

# 2023 CHESTER BEDELL MOCK TRIAL

## COMPETITION RULES

### THE TRIAL

- A. Trial Participation.** Each participating school shall send two teams, provided that the Mock Trial Committee may approve a school sending only one team upon request. Each team shall be composed of not less than four and no more than five participants. During each trial, only two members of the team shall actively participate as advocates. The decision as to which two members of the team will actively participate as advocates in any round rests with the team. Two of the members of the team who are not acting as advocates in a given round shall be the witnesses for that team during that round. If a fifth team member is present, that member may observe but may not assist the participating team members in any manner during the course of each trial.
- B. Procedural and Evidentiary Rules.** Unless the teams are notified in writing otherwise, the Florida Rules of Procedure and the Florida Rules of Evidence shall apply during the trial. All rounds will be conducted as if a jury was present. When advancing any objections or motions, the Florida Rules of Civil Procedure and Evidence may be cited and discussed, but objections or motions will otherwise be made without presenting or citing any case law or secondary authority, or any statute that is not included with the case file.
- C. Time.** Each team shall have 100 minutes total, inclusive of time for motions and objections, to present and argue its case. The allocation of this time is determined by each team.

Time consumed in making and arguing objections shall be assessed against the team examining the witness. In the event one team is of the view that opposing counsel's objections have unreasonably and substantially affected the time allotted for the presentation of its witnesses, a motion may be made to the Court for an extension of time because of such unreasonable interruption. The ruling on such motion shall be within the discretion of the Court.

Time consumed in making and arguing motions during trial shall be assessed against the team making the motion, including the time used by the opposing team to respond to the motion. No motion or response shall take more than 2 minutes for each side.

Time consumed in making and arguing pretrial motions shall be assessed against each team for the time its advocates use in making and/or responding to any pretrial motion (ie, time for raising a motion in limine is assessed against the party making the motion, and time for argument in response to a motion in limine is assessed against the party responding to the motion).

**D. Pretrial and Legal Motions.** No written pretrial motions are allowed unless expressly required in the problem. The failure to raise any matter in a pretrial motion shall not constitute a waiver of such matter. Oral motions in limine may be raised by either team prior to opening statements. Motions in limine are not required, but such argument is considered in competition scoring.

Teams may raise a motion for directed verdict at an appropriate time, but such motions are not considered in competition scoring. Motions to dismiss and for summary judgment have been filed and denied prior to trial; therefore, no such motions may be raised.

No *Daubert* motions shall be allowed. No additions or deletions are permitted to the jury instructions or to the jury verdict form.

**E. Trial Briefs Not Permitted.** No trial briefs, written motions, or memoranda of law may be submitted to the Court either prior to or during the trial.

**F. Sequence.** The trial shall proceed in the following manner:

- (1) Pre-Trial Oral Motions in Limine (if any);
- (2) Opening statement by plaintiff;
- (3) Opening statement by defendant;
- (4) Plaintiff's presentation of evidence and cross-examination by defendant;
- (5) Defendant's presentation of evidence and cross-examination by plaintiff;
- (6) Closing argument by plaintiff;
- (7) Closing argument by defendant;
- (8) Rebuttal argument by plaintiff.

**G. Division of Responsibility.** Each of the two team members must conduct at least one direct examination and one cross-examination. Only one team member may examine or cross-examine any one witness. The team member examining or cross-examining such witness must also bear full responsibility for objecting to opposing counsel's questioning of that witness. One team member shall make the opening statement and the other team member shall make the closing statement.

**H. Date of Trial.** It is stipulated that 2023 is the year in which this case comes to trial.

**I. Bifurcation of Liability and Damages.** This case has been bifurcated, and the trial will be conducted on the issues related to liability only.

**J. Witnesses.** All witnesses shall be members of the teams. Each team shall supply two witnesses for use in its case-in-chief. Witnesses are not gender-specific and may be played by a person of any gender.

