections. An Exhibits List is to be compiled by the Judge's Associate.
28. Precedents other than those provided in the case material are not to be used.
29. All mock trials shall be conducted in accordance with the modified Rules of Evidence and the Procedures for Court Hearing contained in this manual.

3.4 Judging Criteria and Scoring

30. The mock trial shall be judged using the criteria set out in the scoring section of this manual and the mock trial score sheet contained in this manual as modified from time to time. The Mock Trial Coordinator may amend the scoring criteria and the score sheet at any time.
31. All points given or deducted are at the sole discretion of the Judge.
32. The Judge must determine a winner of each mock trial. No draws are allowed.
33. The decision of the Judge is final in all cases and no correspondence shall be entered into.

3.5 Competition Format and Points

34. The competition is divided into seven rounds.
35. All teams participate in the first three rounds of competition.
36. In the first three rounds, competition points shall be allocated on the following basis:
 - 3 points for a win
 - 1 point for a loss
 - 0 point for a forfeit
 - A team forfeited to is awarded the 3 points
 - No points are awarded to either team if both forfeit
37. Upon the completion of the first three rounds the 16 teams with the most competition points progress to round four. Where there is a tie for the final place or places, those places shall be given to the team with the highest percentage calculated by dividing the number of points scored in trials for the team, by the number of points scored in trials against the team.
38. Rounds 4, 5, and 6 shall be on a knockout basis using accumulative scores with the winner of each mock trial advancing to the next round. Round seven will be the Grand Final and the winner shall be the outright winner of the competition.
39. Semi-Finals Draw: The draw for the semi-finals round (Round 6) will be as follows.

- The team with the highest score attained in all five previous rounds will compete against the team with the third highest score attained in all five previous rounds as determined by the Mock Trial Coordinator.
- The team with the second highest score attained in all five previous rounds will compete against the team with the fourth highest score attained in their five previous rounds as determined by the Mock Trial Coordinator.

3.6 Breach of Rules and Penalties

40. If any team or person connected with a team breaches any of the rules of the competition, the breach shall be referred to the Mock Trial Coordinator.
41. If the Mock Trial Coordinator becomes aware of any serious breach of the rules, the Mock Trial Coordinator may refer the breach to the Executive Manager of Community Services, Law Society of Western Australia who will consider the breach and may in his/her discretion impose any one or more of the following penalties:
 - Team forfeiting that round
 - Forfeiture of some or all of the points scored by a team in a mock trial
 - Forfeiture of competition points scored in a round
 - Suspension or expulsion of a team member, teacher, or coach from the competition
 - A ban of a particular person responsible for a breach from attending a mock trial
 - Disqualification of a team from the competition
 - The Executive Manager may also elect not to act
42. The decision of the Executive Manager of Community Services, Law Society of Western Australia, concerning a breach and the penalty to be imposed shall be final and binding.

4. MURDOCH 'MOST OUTSTANDING STUDENT'

The Student adjudged to be the best performer of the Inter-School Mock Trial Competition is invited to join the team that represents Murdoch Law School in one of the following prestigious Moot competitions as decided by the Murdoch School of Law:

- The Willem C Vis International Commercial Arbitration Moot that takes place in Vienna, Austria each year in the week before Easter; or
- The Phillip C. Jessup Moot that travels to Canberra and potentially to Washington; or
- The FDI team which may travel to Germany or the United States of America; or
- The Manfred Lachs International Space Law Moot that travels to Sydney and potentially to Europe; or
- The Mediation Competition which travels to Hong Kong; and
- The International Maritime Law Arbitration Moot that travels to either an Australian or overseas destination.

The Scholarship offered by the University will cover most travel, accommodation and living expenses of the recipient of the Scholarship for the Moot competition(s). As a member of one of the Murdoch Law School mooting teams, the recipient will receive extensive training in legal advocacy and research in preparation for their participation in an international Moot.

The Candidate will need to adhere to the following conditions in order for the Scholarship to apply.

1. The recipient of the Scholarship must place Murdoch University Law first in their TISC preference selection and must subsequently enrol in Law at Murdoch University and cross the first census date (31 March) in the year in which the Willem C Vis Competition in Vienna takes place.
2. The recipient must make himself/herself available for intensive training over the summer period prior to the Moot Competition to be held, and is expected to participate in that training as a member of the Murdoch Team.
3. The recipient must be 18 years of age, but if the recipient is under 18 years of age at the time of travel, his or her participation will be delayed until the following year.

Mock Trial 'Most Outstanding Student' Selection System:

Schools participating in the Mock Trial Competition are to identify and if applicable nominate no more than two students for the Most Outstanding Mock Trial Student Award. In order to aid this process, a selection criteria as to how to assess the 'Most Outstanding Mock Trial Student' will be sent to each participating School. One essential element of the award is participation; the student must be a participant (in any capacity) in each of the first three rounds of the Mock Trial competition.

Previous Recipients of the Scholarship

2007	Annelise Nielsen – Presbyterian Ladies' College
2008	Daniel Harrop – Carine Senior High School
2009	Amy Wakefield – Carine Senior High School
2010	Amy Ryan – Ocean Reef Senior High School
2011	Hannah Bailey – St Stephen's School (Carramar)
2012	Heather Costelloe – St Mary's Anglican Girls' School

Scholarship Selection Date

Schools will be notified by email of the nomination form, details and date of the Murdoch Scholarship competition at a later date.

5. COACH

- A coach is allocated (where possible) to each school in the competition. Coaches are members of the legal profession who volunteer their time to assist with the Competition. Coaches may also be articulated clerks or University Law Students. **COACHES CAN NOT VOLUNTEER TO BE A JUDGE ALSO.**
- Teams not allocated a coach by Round Two of the competition will be entitled to a DVD copy of the 2006 Mock Trial Grand Final, courtesy of the Law Society of Western Australia, to assist as an educational resource.
- The coach's role is to:
 - Instruct the barristers and solicitor in the preparation and presentation of their case. Students will need to know how to write an opening and closing address, they will also require explanation and technique as to preparation for examination-in-chief, cross-examination and re-examination.
 - Ensure that all team members are aware of the time limitations for each section of the trial.
 - Give all team members coaching in court procedures and general advocacy.
 - Ensure witnesses disclose all evidence detailed in the witness statements, and students are not permitted to omit evidence where an objection can be raised. The purpose of writing objectionable material into the witness statement is to provide barristers the opportunity to show their understanding of the rules of evidence. (Students can be coached by providing strategies on how to deal with objections).
- Witnesses must not be coached on their facts. Preparation of witnesses must be done by the team barristers.
- The coach should determine the time and venue for their coaching. Coaches are not expected to spend more than 2-3 hours per round coaching.
- No coach or teacher is permitted to sit at the bar table or in any other position that may permit prompts or coaching of the students during a mock trial.
- There shall be no coaching, prompting, or assistance of any kind given to any participating students at any time during the conduct of a mock trial.
- Whilst it is envisaged that coaches will offer guidance, it is hoped that any preparation of material for presentation to the court will be completed by the students themselves.

