

CLASSROOM LAW PROJECT proudly sponsors the

Oregon High School Mock Trial Competition

2022-2023 Mini Mock Case



Mia Perez, a minor, by and through her parent Casey Perez

v.

*Shannon Dempsey, Jordan Reddick,
and Rubicon Soccer Club, Inc.*

**Soccer player's head takes one too many strikes.
Whose fault is it?**



Originally Published and used in the 2013-14 School Year

ACKNOWLEDGMENTS

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Heartfelt appreciation is extended to all **teacher and attorney coaches, regional coordinators, county courthouse personnel, attorneys and other volunteers** whose dedication and hard work make the regional and state competitions successful. Without the efforts of volunteers like these, this event would not be possible.

***Mia Perez v. Shannon Dempsey,
Jordan Reddick, and Rubicon Soccer Club, Inc.***

TABLE OF CONTENTS

I.	Introduction	1
II.	Program Objectives.....	1
III.	Code of Ethical Conduct	2
IV.	The Case	
	A. Brief Case Summary	3
	B. Witness List	3
	C. List of Exhibits	3
	D. Complaint, Answer, Stipulations.....	4
	Complaint.....	4
	Answer	8
	Stipulations	11
	E. Witness Statements	
	Affidavit of Casey Perez	12
	Affidavit of Bevin Register, Ph.D., A.T.	16
	Tobin O'Reilly	20
	Shannon Dempsey	23
	Jordan Reddick	27
	Chris Durant	31
	F. Exhibits	
	Ex. 1. Acute Concussion Evaluation (ACE) Physician/Clinician.....	34
	Ex. 2. Acute Concussion Evaluation (ACE) Care Plan.....	36
	Ex. 3. CDC Facts About Concussion and Brain Injury.....	38
	Ex. 4. Sports Concussion Fact Sheet SB721, Jenna's Law	39
	Ex. 5. Rubicon Soccer Club Medical Consent/Waiver of Liability, Release.....	41
V.	The Form and Substance of a Trial	
	A. Elements of a Civil Case.....	42
	B. Proof by a Preponderance of Evidence	42
	C. Role Descriptions.....	42
	1. Attorneys	42
	a. Opening Statement	43
	b. Direct Examination	43
	c. Cross Examination, Redirect, Re-Cross, and Closing	44

2.	Witnesses	44
3.	Court Clerk, Bailiff, Team Manager.....	44
a.	Duties of the Clerk – provided by the Plaintiff.....	45
b.	Duties of the Bailiff – provided by the Defense.....	45
c.	Team Manager, Unofficial Timer (optional)	46
D.	Virtual Competition.....	47
1.	Swearing in Witnesses	47
2.	TimeKeepers	47
3.	Team Manager	48

VI. Rules of the Competition

I. General Rules of the Competition (Virtual & In-Person)

A.	Administration	48
Rule 1.	Rules.....	48
Rule 2.	The Problem.....	48
Rule 3.	Witness Bound By Statements.....	48
Rule 4.	Unfair Extrapolation.....	49
Rule 5.	Gender of Witness.....	49
Rule 6.	Student Accomodations (Students with Disabilities)	50
B.	The Trial	
Rule 7.	Team Eligibility, Teams to State.....	50
Rule 8.	Team Composition.....	50
Rule 9.	Team Presentation.....	51
Rule 10.	Team Duties	51
Rule 11.	Swearing In the Witnesses	51
Rule 12.	Trial Sequence and Time Limits	51
Rule 13.	Timekeeping	52
Rule 14.	Time Extensions and Scoring	52
Rule 15.	Supplemental Material, Illustrative Aids, Costuming.....	52
Rule 16.	Trial Communication	52
Rule 17.	Viewing a Trial	53
Rule 18.	Videotaping, Photography, Media	53
C.	Before the Trial	
Rule 19.	Stipulations	53
Rule 20.	The Record	53
Rule 21.	Motions Prohibited	53
Rule 22.	Objection During Opening & Closing Statements	53
D.	Presenting Evidence	
Rule 23.	Objections.....	53
Rule 24.	Procedure for Qualifying Expert Witness	54
Rule 25.	Redirect, Recross	55

E.	Closing Arguments	
Rule 26.	Scope of Closing Arguments	55
F.	Critique	
Rule 27.	The Critique	56
G.	Judging and Team Advancement	
Rule 28.	Decisions.....	56
Rule 29.	Composition of Panel	56
Rule 30.	Ballots.....	56
Rule 31.	Team Schedule	56
Rule 32.	Merit Decisions.....	57
II.	In-Person Mock Trial Rules of Procedure	
A.	Before the Trial	
Rule 33.	Team Roster.....	57
Rule 34.	Courtroom Setting	57
B.	Beginning of the Trial	
Rule 35.	Jury Trial.....	57
Rule 36.	Motions Prohibited	57
Rule 37.	Standing During Trial	57
Rule 38.	Objections During Opening & Closing Statements Accomodations	57
C.	Presenting Evidence	
Rule 39.	Procedure for Introducing Exhibits.....	57
Rule 40.	Use of Notes; No Electronic Devices	58
VII.	Federal Rules of Evidence – Mock Trial Version	
Article I.	General Provisions	59
Rule 101.	Scope	59
Rule 102.	Purpose and Construction	59
Article II.	Judicial Notice	59
Rule 201.	Judicial Notice of Adjudicative Facts	59
Article IV.	Relevancy and Its Limits	
Rule 401.	Definition of “Relevant Evidence”	59
Rule 402.	Relevant Evidence Generally Admissible: Irrelevant Evidence Inadmissible	60
Rule 403.	Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time.....	60