The Plaintiff and the Defendant must call the two witnesses listed as that party's witnesses on the witness list. The parties may call their respective witnesses in any order.

Witnesses may make reasonable inferences from the materials provided as to only background on nonmaterial facts. If a witness makes a statement of fact not contained in his or her prior testimony, the witness must admit, if questioned on the subject, that the statement does not appear in his or her sworn statement. Additionally, if the witness testifies to a fact outside of the case materials and the fact was furnished by counsel or someone else, the witness must admit, if questioned on that subject, that he or she was so instructed by counsel or some other person.

All witnesses called to testify who have identified the parties, other individuals, or tangible evidence in depositions or prior testimony can and will, if asked, identify the same at trial.

Each witness who gave a deposition agreed under oath at the outset of his or her deposition to give a full and complete description of all material events that occurred and to correct the deposition for inaccuracies and completeness before signing the deposition.

All depositions were signed under oath.

For this competition, no team is permitted to attempt to impeach a witness by arguing to the jury that a signature appearing on a deposition does not comport with signatures or initials located on an exhibit.

Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility.

**K. Testimony Outside of the Record.** During cross-examination no witness may say "you did not ask me that at my deposition" or anything to that effect. The intent of the rules and the stipulations is to limit evidence from the witnesses to the facts and statements contained in the depositions or other sworn testimony, except as stated above in relation to reasonable inferences as to background on nonmaterial facts.

This competition does not permit a listed witness, while testifying, to "invent" an individual not mentioned in this problem and have testimony or evidence offered to the court or jury from that "invented" individual.

"Beyond the record" shall not be entertained as an objection. Rather, teams shall use cross-examination as to inferences from material facts. Flagrant or repeated attempts to use facts outside the record may result in a deduction of points to that team. Any party wishing to file a complaint concerning a violation of this rule shall use the procedures found in these Rules.

- L. Exhibits.** All exhibits in the file are authentic. In addition, each exhibit contained in the file is the original of that document unless otherwise noted on the exhibit or as established by the evidence.
- M. Technology.** Although the committee recognizes that technology is ubiquitous in today's courtrooms, to ensure fairness to all participants and to prevent against any possibility of coaching, the use of technology during competition rounds by advocates and witnesses, including laptops, tablets, cell phones, and the like, is prohibited.
- N. Scoring Decisions.** All rounds will be evaluated by judges or attorneys acting as jurors. Each jury member will be instructed to disregard the merits of the claims and defenses and to evaluate the participants' advocacy in accordance with the ballot and judging instructions provided. The identity of the participating law schools will not be disclosed to the judges or jurors until after the conclusion of the Competition in its entirety. The jurors may be asked to make constructive comments to the teams upon the completion of the ballots for that round.
- O. Presiding Judges.** Presiding Judges for each round will be experienced trial attorneys and/or sitting or retired judges. Presiding Judges will preside over the mock trial and will make such rulings as may be necessary or appropriate during the course of the round. Presiding Judges will not score the competition but are encouraged to provide advice and feedback to the participants after the conclusion of the round and submission of the juror's score sheets. Permission to redirect or re-cross any witness shall be at the discretion of the Presiding Judge.

## **ADMINISTRATION OF COMPETITION**

- A. Time and Place.** The Competition will be held from Friday, January 20, to Sunday, January 22, 2023. Competition rounds will take place at times to be determined and announced to participating teams in advance. The Competition will be held at the Gaylord Palms Resort & Convention Center in Orlando, Florida.
- B. Assignments of Sides, Pairings, Byes and Forfeits.** The Trial Lawyers Section shall determine by lot the assignment of sides, pairings and byes, if any, for the preliminary rounds of the Competition. Each team must be prepared to participate on either side of the problem.
- C. Ballot Distribution.** After the Competition has been concluded, copies of the judging ballots will be provided to the competing teams upon request.