6. JUDGE

- A Judge is allocated to each trial. Judges are members of the legal profession who volunteer their time to assist with the Competition.
- The trial procedures have been modified in accordance with the requirements of the Mock Trial Competition.
- All Judges must read this manual before the trial as some of the procedures differ from those used in an actual courtroom and from previous years of the Competition. It is important to be familiar with the score sheet before the trial commences.
- Mock trial procedures must be adhered to. Failure to do so may disadvantage a team.
- Only exhibits, documents and information contained in the case material are permitted to be entered into evidence regardless of objections. This modification is made because of the time limitation and restriction of witnesses that can be called.
- Notes are not permitted to be passed from witnesses to barristers or solicitors.
- Witnesses must disclose all of their witness statement. If they do not the Judge shall read out what was not disclosed and deduct points from that witness' score.
- Time limits must be strictly adhered to. A trial shall take no more than two and a half hours to complete. A one minute warning is to be sounded during each section of the trial by the court orderly (using a bell or spoon and glass provided by the Prosecution team). A second sounding will signal the end of time allowed. Judges may at their discretion deduct points if team members go over time. Judges should not deduct points if a speaker finishes ahead of time unless they have not covered all of the material.
- If there is a breach of time limits, the Judges are requested to read out the remainder of the evidence not yet given.
- Judges will need to check the solicitor's notes and award marks for content, questions written down which could assist Counsel and their active participation in the trial.
- Judges will need to check the Magistrate's Clerk/Judges Associate's time sheet and objection sheet and also the Court Orderly's time sheet and award marks for content.
- Judges are encouraged to question the barristers on their depth of understanding of the law and the case during their opening and closing addresses, particularly during the later rounds. This would ensure that the barristers were not relying solely on addresses prepared in advance.
- Scoring is to be done in accordance with the competition rules.
- Judges are encouraged to give a short judgment at the end of the trial and encourage students by giving suggestions on presentation, court procedure, objections, cross examination etc., particularly during the earlier rounds.
- Trials must conclude by the specified time of 8.30 pm.
- No draws are allowed.

7. GENERAL INFORMATION

7.1 Team Composition

2 barristers
2 witnesses
1 instructing solicitor
1 court orderly or judge's associate/magistrates clerk
Reserves – minimum of two and maximum of six

7.2 Travel

All travel involved shall be at the school's own expense.

7.3 Venue and time

- The school appearing first in the draw acts for the plaintiff/prosecution. It is the responsibility of that school to contact the opposing school to arrange a mutually convenient date for the trial.
- Trials must be held at the Courts allocated by the Mock Trial Coordinator or another venue agreed by the Mock Trial Coordinator. The Grand Final will be held at the Supreme Court of Western Australia, Stirling Gardens, Barrack Street, Perth.
- Trials must commence at **6.00pm** unless held at the Mandurah Court House, which commence at **5.30pm**. If the trial does not commence within fifteen minutes of the scheduled commencement time the team responsible for the delay shall **forfeit** that round.
- Each case should take no longer than two and a half hours.

7.4 Dress

The standard of dress should be neat and tidy. Students may wear school uniform or dress for the part. Witnesses are reminded that hats are not to be worn in any court room at any time, as is current court etiquette.

7.5 Reserves

Reserves are expected to attend each coaching session and mock trial. As a reserve, they are expected to prepare for one of the 6 court roles following in the event that a student with a designated role is unable to compete in the mock trial for any given reason. This will ensure that forfeitures should no longer subsist as in theory each team will have a minimum of 4 reserves for each mock trial.

7.6 Barrister

- To enable maximum participation – two barristers appear for each team.
- First barrister will announce appearance, give the opening address and examine the first witness.
- First barrister for the opposing team may then cross examine the first witness.
- First barrister may then re-examine the first witness.
- Second barrister will examine the second witness.
- Second barrister for the opposing team may then cross-examine the second witness.
- Second barrister may then re-examine the second witness.
- Second barrister will announce the conclusion to their case and give the closing address.
- In the closing address the barrister may refer only to legal materials provided and to evidence heard, but not to any other material.

7.7 Solicitor

- Advises the barristers in the preparation of the case.
- Assists the barristers by recording evidence and pointing out important matters.
- Assists in the preparation of the closing address e.g. summarising or contrasting evidence given.
- Must be seen to interact with and assist the barristers with the case.
- Notes taken by the solicitor must be handed to the Judge in a folder clearly marked with the school's name and which role the team played (Prosecution or Defence) after the closing address for assessment of the solicitor's involvement during the trial.

7.8 Magistrate's Clerk/Judge's Associate

- Is to be provided by the Defence team.
- Announces the case e.g. *Police against Robinson (criminal)* or *Robinson and Jones (civil)*.
- Takes exhibits from the Court Orderly and shows exhibits to the Judge.
- Marks all exhibits as directed by the Judge (e.g. 'marked for identification 1' if not put into evidence or 'exhibit 1' if admitted by the Court as an exhibit). It is encouraged an "exhibits list" is devised for marking for such cases. *Sample provided.*
- Keeps a time sheet, recording when each examination and cross examination began and ended and calculate the duration. The form provided for this purpose must be handed to the Judge at the conclusion of evidence.
- Keeps a list of objections made by each barrister: who made the objection, the nature of the objection and the ruling made by the Judge. A form is provided for this purpose and must be handed to the Judge at the conclusion of evidence.

7.9 Court Orderly

- Is to be provided from the Plaintiff/Prosecution team.
- Reminds all present in Court to turn mobile phones OFF.
- Opens the Court.

- Closes the Court.
- Maintains order in the Court. When announcing the adjournment for preparation of the closing addresses advises that there is to be no discussion between the barristers and solicitor of each team with any other participants or spectators.
- Calls witnesses.
- Swears in witnesses.
- Takes exhibits from barristers and shows to witnesses and then opposing barristers.
- Hands exhibits to the Magistrate's Clerk/Judge's Associate for marking.
- Keeps a time sheet recording when each examination and cross examination begins and ends and calculates the duration. The form provided for this purpose must be handed to the Magistrate's Clerk/Judge's Associate who hands this to the Judge at the conclusion of evidence.
- Collects Attendance Roll from each team to give to the Mock Trial Coordinator.
- Time limits are to be strictly adhered to. A one minute warning is to be sounded by the Court Orderly (using a bell or spoon and glass **[NOT a mobile phone]** provided by the Prosecution team). A second sounding to signal the end of time allowed.