Rule 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes	60
Rule 405. Methods of Proving Character	60
Rule 406. Habit, Routine Practice.....	60
Rule 407. Subsequent Remedial Measures	61
Rule 409. Offers to Pay Medical and Similar Expenses	61
Rule 410. Pleas, Pleas Discussions and Related Statements	61
Rule 411. Liability Insurance (civil case only).....	62
Article V. Privileges.....	62
Rule 501. General Rule	62
Article VI. Witnesses	
Rule 601. General Rule of Competency	62
Rule 602. Lack of Personal Knowledge	62
Rule 607. Who May Impeach.....	62
Rule 608. Evidence of Character and Conduct of Witness	63
Rule 609. Impeachment by Evidence of Conviction of Crime	64
Rule 610. Religious Beliefs or Opinions	65
Rule 611. Mode and Order of Interrogation and Presentation.....	65
Rule 612. Religious Beliefs or Opinions	66
Rule 613. Mode and Order of Interrogation and Presentation.....	66
Article VII. Opinions and Expert Testimony	
Rule 701. Opinion Testimony by Lay Witness	67
Rule 702. Testimony by Experts	67
Rule 703. Bases of Opinion Testimony by Experts	67
Rule 704. Opinion on Ultimate Issue.....	67
Article VIII. Hearsay	
Rule 801. Definitions.....	68
Rule 802. Hearsay Rule.....	69
Rule 803. Hearsay Exceptions, Availability of Declarant Immaterial	69
Rule 804. Hearsay Exceptions; Declarant Unavailable	72
Rule 805. Hearsay within Hearsay	73
VIII. Notes to Judges	
A. Judging Guidelines	74
B. Virtual Competition - Introductory Matters.....	74
C. In-Person Competition - Introductory Matters	75
D. Evaluation Guidelines	76
E. Penalty Points.....	76

Appendices

1. Often Used Objections in Suggested Form	79
2. Time Sheet	82
3. Team Roster.....	83
4. Judge Score Sheet	84
5. Scoring Rubric	86
6. Diagram of a Typical Courtroom.....	87

CLASSROOM LAW PROJECT
**2022-23 OREGON HIGH SCHOOL
MINI-MOCK COMPETITION**

I. INTRODUCTION

This packet contains the official materials that student teams will need to prepare for this year's Mini-Mock Competition. This case was originally published and used as a competition case in the 2013-14 School Year.

The mock trial experience is designed to clarify the workings of our legal institutions for young people. In mock trial, students take on the roles of attorneys, witnesses, court clerks and bailiffs. As they study a hypothetical case, consider legal principles and receive guidance from volunteer attorneys in courtroom procedure and trial preparation, students learn about our judicial system and develop valuable life skills (public speaking, team building, strategizing and decision making to name a few) in the process.

Teams must prepare to participate in the Mini Mock competition for both the plaintiff and defense.

Mini Mock judges are instructed to follow the evaluation rubric when judging teams' performances. However, just as the phrase "beauty is in the eye of the beholder" underscores the differences in human perceptions, a similar subjective quality is present when scoring mock trial. Even with rules and evaluation criteria for guidance, not all scorers evaluate a performance identically. While CLASSROOM LAW PROJECT and competition coordinators work to ensure consistency in scoring, the competition can reflect otherwise, as in real life.

II. PROGRAM OBJECTIVES

For the **students**, the mock trial competition will:

1. Increase proficiency in basic skills such as reading and speaking, critical thinking skills such as analyzing and reasoning, and interpersonal skills such as listening and cooperating.
2. Provide an opportunity for interaction with positive adult role models in the legal community.
3. Provide an interactive experience where students will learn about law, society, and the connection between the Constitution, courts, and legal system.

For the **school**, the competition will:

1. Promote cooperation and healthy academic competition among students of various abilities and interests.
2. Demonstrate the achievements of high school students to the community.
3. Provide a challenging and rewarding experience for participating teachers.

III. CODE OF ETHICAL CONDUCT

This Code should be read and discussed by students and their coach(es) at the first team meeting. **The Code governs participants, observers, guests and parents** at all mock trial events.

All participants in the Mock Trial Competition must adhere to the same high standards of scholarship that are expected of students in their academic performance. Plagiarism of any kind is unacceptable. Students' written and oral work must be their own.