## **IDENTITY OF TEAMS AND CONFLICTS OF INTEREST**

In order to ensure that the Competition is fairly and impartially scored without bias towards or prejudice against a law school, advocate, witness, or coach affiliated with a competing team, the identity of competing teams' law school affiliations shall not be disclosed to the Presiding Judges or scoring jurors until after the conclusion of the entire Competition. A conflict of interest arises if a Presiding Judge or scoring juror becomes aware of the law school affiliation of a team in their courtroom, or if a Presiding Judge or scoring juror has a personal or professional relationship with a team member or coach.

Prior to and during the Competition, law schools, competitors, and coaches shall not disclose the identity of any competing team member or coach in social media posts or other public statements, although social media posts or public statements that do not include photographs or other identifying information about competing team members are allowed.

During the Competition, there shall be strict anonymity following the following method: Each participating team shall be assigned a letter or number designation and shall be identified to the judges or jurors only in that manner.

Any potential conflict or suggestion of a conflict must be raised by notifying the bailiff/timekeeper as soon as a team or judge/juror becomes aware of it. Any potential violation of the anonymity rule should be reported to the Mock Trial Committee immediately.

Any violation of the anonymity and conflict of interest rules, or any attempt to identify a team's law school affiliation to or otherwise unfairly influence a Presiding Judge or scoring jurors shall result in an appropriate penalty, including the possibility of a point deduction or disqualification from the Competition, as determined by the Mock Trial Committee.

## **CONDUCT OF PERSONS AFFILIATED WITH TEAMS**

During the Competition rounds, no faculty, non-competing team members, or any other person may communicate with or assist in any way the advocates or witnesses on a competing team. This shall not preclude the judges or jurors from critiquing a team's performance at the conclusion of a round. "Scouting" or any observation of rounds of teams from other schools by any member or affiliate of a team is specifically forbidden. Violations of this rule may result in immediate disqualification from the Competition. This rule does not prohibit team coaches, friends, family members, or others from observing rounds involving the teams with which they are affiliated. If one team from a law school has been eliminated from the Competition but the second team remains, the eliminated team members may observe Competition rounds involving their school's remaining team. If a law school has been entirely eliminated from the Competition, its coaches and team members may observe rounds involving other schools.

In interpreting this rule, it should be emphasized that the purpose of the Competition is to develop the art of trial advocacy through the participants' own work.

## **COACHES' MEETINGS**

Prior to commencement of the Competition, an on-site coaches' meeting will be held to discuss the procedures and rules of the Competition and to announce first round pairings. Each participating law school is required to appear through at least one representative attending in-person. Additional coaches' meetings may be held from time to time during the Competition as may be necessary to conduct administrative business, resolve questions or disputes, or provide information to the competing teams.

## **EXHIBITS**

Only exhibits provided in the problem may be used in the Competition. This shall not prevent teams from using handwritten demonstrative aids prepared during the trial.

Each team may use a maximum of two exhibit enlargements during their presentation of the evidence. Enlarged exhibits must be exact replicas of the exhibits contained within the case file. The maximum size for enlargements is 24x36 inches. Teams may not use technology for enlargements (ie, ELMO, overhead projector, computer screens, etc).

Other than the problem exhibits and any handwritten demonstrative aids created during the course of a trial, no reference, audible or otherwise, shall be made during any interaction with the Presiding Judge, jurors or witnesses to any other aids, charts, summaries or chronologies created prior to trial. Any further rules regarding the use of exhibits will be announced prior to the Competition.

## **TEAM ASSIGNMENT AND RANKINGS**

For the first preliminary round, each team will present an assigned side of the case against a team from another school, according to pairings determined prior to commencement. For the second preliminary round, each team will switch sides of the case and present the case against a different team, according to pre-determined pairings. In the preliminary rounds, no team will compete against a team representing the same law school. At the conclusion of the two preliminary rounds, the top eight teams shall be selected for advancement to the quarterfinal round. Rankings for the teams at the conclusion of the preliminary rounds shall be based on the following:

- 1) Total number of rounds won (based on obtaining a majority of the judges' scoring sheets in its favor for each round).