7.10 Witness

- Can state facts (or opinions, if they are experts) in support of a party's case.
- During examination-in-chief the witness will:
 - present their statement of evidence to the Court.
 - faithfully keep to the facts set out in the statement.
 - ensure all facts in their statement are disclosed.
 - not add to the statement.
- During cross-examination the witness may:
 - when cross-examined about matters outside their own statement bring in additional evidence that is within the general ambit of witness statements and the agreed facts or answer: "I don't know" or "I can't remember," provided such answers do not alter the facts of the statement. Judges are entitled to prohibit a witness giving evidence or, alternatively deduct marks from the witness's score if the witness unfairly introduces evidence that is not within the general ambit of witness statements or the agreed facts.

7.11 Legal Notes and Background Facts

Legal Notes and occasionally Background Facts will be provided with the case materials. The Background Facts are to be regarded as true, they do not need to be proved. The Legal Notes provided with the Case Material are the only matters of law to be relied upon.

Only documentation or exhibits provided with the case material may be produced.

8. EVIDENCE

8.1 Rules of Evidence

The proceedings of this Mock Trial Competition shall be governed by the following rules of evidence. Objections should be confined to:

- Relevance Evidence
- Irrelevant Evidence
- Opinion Evidence
- Hearsay Evidence
- Character Evidence
- Conclusion Evidence
- Assumptive Evidence
- Oppressive Evidence
- Argumentative Evidence
- Others: Direct Speech and/or Leading Questions

Only the barrister responsible for examining, cross-examining or re-examining the witness **may object** to questions put to the witness or evidence given by the witness.

8.1.1 Relevance Evidence

- Only relevant evidence is admissible. 'Relevant' means the evidence must prove or tend to prove a fact that is in dispute.
- All irrelevant material is inadmissible. This is an over-riding principle that relates to all evidence put before the court.

Example - in a case involving a collision of two motor vehicles, the speed the vehicles were travelling would probably be relevant, but what the drivers had for breakfast would probably be irrelevant.

- That evidence is relevant does not make it automatically admissible. The application of the following rules may make it inadmissible. (See 8.1.2 and following.)
- Background evidence is not necessarily irrelevant.

8.1.2 Opinion Evidence

- Conclusions or views formed by witnesses based on facts they have observed are not admissible evidence. The facts may be given in evidence, but the opinion may not.

Example- The observation by a witness that a person was red in the face and shaking his fists may be admissible, but the 'conclusion' or 'opinion' that the person was angry would not be admissible.

- The exception to this rule is where opinion evidence is given by a witness who is an expert in the field to which the opinion relates. 'Expert' in this context means someone who has special expertise in a field, whether from qualifications, experience or formal training in that field. Before the opinion

can be given in evidence, previous evidence given by that witness must 'qualify' them as an expert in the field to which the opinion relates. This is done by leading evidence from them of qualifications, expertise, etc.

8.1.3 Hearsay Evidence

- Hearsay is the statement by a witness of what they heard someone, who will not be called as a witness, say. Such evidence is not admissible.
- Reasons for the Hearsay rule are:
 - it is secondhand evidence and may have changed in the retelling;
 - there is no opportunity to cross-examine the person who originally made the comment or observation; and
 - hearsay evidence is easy to concoct and difficult to disprove

Example - "Mrs Smith told me she saw Mr Simpson driving the car" is not admissible to prove that Mr Simpson was in fact driving the car.

- Exceptions to the Hearsay rule are:
 - when the statement is made in the heat of the moment and forms part of the overall picture of what occurred;
 - when the statement is made by a party to the proceedings and is against that party's interest (an admission); or
 - when the statement is not put forward to establish the truth of a statement, but only that a statement was made.

8.1.4 Character Evidence

- of bad character of a defendant may not be led by the plaintiff/prosecution.
- Evidence of good character may be led by either party, but only if it is relevant.
- If the defendant raises their good character or attacks the credit of the prosecution witnesses, the plaintiff/prosecution may cross-examine the defendant about their bad character.

8.1.5 Conclusion Evidence

- This is one of the many objections as to 'form.' A witness is entitled to say what was said or what occurred but is not entitled to conclude what that means or what the effect of those words or conduct was.

Example – In the case of an alleged oral contract, a witness can say; "I said X to A and A said Y to me." That witness is not entitled to say; "A and I **agreed** Z."

8.1.6 Assumptive Evidence

- A witness may give evidence upon a stated assumption. If that assumption is proved, the evidence is admissible.
- If the witness does not state the assumption upon which he/she is giving the evidence or if the assumption is one which, for some reason or other, simply cannot be proved then the evidence is irrelevant and inadmissible.

Example – If an affidavit read "A and I thereafter conducted our affairs on the basis of the agreement we had reached," then that evidence would be inadmissible if there was no evidence of any such agreement. It would also be objectionable as a conclusion, even if the agreement was conceded or in evidence, because it does not say what the parties actually did. From which the court may conclude whether or not that conduct flowed from the agreement.

8.1.7 Oppressive Evidence

- The evidence is confusing, misleading, ambiguous, vague or unintelligible.
- Such evidence is oppressive and hence unhelpful or irrelevant. The rules of court specifically provide for oppressive material to be struck out of an affidavit.

8.1.8 Argumentative Evidence

- A witness' job, especially a lay witness, is to present the facts to the court.
- It is not the witness' role to argue what conclusions should be drawn from those facts or how the case should be decided.

8.1.9 Other Objections

- **Direct Speech**

Conversations that are significant should be related by a witness in direct speech. The conversation should be recited as it occurred not as summarised by the witness.

Example - "Brian said to me, 'Could you please drive? I think I've had too much to drink'," is the proper way to give evidence, not "Brian asked me to drive because he'd had too much to drink."

- **Leading Questions**

Objections relating to the conduct of the case may be taken, such as:

- Asking leading questions in examination-in-chief or re-examination; or leading question is one where the form of the question suggests the answer.

Example - "Was the car blue?"

- Leading questions may be asked about matters not in dispute enabling the witness to be taken quickly to the real matters in dispute.

Example - In the case of a collision, the time and place of the collision.

- When it comes to cross-examination, leading questions are the best types of questions to ask, because they suggest the desired answer to the witness. Used effectively, leading questions reduce the witness's responses to a mere "Yes" or "No." The real power of leading questions is that they allow the Barrister to control the witness using short, single-fact "questions" (statements, actually) to tell the jury your client's story and show the judge why your client deserves to win.
- **Harassing Questions**
Harassing or arguing with a witness (usually in cross-examination).

9. TAKING EVIDENCE

9.1 Preparation

Effective presentation of a case requires preparation by the whole team. When preparing their case, teams should anticipate their opponents' case, research technical matters by reference to the manual and legal notes; identify likely facts and issues in cross-examination.