Coaches, non-performing team members, observers, guests, and parents **shall not talk to, signal, or communicate with** any member of the currently performing side of their team during trial. Likewise, these individuals shall not contact the judges with concerns about a round; these concerns should be taken to the competition Coordinator. These rules remain in force throughout the entire competition. Currently performing team members may communicate among themselves during the trial, however, no disruptive communication is allowed. Non-performing team members, teachers, coaches, and spectators must remain outside the bar in the spectator section of the courtroom.

Team members, coaches, parents and any other persons directly associated with the Mock Trial team's preparation are **not allowed to view other teams** in competition so long as they remain in the competition themselves.

Students promise to compete with the highest standards of deportment, showing respect for their fellow students, opponents, judges, coaches, and competition Coordinator and volunteers. All competitors will focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly and with the utmost civility. Students will avoid all tactics they know are wrong or in violation of the rules. Students will not willfully violate the rules of the competition **in spirit or in practice**.

Teacher coaches agree to focus attention on the educational value of the mock trial competition. **Attorney coaches** agree to uphold the highest standards of the legal profession and zealously encourage fair play. All coaches shall discourage willful violations of the rules. Coaches will instruct students on proper procedure and decorum, and will assist their students in understanding and abiding by the competition's rules and this Code. Teacher and attorney coaches should ensure that students understand and agree to comply with this Code. Violations of this Code may result in disqualification from competition. Coaches are reminded that they are in a position of authority and thus serve as positive role models for the students.

Charges of ethical violations involving persons other than the student team members must be made promptly to the Competition Coordinator who will ask the complaining party to complete a dispute form. The form will be taken to the competition's communication's center, where a panel of mock trial host sponsors will rule on any action to be taken regarding the charge, including notification of the judging panel. Violations occurring during a trial involving students competing in a round will be subject to the dispute process described in the Rules of the Competition.

All participants are bound by this Code of Ethical Conduct and agree to abide by its provisions.

IV. THE CASE

A. Brief Case Summary

Mia Perez, a minor child and the only daughter of Casey Perez, sustained a serious concussion during a college showcase soccer tournament on Friday, December 10, 2021, while playing for the Rubicon Soccer Club Under-17 Premier soccer team. Mia continues to suffer from significant mental and physical impairment as a result of that concussion. Mia has filed a lawsuit against Rubicon soccer coach Shannon Dempsey, Rubicon Soccer Club Director Jordan Reddick, and Rubicon Soccer Club, Inc., arguing that they were negligent in returning her to play too soon after an earlier concussion and, therefore, are liable for the damages she sustained.

B. Witness List

For the plaintiff:

Casey Perez, parent of injured player Mia Perez
Dr. Bevin Register, concussion expert
Tobin O'Reilly, Rowe High School soccer coach

For the defense:

Shannon Dempsey, Co-Defendant, Rubicon Soccer Club Coach
Jordan Reddick, Co-Defendant, Director of Rubicon Soccer Club
Chris Durant, classmate of Mia Perez

C. List of Exhibits

1. Acute Concussion Evaluation (ACE) Physician form for Mia Perez
2. Acute Concussion Evaluation (ACE) Care Plan for Mia Perez
3. CDC Fact Sheet: "Facts About Concussion and Brain Injury"
4. Sports Concussion Fact Sheet SB721, Jenna's Law
5. Rubicon Soccer Club Medical Consent/Waiver of Liability and Release

D. Complaint, Answer, Stipulations

Continued on next page.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR CHINOOK COUNTY

MIA PEREZ, a minor, by and through her)	
)	
Parent, CASEY PEREZ)	Case No: MM2022-2023
Plaintiff)	
v.)	COMPLAINT
SHANNON DEMPSEY, JORDAN)	DEMAND FOR JURY TRIAL
)	
REDDICK, and RUBICON SOCCER CLUB)	
Defendant)	

COMPLAINT FOR NEGLIGENCE

COMES NOW the Plaintiff, MIA PEREZ, by and through her parent and guardian, CASEY PEREZ, and respectfully states to the Court and alleges as follows:

JURISDICTION AND VENUE

1. That at all times mentioned, Plaintiff Mia Perez, a minor, was and is a resident of Chinook County, State of Oregon. Casey Perez, parent and lawful guardian of Mia Perez, was and is a resident of Chinook County, State of Oregon.
2. At all times mentioned, Defendant Shannon Dempsey was and is a resident of Chinook County, State of Oregon.
3. At all times mentioned, Defendant Jordan Reddick was and is a resident of Chinook County, State of Oregon.
4. Defendant Rubicon Soccer Club, Inc. is incorporated in the State of Oregon with its principal place of business being in Chinook County, State of Oregon.
5. All of the acts complained of in this complaint occurred in Chinook County, State of Oregon. Therefore, venue is proper in this court.
6. In the aggregate, Plaintiff's claims exceed \$50,000 exclusive of interest and costs, and therefore this Court has original jurisdiction.

FACTS

7. Prior to and on the date of December 10, 2021, Plaintiff Mia Perez was a member of the Under-17 Rubicon Soccer Club Premier Girls' soccer team, coached by Defendant Dempsey.
8. On Monday, December 6, 2021, Plaintiff Mia Perez struck her head on the ground during soccer practice. She seemed shaken up enough for Defendant Dempsey to require Plaintiff to sit out for the remainder of practice.

