**Barristers**

**Overview:**

• There are 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.

**Make sure you always:**

* Use correct mode of address of Judge and other participants;
* Demonstrate knowledge of court etiquette;
* Use correct manner of announcing appearance and calling of witnesses;
* Question in accordance with the rules of evidence;
* Never edit or allow witnesses to omit material in witness statements;
* Use correct tendering of documents into evidence;
* Demonstrate knowledge of mock trial court procedures; and
* Adhere to time limits.

**You will score points based on:**

• Your understanding the case;

• That you can demonstrate your of understanding of the evidence the law and how it all fits together in the case;

• Demonstration and awareness of the relevant principles of cross-examination and re- examination;

• Both taking and responding to objections, demonstrating awareness of the relevant principles; and

• Your capacity to make logical, well-argued submissions based on legal principals and the evidence presented in the case.

• If you are/have:

* Confident and have clear presentation;
* You have developed expression, poise and confidence;
* Clarity of voice, expression, poise, confidence, etc.

**Opening Address**

• Did your address put the Judge ‘in the picture’ by identifying the issues between the parties (by reference to the Pleadings, Charge sheet etc);

 • How well did you explain matters to be proved and how this will be done by summarising the nature and extent of the evidence to be called (as opposed to verbatim recitations of the evidence that would be given);

 • Did you provide appropriate presentation of facts and structure of address

**Examination-in-Chief (First Examination of Witness)**

• Did you avoid leading questions on *contentious* issues;

• Did you use appropriate who, what, when, where, and how questions;

• Did you use appropriate leading questions about matters not in dispute (name address occupation etc) enabling the witness to be taken quickly to the contentious evidence;

• Did you adhere to proper introduction of evidence;

• Did you question according to rules of evidence; and

• Were any exhibits provided with the case materials tendered by the appropriate witness *(or before by agreement)*

**Cross-Examination**

*Note: Marks can still be awarded if no cross-examination takes place for tactical reasons.*

• How well did you achieve the aims of cross-examination;

• Did any questions asked test the accuracy of the evidence first given by the witness;

• Did the cross-examination help illustrate such things as:

* lack of perception such as capacity, opportunity or quality (e.g.) the witness was too far away to really see; was affected by drugs or alcohol so couldn’t really be thinking clearly;
* lack of accurate recall; and
* lack of narrative ability.

• Did the cross-examination attack the credibility of the witness (whether they can be believed) on grounds such as:

* 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 barristers own case.

• Did the cross-examination avoid unnecessary repetition of evidence-in-chief.

• Was it relevant to the evidence-in-chief and was it relevant to own case.

• In cross-examination leading questions can be asked.

• 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.

 • Did they effectively use the other facts and material that arise from the Case Materials or Background Facts in cross-examination.

**Re-Examination**

*Re-examination should only be done by a barrister if necessary - make sure it does not harm your case*

*Note: Marks can still be awarded if no re-examination takes place for tactical reasons*

• Did you ensure proper use of re-examination to allow the witness to explain matters referred to in the cross-examination.

• Do not introduce matters that the barrister forgot to ask in the examination-in-chief.

 • Make sure you do not ask leading questions during re-examination.

**Closing Address**

• Did the closing address summarise the case, highlight its strong points and make submissions as to the principles of law which are relevant to the case.

• Did the plaintiff or prosecutor effectively limit the issues to be proved to a bare minimum and then show how the evidence in chief and cross-examination proves them.

• Did the barrister for the defence create as many issues as possible and **cast reasonable doubt** as to whether the plaintiff/prosecution have proved all essential elements of the case.

 • If there is conflicting evidence that cannot be reconciled, how convincingly did the you show why their witnesses should be believed.

• Barristers are permitted to prepare a draft closing address. Did your submission accurately reflect the law as presented in the case materials.