Team members are to be aware of the time allowed for their part of the trial. Team members must take into account questions from the judge when calculating the time.

9.2 Opening Address

This is given before any evidence is taken to put the Judge 'in the picture' by identifying the issues between the parties (by reference to the pleadings, Charge sheet etc.). In the opening address it is usual to explain matters to be proved and how this will be done by summarising the nature and extent of the evidence to be called.

The opening address shall take no more than five minutes.

9.3 Examination-in-Chief

This is the first step in taking evidence. It can be quite hard as the purpose is to get the witness to tell their entire story without 'leading the witness.' A way to get the witness to do this is to start questions with words such as who, what, when, where, and how. Leading questions may be asked about matters not in dispute enabling the witness to be taken quickly to the real matters in dispute.

The examination-in-chief shall take no more than 10 minutes.

9.4 Exhibits – Admission

Exhibits provided with the Case materials are to be tendered by the appropriate witness. For the purpose of the Mock Trial the exhibit is to be regarded as the original and admissible. No objection to the tender of an exhibit provided with the Case Materials can be made other than to its relevance.

9.5 Cross-Examination

Following the Examination-in-Chief of a witness by their barrister the opposing barrister may cross-examine this witness.

The aim of cross-examination is to:

- Test the accuracy of the evidence first given by the witness in order to demonstrate:
 - lack of perceptions such as capacity, opportunity or quality e.g. the witness was too far away to really see; was affected by drugs or alcohol at the time so couldn't really be thinking clearly;
 - lack of accurate recall; and
 - lack of narrative ability.
- Attack the credibility of the witness (whether they can be believed) on the following grounds:
 - bias, interest, prejudice e.g.; being a friend or relative of the plaintiff or defendant;
 - prior convictions of witnesses other than the accused;
 - moral character e.g. having a reputation for lying or dishonesty;
 - inconsistent statements on previous occasions e.g. statements given to the police; and
 - establish facts which support this barrister's own case.

In cross-examination leading questions should be asked.

Example - in a 'driving in a dangerous manner' case, the witness said that the driver was travelling very fast - about 120 km per hour. It would be difficult for a cross-examiner to overcome this. However, by asking a series of questions about the road and traffic conditions the fact of speeding may be minimised e.g. at 3am on a straight stretch of Great Eastern Highway with all side streets having to 'give way.'

In cross-examination a barrister should not:

- quarrel with a witness;
- bully the witness to admit they were wrong; or
- ask a number of questions at the same time without allowing the witness to answer each question in turn.

Please note: For the purpose of the Mock Trial facts or material additional to the Case Materials or Background Facts cannot be put to a witness in cross examination.

The cross-examination shall take no more than 10 minutes.

9.6 Re-Examination

- At the conclusion of cross-examination the barrister who called the witness has the opportunity to re-examine. The barrister can only re-examine to allow the witness to explain matters referred to in the cross-examination. It cannot be used to introduce matters that the barrister forgot to ask in the examination-in-chief. Leading questions cannot be asked during re-examination.
- Re-Examination should be used cautiously. Further questions asked in an effort to clear up matters, often make things worse.

Re-Examination shall take no more than 5 minutes.

9.7 Closing Address

- The purpose of a closing address is to summarise your case, highlight its strong points and make submissions as to the principles of law which are relevant to the case.
- A plaintiff or prosecutor will limit the issues to be proved to a bare minimum and then show how the evidence they have brought proves them.
- A barrister for the defence may take the opposite approach and create as many issues as possible and therefore cast doubt as to whether they have all been proved.
- If there is conflicting evidence that cannot be reconciled, the plaintiff or prosecutor should attempt to show why their witness should be believed.
- Barristers are permitted to prepare a **draft** closing address. This enables them to make submissions as to the law, e.g. highlight prior decisions which favour their case and how they apply to the proven facts of their case and discuss prior decisions which favour their opponent's case and distinguish those decisions by showing why they should not apply to the facts of their case. Remember that in this competition the legal material that may be used is only that included in the case material provided.

The closing address shall take no more than 10 minutes.

10. PROVING CASES

10.1 Civil cases

- The plaintiff must convince the Judge that in all probability, their witness' version of the facts is the right one on the balance of probabilities.

10.2 Criminal cases

- The prosecution is obliged to provide evidence that will convince the Judge or Jury that the accused is guilty 'beyond reasonable doubt.' The prosecution, in a criminal case, is said to have a heavier 'burden of proof' than the plaintiff in a civil case.
- The accused sometimes has the burden of proof e.g. to prove their alibi, but they only have to prove it on the balance of probabilities even though it is a criminal matter.
- It is only the prosecution in a criminal case that must prove the case 'beyond reasonable doubt.'
- The prosecution has to prove the constituent parts of the crime charged. Those constituent parts are called 'elements.' These elements are laid down by a particular Act of Parliament or case law. Where possible these elements will be drawn to the attention of both prosecution and defence in the case material provided.
- In some circumstances when the defendant raises a defence, occasionally the onus is on the defendant to prove that defence on the balance of probabilities – students should refer to their legal notes.

11. EFFECTIVE COMMUNICATION

- Persuasion in a Court of law depends on good communication.
- To communicate effectively you have to get the Judge to listen.
- Start confidently - first impressions are important.
- Make sure your voice is well modulated and able to be heard - do not speak too quickly.
- Try to maintain visual contact with the person you are addressing.
- State your arguments in a clear concise way - keeping close to what you are trying to prove or disprove.
- Avoid repetition – it becomes boring.
- Avoid developing habits which may become irritating e.g. saying "*I see*" every time a witness answers a question.
- Do not argue with a witness.
- Show courtesy to all present in the Court.

12. PROFESSIONAL ETHICS AND COURTESY

The Mock Trial Competition enables students to learn some of the courtesies and matters of ethics, which must be observed in Western Australian Courts. Some important ones are as follows:

- Barristers must not mislead the Judge by presenting evidence which is known to be positively untrue.
- A barrister should not argue with the Judge. However, they are allowed to make forceful but courteous submissions. A common phrase used is "*With respect.....I submit.*"
- A judge is referred to as "Your Honour." It is common to use this method of address fairly frequently, e.g. when beginning a statement directed to the Judge or when replying to a question they have asked. These days however, the magistrate and the judge are referred to as "Your Honour."
- **Only one barrister shall be standing at any time.** A barrister must stand when speaking and sit if the opposing barrister is speaking. A barrister must stand to make an objection, which requires the opposing barrister to sit.
- Barristers must remain behind the bar table and are not permitted to walk around the courtroom as seen on television or in the movies.
- Barristers must accept the ruling of the Judge even though they may disagree with it. If a reply is called for it is usual to say "*If Your Honour pleases.*"
- Abbreviations must not be used when quoting reports of cases.