9. Defendant Dempsey did not inform Casey Perez, Plaintiff's parent, of the incident in Monday's practice, nor did the Defendant suggest that Plaintiff Mia Perez be checked out by medical personnel for a possible concussion.

10. On Friday, December 10, 2021, Plaintiff Mia Perez suffered a blow to the head during the first half of the College Showcase tournament soccer game. Defendant Dempsey did not remove Plaintiff Mia Perez from the game at that time to check on her but, instead, kept Plaintiff Mia Perez in the game until halftime.

11. Defendant Dempsey did not ask Plaintiff Mia Perez about any possible concussion symptoms during halftime.

12. Defendant Dempsey put Plaintiff Mia Perez into the game at the beginning of the second half. About 15 to 20 minutes later, Plaintiff Mia Perez was tripped while dribbling the ball toward the goal. Plaintiff Mia Perez fell to the ground, striking her head hard when she landed.

13. Plaintiff Mia Perez was knocked unconscious by the force of the blow to her head. She was transported to the emergency room at Chinook County Hospital, where she regained consciousness more than an hour later.

14. Plaintiff Mia Perez suffered a serious concussion from the blow to her head. She continues to suffer from post-concussion syndrome months after this incident.

COUNT ONE

15. The Plaintiff hereby adopts and incorporates by reference paragraphs 1 through 14 as if fully set forth herein.

16. At all relevant times, Defendant Shannon Dempsey had a duty of care toward the Plaintiff to supervise, monitor, regulate, and take all reasonable and appropriate steps to minimize the risk of injury to the Plaintiff from her participation in soccer practices and games.

17. Beginning on Monday, December 6, 2021, and proceeding through Friday, December 10, 2021, Defendant Dempsey breached their duty to Plaintiff by carelessly and negligently ignoring clear symptoms of concussions which the Plaintiff exhibited throughout that period.

18. By failing to remove Plaintiff Mia Perez from practices and the College Showcase game until the Plaintiff had been cleared to play by a physician knowledgeable in the diagnosis and treatment of concussions, Defendant Dempsey created a foreseeable risk of harm to Plaintiff Mia Perez. In doing so, Defendant Dempsey directly and proximately caused the harm which Plaintiff Mia Perez suffered from repeated concussive events during the time in question.

19. Plaintiff Mia Perez has sustained past medical expenses and will incur future medical expenses and costs associated with the harm suffered and disability referenced above.

20. Plaintiff Mia Perez has in the past experienced, continues to experience, and may in the future suffer from an assortment of problems associated with the harm described above, including but not limited to, headaches, dizziness, loss of memory, depression, cognitive dysfunction, diminished educational achievement, employment impairment, limitations in physical activities, and loss of the pleasures of life.

21. As a result of the foregoing, Plaintiff Mia Perez has suffered damages and will in the future suffer damages caused by the negligence of Defendant Dempsey.

COUNT TWO

22. Plaintiff hereby adopts and incorporates by reference all prior paragraphs of this Complaint as if fully set forth herein.

23. At all relevant times, Defendant Jordan Reddick, as the Director of the Rubicon Soccer Club, had a duty of care to Plaintiff to supervise, educate, monitor, and provide reasonable information and rules to club players, parents, and coaches, to minimize the risk of injury to the players.

24. Defendant Jordan Reddick was careless and negligent by breaching the duty of care to players and coaches both generally and in the following particular respects:

- a. Failing to educate players, parents, and coaches concerning symptoms of a possible concussion;
- b. Failing to warn of the risk of unreasonable harm or possible long-term complications resulting from repeated concussions;
- c. Failing to implement rules and protocols to adequately address the dangers of repeated concussions and to implement a medically-sound return-to-play policy to minimize long-term chronic cognitive problems;
- d. Other acts of negligence or carelessness which may materialize during this civil action.

25. Because of the negligence and breach of duty of Defendant Reddick, Plaintiff Perez has suffered damages and will in the future suffer damages as described in the foregoing paragraphs incorporated herein.

COUNT THREE

26. Plaintiff Mia Perez hereby adopts and incorporates by reference all prior paragraphs of this Complaint as if fully set forth herein.

27. Defendant Rubicon Soccer Club, as the organization under which Plaintiff Mia Perez engaged in the sport of soccer, had a duty of care to establish reasonable rules and regulations and return-to-play protocols to minimize the risk of injuries to players in the club.

28. By failing to gather and disseminate specific information regarding prior player concussions on club medical waiver forms; failing to establish reasonable rules and regulations to educate players, parents, and coaches about the symptoms and risks of repeated concussions; and failing to establish clear and medically sound policies for safe return-to-play, Rubicon Soccer Club breached its duty of care to Plaintiff.

29. Because of the negligence and breach of duty of Rubicon Soccer Club, Plaintiff has suffered damages and will in the future suffer damages as described in the foregoing paragraphs incorporated herein.

