



## **Helpful Hints for Mock Trial Preparation**

1. Because a school team is required to represent both sides of the case during the competition, all roles in the case should be assigned as early as possible after a few coaching sessions. We recommend assigning roles early to facilitate productive practice sessions, enable students to analyze their role(s), and provide students with a sense of achieving a defined goal. A team is not committed to having a particular student assume a specific role until rosters are submitted on the day of competition. Accordingly, adjustments can be made to the roles as necessary.

2. The team should create a case theme and theory early in team development. Without a case theme or theory, it is difficult to form the closing argument or questions on direct and cross-examination. Adjustments to the case theme and theory also can be made before competition.

3. Credibility of witnesses is very important to a team's presentation of its case. It is important that students acting as witnesses completely assume their roles and strive to think like the persons they are playing. Students who are witnesses should read their statements (affidavits) many times and have other members of the team or their classmates ask them questions about the facts until they know them "cold."

4. Student team members are responsible for deciding what questions should be asked of each witness on direct and cross-examination. This work can be effectively accomplished in groups or as an outside practice assignment. When developing direct-examination questions, the student witness and student attorney should work together. The witness should know the nuances of the witness role better than the attorney and the attorney should know the "bigger picture" of how the witness fits into the team's case theory and theme better than the witness. Teams whose witnesses and attorneys do not work together often appear disjointed and may miss opportunities to score competition points.

5. Historically, the teams whose students prepare their own questions and arguments do better in competition. Even though it may seem more effective for the teacher or attorney coach to write the questions or arguments for the students, students learn best when they do their own thinking and ask their own questions in their own unique styles. Allowing students to develop their own questions and arguments can be very frustrating for the teacher or attorney coach; however, a bit of patience will pay off during competition when the students gain the most valuable skill for mock trial presentation—confidence from doing their own work. The teacher or attorney coach provides guidance and continual feedback to keep the students on track to ensure they are asking relevant questions and making effective arguments, but all of the thinking, reasoning, and effort should come from the students.

6. After the students prepare the questions for the witnesses, the team should hold several practice sessions where the attorneys question individual witnesses, and the rest of the class or team evaluates the questions. They help determine what questions are good and should be used, as well as the questions that are not so effective and can be eliminated. They also offer suggestions of additional questions to ask. These sessions are valuable in preparing the witnesses for the tournament. Additionally, the group feedback confirms that all team members are on the same page about the team's case theme and theory. These group feedback sessions help the team appear cohesive during competition.

7. These practice sessions help student attorneys determine whether they need to revise their questions and whether witnesses should restudy the parts of their witness statements that may be weak. It is important for both the attorneys and witnesses to remain flexible and be prepared for the "unexpected" during the actual trials.

8. Team members should prepare closing arguments first and opening statements last. We recommend preparing closing statements immediately after developing the case theme and theory and before developing questions on direct and cross-examination. The rule of thumb for direct and cross-examinations is that no question should be asked unless it is going to be used in the team's closing argument. Accordingly, having the closing done in advance will help teams develop their questions on direct and cross-examination. On the other hand, opening statements should be completed after the closing argument and questions on direct and cross-examination are completed. Opening statements are not arguments; they are simply a preview of things to come. The opening statement sets the case theme and theory and provides a preview of what the team anticipates will be presented at trial. Accordingly, the most effective

opening statements are completed after the questions on direct and cross-examination are completed.

9. For the reasons stated in paragraph 8 above, preparing closing arguments early is an effective tool; however, closing arguments should be subject to revision, based on the evidence admitted at trial. Each trial will be different. Different facts will be admitted from one trial to another. Facts that were admitted in one trial may not be admitted in the next trial. Accordingly, the student attorneys and witnesses must have a firm grasp of the facts. The student attorney(s) who make the closing arguments should simply outline all of the anticipated key facts for the argument(s) and listen to all questions and answers during trial while inserting or deleting facts in the outline. This allows for effective closing arguments that are delivered in a relaxed and spontaneous manner. Additionally, it is our experience that students “freeze” during arguments because they may have memorized their arguments word-for-word and cannot recall what the next word is or they lose their train of thought. Outlines can help prevent this problem.

10. As the first round of trial draws near, it is recommended that a team conduct at least three complete trial dress rehearsals. All protocol and formalities should be followed and notes should be taken by the teacher coach and students so that constructive suggestions can be offered as to improving the team’s presentation. Timekeeping should be included as part of the practice. The attorney coach should be invited to attend this session and be asked to comment on the presentation. Another constructive way to prepare is to scrimmage with another area team. The CBA Mock Trial Committee can assist with finding other teams to scrimmage.

11. A team’s ability to adapt to different and perhaps unexpected situations is often a key part of trial. In addition to changes in facts that are admitted from one trial to another, as described in paragraph 9 above, the presiding judge or lawyer acting as presiding judge will have his or her own way of doing things. How the trial proceedings are conducted often largely depends on the presiding judge, so student attorneys and other team members should be prepared to adapt to judicial rulings and requests, even if they appear contrary to outlined contest procedures and rules.

12. As the students practice with the case, refer to the “Score Sheet” so that the students are familiar with what the judges in the tournaments will be looking for. A good part of mock trial scoring is presentation, however, as the Score Sheet indicates, another good part of scoring is the team’s analysis of facts and the ability to present a cogent case from opening statements to closing arguments.