Example - if quoting a case of Smith v Jones 1942 65 CLR 473 say "Smith and Jones (1942) reported in Volume 65 Commonwealth Law Reports at page 473." When referring to what a Judge said in that case they should be referred to by their full name e.g. Justice Williams not Williams, J.

13. GLOSSARY OF LEGAL TERMS

13.1 Adjournment

When a case is not ready to proceed on the day it is listed it might be adjourned (postponed) to another day. If court proceedings are stopped for any reason they are adjourned.

13.2 Balance of Probabilities

The standard of proof required of the plaintiff in civil proceedings. The plaintiff must prove his or her case 'on the balance of probabilities.' That phrase means that the plaintiff's case is more *likely* than not, or more *probable* than not. The civil standard of proof is not as great as the criminal burden of proof ('Beyond a reasonable doubt' see 13.5).

13.3 Bail

A person charged with a criminal offence is held in prison until the hearing of the case. A magistrate/judge may allow them to be released from prison if they enter a formal promise to appear at the hearing. The person is said to have been granted bail. Attendance is guaranteed by a sum of money known as bail money which is forfeited on non appearance.

13.4 Barrister

All legal practitioners in Western Australia are admitted as both a barrister and solicitor of the Supreme Court of Western Australia. A legal practitioner may elect to 'go to the bar' and act independently. Then the barrister may only deal with solicitors and not directly with clients.

13.5 Beyond a Reasonable Doubt

The standard of proof required of the prosecution in criminal cases. The prosecution must prove the Accused's guilt 'beyond a reasonable doubt.' Proof beyond reasonable doubt does not mean proof beyond a *shadow* of a doubt. The proof need not reach *certainty*, but it must carry a *high degree* of probability. If the evidence is so strong against an accused as to leave only a *remote possibility* (i.e. it is *possible* but not the least *probable*), then the case is proved beyond a reasonable doubt. The criminal standard of proof is greater than the civil standard of proof ('Balance of Probabilities' see 13.2).

13.6 Civil Proceedings

Civil proceedings are brought by the Crown or private party to redress a wrong which has been suffered and which is not covered by a law which imposes a penalty.

Example - recovery of debt, claim for damages for injury to a person or property, compensation for breach of contract.

13.7 Committal Proceedings

When a person is charged with a serious criminal offence an investigation is carried out by a Magistrate, in a Court of Petty Sessions, to see whether there is a case to go before a judge and jury. The defendant does not usually present their side of the story at these committal proceedings, reserving their defence until the trial.

13.8 Common Law

Legal principles evolving over time based on interpretation of cases and decisions made; also used in a more narrow sense to refer to such principles announced by Courts other than equity Courts.

13.9 Contract

A contract is an agreement between two or more parties which is enforceable. To be enforceable generally, there must be an offer by one party, an acceptance of that offer by the other party and “valuable consideration.” Valuable consideration is what is given or done or promised in return for the promise in the offer.

The usual consideration given is money, goods or some promise to do something or refrain from doing something. A contract may be oral or in writing. Only some contracts notably those relating to land need to be written.

13.10 Contributory Negligence

Contributory Negligence refers to a situation where even though the first party has been negligent, the other has not shown sufficient care to protect themselves and by these actions contributed to their own suffering or damage.

13.11 Court of Petty Sessions

The Court of Petty Sessions deals with less serious criminal offences and investigations into whether a person may have committed a serious crime (Committal Proceedings, see 13.7).

13.12 Criminal Proceedings

Proceedings usually brought by the Crown (often the Police) where there has been a breach of the law in the relevant Act and a penalty is imposed in the Act for that breach. The “law” involved is usually the Criminal Code which deals with the common crimes including murder, manslaughter, robbery, stealing and assault (including sexual assault). Other Acts providing for crimes, of other sorts, include the Road Traffic Act, the Corporations Law, the Liquor Act, the Misuse of Drugs Act and the Health Act. There are also crimes arising from Commonwealth Legislation, e.g. the Commonwealth Crimes Act, the Social Securities Act, the Customs Act and the Navigation Act.

13.13 Defendant

A defendant is a party against whom an action or charge has been brought. Once a defendant in criminal proceedings is committed for trial before a judge and jury, they become the accused.

13.14 Equity

Historically, the law made by judges became entrenched in formal rules and this sometimes resulted in injustices. Equity provides remedies where it would be unjust or unfair to enforce the common law strictly. Cases now dealt with in the equity jurisdiction of the Supreme Court include claims against people holding property for others (trustees), claims for injunctions, claims requiring people to carry out their contracts (specific performance) and property disputes between people in defacto relationships (not legally married) and defamation.

13.15 Evidence

The facts which a Court considers when making its decision. May be oral (from witnesses) or contained in documents or represented by objects relevant to the case.

13.16 Executor

A person (or a company) appointed by a testator or testatrix (person making a Will) who looks after the property of the testator or testatrix after they die and ensures that it is given to those people or institutions named in the Will.

13.17 Exhibits

Documents, items of clothing, equipment, etc, tendered to the Court as evidence by either of the parties to a case, and which are admitted as evidence by the judge or magistrate.

13.18 Judge

A person appointed to determine disputes between parties. In Western Australia, Judges determine disputes in most Courts other than Courts of Petty Sessions and Local Courts and a number of tribunals and boards.

13.19 Jury

Members of the community who determine questions as to what happened (fact). There are 12 jurors in a criminal trial. They are not usually used in civil proceedings. Nearly all civil proceedings are determined by a Judge or Magistrate.

13.20 Legacy

A special gift left by a testator or testatrix to a person or institution (beneficiary) in their Will.

13.21 Local Court

Local Courts deal with small debts and other small civil claims up to and including \$25,000.00.

13.22 Magistrate

A person who presides in the Courts of Petty Sessions and in the Local Court.

13.23 Mens Rea

An intent to commit a crime. (A crime is an offence for which a penalty is prescribed.)

13.24 Negligence

Negligence involves the failure of one party to exercise proper care towards another party and as a result, that other party has suffered an injury or loss - called "damages."

13.25 Plaintiff

A person who brings or commences a civil action.

13.26 Precedent

A principle established in a past case. A Judge or Magistrate will usually have to follow a decision in a previous case (in which the facts are similar) handed down by a higher Court. A hierarchy of Courts is set out in Chapter 13 of this manual. In some cases Australian Courts follow English decisions. Sometimes a precedent of another Court which is not binding will nevertheless be put to the Court on the basis that it is persuasive.

13.27 Probate

When a person who has made a Will dies, their executor or executrix must present certain documents to the Court to show that the Will is valid. At the court (there is usually not a hearing) a Court officer checks them. If they are in order, a document called a “grant of probate” is made to the executor or executrix. By presenting this document to the person or institutions holding the deceased’s money or goods e.g. banks, building societies, the money and goods may be released and distributed to the beneficiaries.