WHEREFORE, Plaintiff requests judgment for the following:

1. Judgment against Defendants for compensatory damages in an amount to be determined by a jury;

2. Payment of the costs resulting from this action to be taxed against the Defendants;
3. Such other and further relief as this Court may deem just and proper.

Plaintiff requests a jury trial on all issues.

Respectfully submitted, this the 1st day of August, 2022.

Pat Jacobs

Pat Jacobs, Esq.
Attorney at Law
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Rowe, Oregon 97205

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR CHINOOK COUNTY

MIA PEREZ, a minor, by and through her)	
)	
Parent, CASEY PEREZ)	Case No: MM2022-2023
Plaintiff)	
v.)	ANSWER
SHANNON DEMPSEY, JORDAN)	DEMAND FOR JURY TRIAL
)	
REDDICK, and RUBICON SOCCER CLUB)	
Defendant)	

ANSWER

COMES NOW the Defendants, SHANNON DEMPSEY, JORDAN REDDICK, and RUBICON SOCCER CLUB, INC., and respond to the Plaintiff's Complaint as follows:

JURISDICTION AND VENUE

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Defendants admit that the aggregate damages claimed by the Plaintiff exceed \$50,000 but deny that the damages are due to negligence on the part of the Defendants. Nonetheless, Defendants do not contest the venue or jurisdiction of Chinook County Circuit Court.

FACTS

7. Admitted.
8. Defendants Jordan Reddick and Rubicon Soccer Club lack sufficient knowledge to form a belief as to the truth of the allegations in paragraph 8, and thus it is denied.
9. Defendants Jordan Reddick and Rubicon Soccer Club lack sufficient knowledge to form a belief as to the truth of the allegations in paragraph 9, and thus it is denied.
10. Defendants lack sufficient knowledge to form a belief as to the truth of the first allegation in paragraph 10, and thus it is denied. The second allegation is admitted.
11. Defendants Jordan Reddick and Rubicon Soccer Club lack sufficient knowledge to form a belief as to the truth of the allegations in paragraph 11, and thus it is denied.

12. Admitted.
13. Admit Plaintiff Mia Perez was nonresponsive during the second half of the December 8, 2017, game and was transported away from the field by emergency medical personnel. Except as admitted, Defendants lack sufficient knowledge to form a belief as to the truth of the allegation in paragraph 1, and thus it is denied.
14. Defendants lack sufficient knowledge to form a belief as to the truth of the in paragraph 13, and thus it is denied.

COUNT ONE

15. Defendants' responses to Paragraphs 1 – 14 are incorporated herein by reference.
16. Admitted.
17. Denied.
18. Denied.
19. Defendants lack sufficient knowledge to form a belief as to the truth of the allegations in paragraph 19, and thus it is denied.
20. Defendants lack sufficient knowledge to form a belief as to the truth of the allegations in paragraph 19, and thus it is denied.
21. Denied.

COUNT TWO

22. Defendants' responses to all prior paragraphs of the complaint are incorporated herein by reference.
23. Admitted.
24. Denied in general and as to all allegations in subparagraphs (a) – (d).
25. Denied.

COUNT THREE

26. Defendants' responses to all prior paragraphs of the Complaint are incorporated herein by reference.
27. Denied.
28. Denied.
29. Denied.

FIRST AFFIRMATIVE DEFENSE

30. Defendants assert the defense of comparative negligence. Plaintiff failed to exercise reasonable care for her own safety and thereby contributed to her own injury in one of more of the following ways: (1) by re-entering the soccer game after injuring her head, (2) by failing to notify her coach of her concussive symptoms, and (3) in such further ways as may be shown by evidence in this case.

WHEREFORE, Defendants pray the following from the Court:

1. That Plaintiff Mia Perez recover nothing from Defendants Shannon Dempsey, Jordan Reddick, and Rubicon Soccer Club, Inc.; and
2. Such other and further relief which the Court may deem just and proper.

Defendants request a jury trial on all issues.

Respectfully submitted this the 31st day of August, 2022.

Chris Sinclair

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Rowe, Oregon 97205

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR CHINOOK COUNTY

MIA PEREZ, a minor, by and through her)
)
Parent, CASEY PEREZ)
)
) Plaintiff)
)
) v.)
SHANNON DEMPSEY, JORDAN)
)
)
)
REDDICK, and RUBICON SOCCER)
CLUB)
) Defendant)

Case No: MM2022-2023

STIPULATIONS

STIPULATIONS

1. All exhibits included in case materials are authentic. No objections to the authenticity of exhibits will be honored.
2. All signatures on Witness Affidavits and other documents are authentic. If asked, a witness must acknowledge signing the document(s) and must attest to the content of the documents(s) and the date(s) indicated thereon. The Witness Affidavits are deemed to be given under oath or affirmation.
3. The trial is bifurcated and the only issue to be determined in this trial is liability. The amount of damages to be awarded, if any, will not be at issue in this proceeding.
4. The Acute Concussion Evaluation (ACE) report is admissible without further foundation. No hearsay objection to this document will be allowed.
5. Before trial, the Court denied the Defendants' motion to dismiss the lawsuit on the grounds that Plaintiff waived and released her claims through her parent's execution of the Medical Consent/Waiver of Liability and Release, dated June 2, 2021. In its ruling, the Court determined, as a matter of law, that the waiver and release of liability was not enforceable against Plaintiff.