- 2) In the event that teams are tied on the basis of total rounds won, ties shall be broken on the basis of the highest percentage of scoring sheets in their favor out of the total number of scoring sheets from each team's respective trials. For example, a team that wins its first trial by a juror vote of 5-0 and loses its second trial by a juror vote of 2-3 (combined percentage of favorable jurors: 70%), will advance over a team that wins its first trial by a juror vote of 3-2 and loses its second trial by a juror vote of 0-5 (combined percentage of favorable jurors: 30%).
- 3) In the event that teams are tied on the basis of percentage of favorable jurors, ties shall be broken on the basis of the sum of their three highest total-team scores from each round, added together.
- 4) For the quarterfinal round, the top ranked team shall be paired against the eighth ranked team, the second ranked team shall be paired against the seventh ranked team, and so on. Brackets may be broken, however, to avoid pairing two teams from the same school and/or teams that have competed in a previous round against each other until the final round.
- 5) The four winning teams from the quarterfinal round shall advance to the semifinal round. For the semifinal round, the top ranked team will be paired against the fourth ranked team and the second ranked team will be paired against the third ranked team. Brackets may be broken, however, to avoid pairing two teams from the same school and/or teams that have competed in a previous round against each other until the final round.
- 6) The two winning teams from the semifinal round will compete in the final round.
- 7) Sides for the quarterfinal, semifinal, and final round will be determined and announced prior to commencement of each round.

## **SCORING CRITERIA**

No team will be allowed to participate in the scoring or tabulation of the score sheets for any round, nor will they be allowed to view ballots until the competition is complete.

## **INTERPRETATION OF RULES**

Any discrepancies between these Rules and the Stipulations contained in the case file will be construed in favor of these Rules.

Requests for interpretation of these Rules must be made via email to Jenny Dorminy at [jdorminy@floridabar.org](mailto:jdorminy@floridabar.org). The Trial Lawyers Section Mock Trial Committee ("Committee") will issue a written response to the inquiry via email. The Committee's response, along with a copy of the inquiry, will be emailed to all competing teams.

## **COMPLIANCE WITH RULES**

A violation of any of the Rules governing the Competition shall subject the violator to penalty or disqualification. The Chairperson of the Mock Trial Committee will hear and determine all alleged violations. The participants and the faculty advisors involved shall be given an opportunity to be present and heard at the time in which the alleged violation is considered.

## **COMMUNICATION WITH TRIAL LAWYERS SECTION**

Competing teams' coaches, team members, and representatives are strictly prohibited from communicating with any representative of the Trial Lawyers Section, including any member of the Mock Trial Committee, regarding any substantive matters related to the Chester Bedell Mock Trial Competition, with the following exceptions:

- 1) Requests for interpretation of these Rules must be made in writing pursuant to the procedure outlined above.
- 2) Requests for revision or interpretation of the Case File must be made in writing. **All requests for revision or interpretation of the Case File must be emailed to Whitney Untiedt at [wmu@fblawyers.net](mailto:wmu@fblawyers.net) on or before October 14, 2022.** Only one email message regarding Case File revision or interpretation will be accepted from each competing law school; any subsequent messages will be disregarded. The Committee will consider all requests, and will publish any responses in writing to all teams; the Committee will not participate in "ex parte" communications with any team. All decisions made by the Committee regarding revisions to or interpretation of the Case File are final.

Competing teams' coaches, team members, and representatives may communicate with the Trial Lawyers Section and the Mock Trial Committee regarding administrative matters, such as scheduling and accommodations, by email to Jenny Dorminy at [jdorminy@floridabar.org](mailto:jdorminy@floridabar.org).

Communications to the Committee from representatives of competing teams that do not adhere to the rules above will not receive a response.