13.28 Remand

If a criminal matter is adjourned and the defendant is not granted bail, they remain in custody until the next Court appearance. The person is said to be held ‘on remand.’

13.29 Statutes

Laws passed by State or Federal Parliament, when inconsistent with the common law, the common law is displaced.

14. SCORING

COMPETITION POINTS

The Competition is divided into seven rounds.

All teams participate in the first three rounds of the competition.

In the first three rounds, competition points shall be allocated on the following basis:

- 3 points for a win
- 1 point for a loss
- 0 points for a forfeit
- A team forfeited to is awarded 3 points as for a win
- No points are awarded to either team if both forfeit

Please note winning the case does not necessarily mean winning the round.

Upon the completion of the first three rounds the 16 teams with the most competition points progress to round four. Where there is a tie for the final place or places, those place/s shall be given to the team/s with the highest percentage calculated by dividing the number of points scored in trials for the team, by the number of points scored in trials against the team.

SCORING IN A MOCK TRIAL

A copy of the score sheet is included in this manual. The Judge shall allocate points for each team member in a mock trial using the scoring system set out in the score sheet.

Points scored will take into consideration:

- Issues identified in the score sheet included in this manual
- Student demonstration of understanding the case
- Knowledge of court procedure
- Presentation
- Questioning in accordance with the rules of evidence
- Demonstrating an awareness of the relevant principles of cross-examination and re-examination. If a team does not cross-examine and that is considered a good tactical decision, full marks can be awarded
- Taking objections and responding to objections, demonstrating awareness of the relevant principles and the capacity to make logical, well-argued submissions based on those principles
- Editing or omission of material in witnesses evidence; and
- Attention to time limits.

The prosecution/plaintiff team is responsible for providing a blank copy of the score sheet and a completed copy of the Notice of Appearance to the Judge at their mock trial.

The **completed** score sheet must be signed by the Judge and a teacher or coach from each team on the night. Please ensure the Notice of Appearance and score sheet are completed and checked thoroughly before they are signed. **Unsigned score sheets will not be accepted by the Mock Trial Coordinator.**

It is the responsibility of the winning team to obtain the signed Notice of Appearance **and** score sheet at the end of the trial and forward each to the Mock Trial Coordinator by the end of the week nominated for the trial. A copy is to be sent to the opposing team.

SCORE SHEET – MOCK TRIAL COMPETITION

SUMMARY

PROSECUTION TEAM:	
NAME OF SCHOOL	
PROSECUTION BARRISTERS	/100
OTHER MEMBERS OF THE PROSECUTION TEAM	/65
PROSECUTION TEAM TOTAL	/165
DEFENCE TEAM:	
NAME OF SCHOOL	
DEFENCE BARRISTERS	/100
OTHER MEMBERS OF THE DEFENCE TEAM	/65
DEFENCE TEAM TOTAL	/165

DRAWS ARE NOT ALLOWED (Please recheck the score)

WINNING TEAM:

(NAME OF SCHOOL)

JUDGE'S SIGNATURE

NAME:

PROSECUTION TEACHER/COACH SIGNATURE

NAME:

DEFENCE TEACHER/COACH SIGNATURE

NAME:

PROSECUTION - BARRISTER 1	SCORE	COMMENTS (if any)
OPENING ADDRESS (5 minutes) Appropriate presentation of facts and structure of address. Clarity of voice, expression, poise, confidence, etc	/10	
EXAMINATION-IN-CHIEF - 1st Prosecution Witness (10 minutes) Proper introduction of evidence Questioning according to rules of evidence. Re-examination, if necessary.	/10	
CROSS-EXAMINATION - 1st Defence Witness (10 minutes) Avoiding unnecessary repetition of evidence-in-chief. Relevance to evidence-in-chief. Relevance to own case. <i>NB: Marks can still be awarded if no cross-examination takes place for tactical reasons.</i>	/20	
OBJECTIONS Demonstrating awareness of the grounds for making or not making objections. Making a considered response.	/5	

Total above: /45

PROSECUTION - BARRISTER 2	SCORE	COMMENTS (if any)
EXAMINATION-IN-CHIEF – 2nd Prosecution Witness (10 minutes) Proper introduction of evidence Questioning according to rules of evidence. Re-examination, if necessary.	/10	
CROSS-EXAMINATION – 2nd Defence Witness (10 minutes) Cross-examination directed at relevant parts of the evidence-in-chief. Avoiding unnecessary repetition of evidence-in-chief. Cross-examination on relevant points of own case. <i>NB: Marks can still be awarded if no cross-examination takes place for tactical reasons.</i>	/20	
OBJECTIONS Demonstrating awareness of the grounds for making or not making objections. Making a considered response.	/5	
CLOSING ADDRESS (10 MINUTES) Accurate summary of evidence and fact Submissions on issues of law. Clarity of expression, voice, poise, confidence, etc Persuasion	/20	
Total above:		/55
TOTAL (PROSECUTION BARRISTERS 1 & 2)	/100	

DEFENCE - BARRISTER 1	SCORE	COMMENTS (if any)
OPENING ADDRESS (5 minutes) Appropriate presentation of facts and structure of address. Clarity of voice, expression, poise, confidence, etc	/10	
EXAMINATION-IN-CHIEF - 1st Defence Witness (10 minutes) Proper introduction of evidence Questioning according to rules of evidence. Re-examination if necessary.	/10	
CROSS-EXAMINATION - 1st Prosecution Witness (10 minutes) Avoiding unnecessary repetition of evidence-in-chief. Relevance to evidence-in-chief. Relevance to own case. <i>NB: Marks can still be awarded if no cross-examination takes place for tactical reasons.</i>	/20	
OBJECTIONS Demonstrating awareness of the grounds for making or not making objections. Making a considered response.	/5	

Total above: /45

DEFENCE - BARRISTER 2	SCORE	COMMENTS (if any)
EXAMINATION-IN-CHIEF - 2nd Defence Witness (10 minutes) Proper introduction of evidence Questioning according to rules of evidence. Re-examination if necessary.	/10	
CROSS-EXAMINATION - 2nd Prosecution Witness (10 minutes) Cross-examination directed at relevant parts of the evidence-in-chief. Avoiding unnecessary repetition of evidence-in-chief. Cross-examination on relevant points of own case. <i>NB: Marks can still be awarded if no cross-examination takes place for tactical reasons.</i>	/20	
OBJECTIONS Demonstrating awareness of the grounds for making or not making objections. Making a considered response.	/5	
CLOSING ADDRESS (10 minutes) Accurate summary of evidence and fact Submissions on issues of law. Clarity of expression, voice, poise, confidence, etc Persuasion	/20	
Total above:		/55
TOTAL (DEFENCE BARRISTERS 1 & 2)	/100	