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1 **E. Witness Statements**

2
3 **Affidavit of Casey Perez**

4
5 My name is Casey Perez; I am a 42-year-old single parent living in Rowe, Oregon. I
6 attended Oregon State University 20 years ago, and after I graduated, I married my college
7 sweetheart and began working as a graphic design artist at a small marketing company in Rowe,
8 which doesn't pay well, but I love it. Things were great until. My spouse died eight years ago in
9 a terrible car accident. I was alone and barely functioning, but I had to pull myself together for
10 Mia's sake. I tried to find things we could do as a family, we did Brownie scout troop and sports
11 camps at the Y. Mia was amazingly fast and very coordinated, and soon she was the star of her
12 basketball, track, and soccer teams. It was great to see her moving past her grief and doing
13 something she loved.

14 At the time of Mia's injury on December 10, 2021, Mia was 16 and a junior at Rowe
15 High School. Mia has always been crazy about soccer; she dreamed of playing in the pros. When
16 she made it onto the top competitive soccer team with the Rubicon Soccer Club at age 13, Mia
17 was thrilled. She knew that many Rubicon players have earned soccer scholarships to college, so
18 it seemed like the first step to reaching her dreams. I had to fill out a pile of paperwork to sign
19 her up. I was surprised that they didn't require a physical or any real past medical history,
20 injuries and such.

21 The club sports, with all the fees and other costs, are expensive. I couldn't afford it all on
22 my salary, so I had to start working a second job in the evenings. It meant sacrifices, missed
23 games, long days, but by Mia made Rowe High School varsity as a freshman. She soon became a
24 starter, then their leading scorer, so it felt worth it.

25 I worked it to see some games, like when we played our biggest rival, Carthage High
26 School, in the first playoff game last May. Mia was really excited about the game; she thought
27 Rowe might defeat Carthage, and then go all the way to states. At halftime Rowe lead 2 – 0, and
28 Mia had scored one goal and assisted on the other. In the middle of the second half, Mia collided
29 with a defender and went down hard. She looked woozy when she got up, so her coach, Tobin
30 O'Reilly, pulled her out right away. Coach O'Reilly is great; coach wants to win, but not at any
31 cost. When Carthage scored, I saw Mia asking to go back in the game, but Coach O'Reilly
32 wouldn't let her. The team managed to hold off Carthage and won, 2-1! The whole team was so
33 excited, although Mia mostly stayed still and just hugged her teammates.

34 After the game Coach O'Reilly told me that I should take Mia to the doctor the next day,
35 since she was still a bit woozy and complaining of a headache. Mia appeared to feel completely
36 fine the next morning, but we saw our physician, Dr. Rick Mueller, anyway. After examining
37 her, he said that Mia had a mild concussion. He told her she needed to rest and avoid strenuous

1 mental and physical activities, including soccer, for a week, then we should come back for a
2 follow-up visit.

3 Mia rested just as Dr. Mueller ordered. But without her, the Rowe lost the next playoff
4 game. Mia felt really bad, but Coach O'Reilly and all her teammates assured her there is always
5 next year. Since soccer was finished for the season and Mia said she felt fine, we never did go
6 back for the follow-up visit with Dr. Mueller. It didn't seem necessary since the Rubicon club
7 soccer tryouts were a month away.

8 Mia did well in tryouts and stayed on the top Under-17 Rubicon team, although some of
9 her good friends got dropped down to the second team. When I turned in all of Mia's paperwork,
10 I made sure to write down on the Medical Waiver form that Mia had suffered a concussion in her
11 school game on the line marked "List any unusual health information" since the form does not
12 ask for such information specifically.

13 When practices started, Mia was a bit surprised, the team had a new coach, Shannon
14 Dempsey. At the first team meeting, Coach Dempsey told the girls that their former coach,
15 Coach Michelle Foudy's father had been diagnosed with cancer and left to provide care. Mia and
16 her teammates were sad for Coach Foudy, but they were impressed to hear that Coach Dempsey
17 had played in college on a full soccer scholarship and turned down an offer to play in the pros.

18 Mia's Rubicon club team was getting lots of attention from college coaches. Mia was the
19 leading scorer, and she was playing her best soccer ever. Coach Dempsey stressed hard work,
20 and it all seemed to pay off, the team went undefeated. When the team signed up for a college
21 showcase tournament in early December, Mia knew it was her chance to be seen by top college
22 coaches from across the country. I knew how important this opportunity was for Mia; she had to
23 get a scholarship to have any hope of attending a top-tier university.

24 The tournament was on the weekend. I didn't get to talk with Mia very much that week
25 because of my work. When I saw her for a few moments on Tuesday evening, she did seem kind
26 of quiet and stressed. She was already in bed when I got home from work on Wednesday, and I
27 didn't get to talk with her much on Thursday. Friday morning, she slept through her alarm and I
28 had to wake her up for school, which surprised me because Mia was always up before her alarm.
29 I asked if she was getting sick, but she said she was okay, she was just tired from all the tests
30 she'd had that week. I told her to relax and said I would meet her at the game that afternoon.

31 When I got to the game, I noticed lots of scouts, taking notes on clipboards; I even saw
32 some of them pointing out Mia. Mia was out on the field, but I noticed she didn't seem to be
33 running as hard as usual. I figured that maybe she was getting sick after all, and I hoped she'd be
34 able to shake it off. With about 10 minutes to go in the first half, Mia tried to head the ball to
35 score on a corner kick, and it looked like she took an elbow to the head. She seemed a bit shaken,

1 and co-captain Megan Cheney even came over to check on her. But Coach Dempsey didn't seem
2 to care, and left her in the game. At halftime, the score was tied 0-0.

3 Mia started the second half, and she seemed to be a bit better. She almost scored a goal
4 about 5 minutes in, but the goalkeeper made a great save. About 10 minutes later a teammate
5 passed the ball to Mia right outside the penalty box, and Mia started toward the goal. All of a
6 sudden, a defender made a hard tackle on the ball and Mia crashed on the ground, hitting her
7 head. I waited for her to get up, but she just lay there. The referee stopped play immediately and
8 Coach Dempsey ran out on the field. Mia still wasn't moving and, next thing I knew, I saw the
9 field marshal and athletic trainer run out on the field. I was in shock; then I ran out on the field.
10 Coach Dempsey said to me, "I'm so sorry, I'm so sorry; I knew Mia wasn't feeling well. I can't
11 believe she got hurt." I saw that Mia was unconscious, and I heard them call for the ambulance to
12 take her to the ER. Of course, I rode with them, although I don't remember much of what went
13 on. All I kept thinking was "please, let her be okay; I can't lose her, too."

14 At the hospital, the doctors said Mia had a concussion. She woke up about an hour after
15 we got there but she seemed really "out of it." They kept her overnight, and talked with both of
16 us about what to watch for, and mentioned it may be days or even weeks before Mia fully
17 recovered. They said that in a small percentage of cases, the person can have serious, long-
18 lasting problems. Of course, we never thought that would happen to Mia, but our worst fears
19 have come true.

20 Mia started having serious migraines a few days after she was discharged. She was
21 incredibly sensitive to light and noise, and she was moody and depressed. She couldn't
22 concentrate and had trouble remembering things. I kept her out of school since it was almost the
23 winter break, and she hasn't been able to return to school since the injury. She still has intense
24 headaches, dizziness, and even nausea, even though it's over a year later. Because light still
25 bothers her, we must keep our house dark. It's so bad that she can't come to testify in court,
26 because the stress is just too much for her.

27 Mia's taking one class online now, that's all she can handle. She won't be able to
28 graduate with her class this spring, and she certainly won't be going to college on a soccer
29 scholarship or playing in the pros. Her life has been completely changed, and the doctors don't
30 know if she'll ever fully recover. And I worry about her future.

31 I don't fault the game of soccer. Mia loves soccer, and obviously millions of people play
32 it without these types of problems. But I do fault Coach Dempsey and the Rubicon Soccer Club
33 Director Jordan Reddick. After Mia woke up in the hospital, she told me that she took a hard hit
34 to the head in practice on Monday before the tournament but Coach Dempsey never did anything
35 about it, certainly didn't inform me about it. High schools have all these protocols in place to

1 train coaches about concussions and make sure students aren't put in danger, but the Rubicon
2 Soccer Club doesn't do anything to train coaches about concussions.

3 I wrote right on the waiver form that Mia had suffered a concussion at school so that the
4 Rubicon coach would know to keep an eye on her. The Rubicon coach and club have a duty to
5 take care of their players, but I think they've forgotten that, too concerned now with winning
6 teams and scholarship-earning players. They should pay for the harm that Mia suffered, harm
7 that was preventable if they'd only had their priorities straight. Money can never make things
8 right but at least it can help us afford all of the therapy and educational support services that Mia
9 will need in the future. Without that, I just don't know what will become of Mia.

10 I hereby attest to having read the above statement and swear or affirm it to be my own. I
11 also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it
12 should contain all relevant testimony, and I followed those instructions. I also understand that I
13 can and must update this affidavit if anything new occurs to me until the moment before I testify
14 in this case.

15 Casey Perez

16 Casey Perez

17
18 Subscribed and sworn before me on this day, the 23rd of August, 2022

19 Beth Eckhardt

20 Beth Eckhardt, Notary Public
21

1 **Affidavit of Bevin Register, Ph.D., A.T.**

2
3 My name is Dr. Bevin Register; I am 45 years old and the Director of the Sports
4 Medicine Concussion Research Center. The Center is part of the Department of Exercise and
5 Sport Science at the University of Rowe, where I am also department chair and Mihalik-Marshall
6 Distinguished Professor. For nearly twenty years my research has focused on the diagnosis and
7 long-term neurological impact of sport-related concussions. More recently, our center has also
8 begun focusing on injury awareness and prevention among youth athletes. As part of our work at
9 the Center, we offer pre-concussion baseline and post-injury follow-up testing to youth athletes. I
10 saw Mia Perez in February of 2022 after her concussion in December of 2021.