PROSECUTION – WITNESS 1	SCORE	COMMENTS (if any)
Full and accurate recital of evidence Preparation for cross-examination. Presentation	/20	
PROSECUTION – WITNESS 2		
Full and accurate recital of evidence Preparation for cross-examination. Presentation	/20	
PROSECUTION – SOLICITOR		
Active participation in proceedings Notes to barristers during trial including comments on evidence Accurate contemporaneous notes of hearing	/15	
PROSECUTION – COURT ORDERLY		
Courtroom role carried out correctly (open/close Court, circulate documents, call and swear witnesses) Completion of Time Sheet, Notice of Appearance and appropriate Court etiquette	/10	
TOTAL- OTHER MEMBERS OF PROSECUTION TEAM	/65	

DEFENCE - WITNESS 1	SCORE	COMMENTS (if any)
Full and accurate recital of evidence Preparation for cross-examination. Presentation	/20	
DEFENCE - WITNESS 2		
Full and accurate recital of evidence Preparation for cross-examination. Presentation	/20	
DEFENCE – SOLICITOR		
Active participation in proceedings Notes to barristers during trial including comments on evidence Accurate contemporaneous notes of hearing	/15	
DEFENCE – JUDGE’S ASSOCIATE		
Courtroom role carried out correctly (label exhibits etc). Objection /Time Sheet, Notice of Appearance and appropriate Court etiquette	/10	
TOTAL- OTHER MEMBERS OF DEFENCE TEAM	/65	

NOTICE OF APPEARANCE

NOTICE OF APPEARANCE MOCK TRIAL COMPETITION

INSTRUCTIONS:

- The names of ALL participants (including Reserves) must be entered by the coach or teacher from each team on the score sheet prior to the Court sitting. This assists the Judge when recording comments during the trial of the key players.
- At the conclusion of the trial a coach or teacher from each team must check all aspects of the Notice of Appearance and the score sheet and sign both of them to acknowledge that they have checked them. The Judge must also sign the score sheet.
- The winning team shall:
 - Ensure the score sheet has been signed by all parties
 - Provide a copy of the Notice of Appearance and the complete score sheet to the other team.
 - Return the Notice of Appearance with the score sheet before the close of business the next school day to:

Mock Trial Coordinator
Law Society of Western Australia
Level 4, 160 St George's Terrace
PERTH
FAX :9324 8699 or email: mocktrial@lawsocietywa.asn.au

Round No:

Name of Case:

Prosecution / Plaintiff School:	Defence School:
Team Name:	Team Name:
Barrister 1:	Barrister 1:
Barrister 2:	Barrister 2:
Solicitor:	Solicitor:
Witness 1:	Witness 1:
Witness 2:	Witness 2:
Court Orderly:	Judge's Associate:
Coach:	Coach:
Teacher:	Teacher:

PLEASE TURN OVER

ATTENDANCE ROLL

**FOR THE PURPOSES OF
THE SCSA ENDORSED PROGRAMS RECORDS ONLY
PLEASE COMPLETE THE FOLLOWING ALSO
AND HAND THE COPY TO THE COURT ORDERLY**

[PLEASE PRINT]

Name of School: _____

Teacher's Name: _____

Name of Team: _____

STUDENT'S CORRECT NAME	CURRENT YEAR	ROLE AT TRIAL

ROLES:

S – Solicitor

PB1 or PB2 – Prosecution Barrister

PW 1 or PW 2 – Prosecution Witness

CO – Court Orderly

R - Reserve

DB1 or DB2 – Defence Barrister

DW1 or DW2 – Defence Witness

JA – Judge's Associate

Teacher's Signature: _____

TIMESHEET

	PROSECUTION/PLAINTIFF	DEFENCE
BARRISTER 1 Opening Address (5 mins)		
BARRISTER 1 Examination-in-Chief Witness 1 (10 mins)		
BARRISTER 1 Cross-Examination Witness 1 (10 mins)		
BARRISTER 1 Re-Examination Witness 1 (5 mins)		
BARRISTER 2 Examination-in-Chief Witness 2 (10 mins)		
BARRISTER 2 Cross-Examination Witness 2 (10 mins)		
BARRISTER 2 Re-Examination Witness 2 (5 mins)		
BARRISTER 2 Closing Address (10 mins)		

- Time sheets will be kept by the Court Orderly and the Judge's Associate and handed to the Judge at the close of the Defence case
- Time limits apply as follows:
 - 5 minutes applies to each opening address
 - 10 minutes applies to each examination-in-chief and cross-examination of each witness
 - 5 minutes applies to re-examination of each witness
 - 10 minutes adjournment to allow students to prepare their closing address
 - 10 minutes applies to each closing address.
 - A one minute warning is to be sounded during each section of the trial by the court orderly (using a bell or a spoon and glass provided by the Prosecution team). A second sounding to signal the end of time allowed. If there is a breach of time limits, the Judge is requested to read out the remainder of the evidence not yet given.

OBJECTION SHEET

[illegible]

Relevance (R), Hearsay (H), Opinion (O), Character (C), Direct Speech (DS).
Conclusion (CE), Assumptive (AE); Oppressive (OE); Argumentative (AE)

Please specify if any other objection is made.

EXHIBIT LIST

Case: _____ v _____

Judge's Associate: _____

Signed: _____

Date: ____ / ____ / ____

<u>Exhibit No.</u>	<u>Description</u>	<u>Submitted by</u>
		P or D
		P or D
		P or D
		P or D
		P or D
		P or D
		P or D
		P or D

P = Plaintiff

D = Defence

15. PROCEDURES FOR THE COURT HEARING

Judge:	<i>knocks on the door to indicate that they are ready</i>
Court Orderly:	"Silence! All stand, please."
All:	<i>Stand</i>
Judge:	<i>enter and bow</i>
All:	<i>bow.</i>
Judge:	<i>Sit</i>
All:	<i>Sit</i>
Court Orderly:	"This Mock Court is now sitting."
Judge's Associate:	<i>stand and announce the case</i> <i>e.g. Police against Robinson (criminal) or Robinson and Jones (civil)</i>
Judge:	Who is appearing in this matter?
Barrister 1: Plaintiff/prosecution	"If Your Honour pleases, my name is _____ and I am appearing with my learned friend (Barrister 2) for the plaintiff/prosecution. We are instructed by _____ (Solicitor)."
Barrister 1: Defence	"If Your Honour pleases, my name is _____ and I am appearing with my learned friend (Barrister 2) for the defendant. We are instructed by _____ (Solicitor)."
Barrister 1: Plaintiff/prosecution	<i>(OPENING ADDRESS)</i>
Judge:	"Call the first witness for the plaintiff/prosecution."
Barrister 1: Plaintiff/prosecution	"I call _____" (name of witness 1)
Court Orderly:	" _____" (name of witness 1) <i>escort witness 1 to the witness stand</i> <i>Note: Witnesses are permitted to remain in the Court at all times allowing learning by observation of court procedure.</i> <i>"It is your duty to assist the Court in these proceedings by faithfully answering the questions put to you. Do you understand this?"</i> <i>Note: "faithfully" refers to observing the rules for witnesses in this manual.</i>

Witness 1:	"Yes"
Barrister 1: Plaintiff/prosecution	<i>(Examination-in-Chief of Witness 1) when there are no further questions</i> "That concludes my witness' evidence, Your Honour."
Barrister 1: Defence	<i>(Cross-Examination of Witness 1) on conclusion of cross-examination</i> "I have no further cross-examination questions of the witness, Your Honour."
Barrister 1: Plaintiff/prosecution	<i>(Re-examination of Witness 1, if appropriate) at the end of re-examination</i> "I have no further re-examination questions of the witness, Your Honour. May the witness be excused?"
Judge:	"The witness is excused from the witness stand and may return to their seat."
Judge:	"Call the second witness for the plaintiff/prosecution."
Barrister 2: Plaintiff/prosecution	"I call _____" (name of witness 2)
Court Orderly:	" _____" (name of witness 2) <i>escort witness 2 to the witness stand</i> <i>Note: Witnesses are permitted to remain in the Court at all times allowing learning by observation of court procedure.</i> "It is your duty to assist the Court in these proceedings by faithfully answering the questions put to you. Do you understand this?" <i>Note: "faithfully" refers to observing the rules for witnesses in this manual.</i>
Witness 2:	"Yes"
Barrister 2: Plaintiff/prosecution	<i>(Examination-in-Chief of Witness 2) when there are no further questions</i> "That concludes my witness' evidence, Your Honour."
Barrister 2: Defence	<i>(Cross-Examination of Witness 2) on conclusion of cross-examination</i> "I have no further cross-examination questions of the witness, Your Honour."
Barrister 2: Plaintiff/prosecution	<i>(Re-examination of Witness 2, if appropriate) at the end of re-examination</i> "I have no further re-examination questions of the witness, Your Honour. May the witness be excused?"
Judge:	"The witness is excused from the witness stand and may return to their seat."
Barrister 2: Plaintiff/prosecution	"Your Honour, that is the case for the plaintiff/prosecution."

Barrister 1: Defence	(OPENING ADDRESS)
Judge:	"Call the first witness for the Defence."
Barrister 1: Defence	"I call _____" (name of witness 1)
Court Orderly:	<p>" _____" (witness 1) <i>escort witness 1 to the witness stand</i> <i>Note: Witnesses are permitted to remain in the Court at all times allowing learning by observation of court procedure.</i> <i>"It is your duty to assist the Court in these proceedings by faithfully answering the questions put to you. Do you understand this?"</i> <i>Note: "faithfully" refers to observing the rules for witnesses in this manual.</i></p>
Witness 1:	"Yes"
Barrister 1: Defence	<p>(Examination-in-Chief of Witness 1) <i>when there are no further questions</i> "That concludes my witness' evidence, Your Honour."</p>
Barrister 1: Plaintiff/prosecution	<p>(Cross-Examination of Witness 1) <i>on conclusion of cross-examination</i> "I have no further cross-examination questions of the witness, Your Honour."</p>
Barrister 1: Defence	<p>(Re-examination of Witness 1, if appropriate) <i>at the end of re-examination</i> "I have no further re-examination questions of the witness, Your Honour. May the witness be excused?"</p>
Judge:	"The witness is excused from the witness stand and may return to their seat."
Judge:	"Call the second witness for the Defence."
Barrister 2: Defence	"I call _____" (name of witness 2)
Court Orderly:	<p>" _____" (name of witness 2) <i>escort witness 2 to the witness stand</i> <i>Note: Witnesses are permitted to remain in the Court at all times allowing learning by observation of court procedure.</i> <i>"It is your duty to assist the Court in these proceedings by faithfully answering the questions put to you. Do you understand this?"</i> <i>Note: "faithfully" refers to observing the rules for witnesses in this manual.</i></p>
Witness 2:	"Yes"

**Barrister 2:
Defence**

(Examination-in-Chief of Witness 2)
when there are no further questions
"That concludes my witness' evidence, Your Honour."

**Barrister 2:
Plaintiff/prosecution**

(Cross-Examination of Witness 2)
on conclusion of cross-examination
"I have no further cross-examination questions of the witness, Your Honour."

**Barrister 2:
Defence**

(Re-examination of Witness 2, if appropriate)
at the end of re-examination
"I have no further re-examination questions of the witness, Your Honour. May the witness be excused?"

Judge:

"The witness is excused from the witness stand and may return to their seat."

**Barrister 2:
Defence**

"Your Honour, that is the case for the Defence."

Court Orderly:

"All stand! This Mock Court is adjourned for ten minutes. Participants and spectators are requested to remain quietly in their seats."

All:

stand

Judge:

bow

All:

bow.

Judge:

leave courtroom

ADJOURNMENT FOR 10 MINUTES

Barristers and Solicitor:

prepare submissions, no other person may assist

Judge:

knocks on the door to indicate they are ready

Court Orderly:

"Silence! All stand, please."

All:

stand

Judge:

enter and bow

All: *bow.*

Judge: *sit*

All: *sit*

Court Orderly: "This Mock Court is now sitting."

**Barrister 2:
Plaintiff/prosecution** (CLOSING ADDRESS)

**Barrister 2:
Defence** (CLOSING ADDRESS)

Judge: "May I see the solicitors' notes?"

Court Orderly: *collect solicitors' notes and hand to Judge's Associate.*

Court Orderly: "All stand! This Mock Court is adjourned."

All: *stand*

Judge: *bow*

All: *bow.*

Judge: *leave courtroom to consider verdict and tally scores*

SHORT ADJOURNMENT

Judge: *knocks on the door to indicate they are ready*

Court Orderly: "Silence! All stand, please."

All: *stand*

Judge: *enter and bow*

All: *bow.*

Judge: *sit*

All: *sit*

Court Orderly: "This Mock Court is now sitting."

Judge: *delivers judgment in the case and announces the winning team and scores for each team*

Court Orderly: "All stand! This Mock Court is adjourned."

All: *stand*

Judge: *bow*

All: *bow.*

16. RUNNING THE COMPETITION - FEEDBACK

This competition has been hugely successful because of the willing and able participation of all of those associated with it.

It is important to us that this tradition continues and is strengthened.

So, if you have any questions, compliments or concerns, please do not hesitate to contact:

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