11 I became interested in studying concussions about 20 years ago when I worked as an
12 athletic trainer for an NFL pro football team. It appeared we did not have a good process to
13 determine when players with concussions could safely return to play. So, I earned my Master's
14 degree and my Ph.D. in sports medicine, focusing on objective measures to confirm concussions
15 and recovery from concussions.

16 Having suffered three concussions in my life, I know from personal experience that the
17 first concussion puts you at increased risk for more and how it takes less force to cause
18 subsequent concussions. A concussion is a type of mild traumatic brain injury, or mTBI, caused
19 by a blow or jolt to the head. Contrary to what many people believe, only 5 - 10% of concussions
20 involve a loss of consciousness. The injury occurs from acceleration and deceleration forces
21 shaking the brain inside the skull. We've recently discovered that this movement sets off a
22 cascade of neurophysiologic changes which are more akin to "software" problems than
23 "hardware" problems such as cell death or structural changes. We see alterations in the
24 metabolism of glucose (the major fuel for the brain), temporary disruptions in neural membranes
25 that cause impaired connectivity or changes in neurotransmitters, and reduced blood flow in the
26 brain. As the brain attempts to return to normal, any additional physical or cognitive activity can
27 cause symptoms to worsen and even lead to long-term problems.

28 Coaches used to encourage players to "tough it out" and get back in the game. We used to
29 think that the brains of children and youth were more resilient than adults, so we were less
30 concerned when a youth suffered a concussion. Now we realize that youthful brains are actually
31 more vulnerable, and it can take youth athletes longer to recover than adults. Every year, U.S.
32 emergency departments treat more than 120,000 youth aged 10-19 for sports and recreation-
33 related TBIs. The numbers are highest in boys football and girls' soccer. Some research indicates
34 that females may face more brain swelling and take longer to recover from concussions than
35 males do.

1 Immediately after a blow to the head that causes a concussion, certain signs may be
2 observed. The athlete may appear dazed or stunned; they may appear confused about events or
3 slow to respond to questions. They might seem clumsy or lose consciousness briefly. The athlete
4 might also exhibit mood swings or personality changes. It is important for coaches to be alert to
5 these symptoms, because the player might try to stay in the game and shake it off, or beg to be
6 put back in if the coach takes them out. Sometimes players deliberately try to hide the injury
7 from their coaches; other times the player just is not aware of what is happening because they are
8 not thinking clearly. We can educate athletes about the symptoms of a concussion but, I feel
9 strongly that the real responsibility lies with the adults in the situation. It is crucial that regular
10 training be provided to all athletic trainers and coaches working with youth in contact sports to
11 make sure that they are aware of the symptoms and proper treatment of concussions.

12 Generally, concussion symptoms fall into four categories. The first category involves
13 difficulty in cognitive activities. Concussed individuals may have trouble thinking clearly,
14 concentrating, or remembering new information; they may feel mentally sluggish, hazy, or
15 foggy. The second category is physical effects: nausea or vomiting (early on), headaches, blurry
16 or double vision, dizziness or balance problems, and sensitivity to light or noise. Affected
17 individuals will say that they have no energy or just “don’t feel right.” Third, concussed
18 individuals can experience changes in mood or emotion: they may be irritable, sad, nervous, or
19 more emotional than usual. And lastly, affected individuals can have changes in their sleep
20 patterns: either difficulty in falling asleep, or sleeping more or less than usual.

21 Dr. R. Dawn Comstock at the Center for Injury and Research Policy in Ohio has been
22 collecting data on the reported incidence and symptoms of concussions for high school athletes
23 across the U.S. since the 2005-06 season. By analyzing data and tracking trends, Dr. Comstock’s
24 research helps the National Federation of State High School Associations (NFHS) to develop
25 policies to improve athletes’ safety. Data from 2005-06 through 2010-11 revealed that during a
26 six-year period, an estimated 120,000 concussions were sustained by high school boys’ soccer
27 players nationwide and 170,000 concussions by high school girls’ soccer players. The girls’
28 concussion numbers were higher even though the NFHS reports that 10% more boys than girls
29 play high school soccer each year. And these numbers undoubtedly underestimate the true
30 incidence, as they only reflect the concussions that were known to the athletic trainers.

31 Dr. Comstock found that while headaches are the most commonly reported symptom
32 among all athletes – approximately 90% report headaches – boys and girls differ in their
33 exhibition of other symptoms. It is important to be aware of these differences so we don’t
34 overlook girls who have sustained a concussion. While many people are aware that amnesia or
35 loss of consciousness are symptoms of concussions, complaints of drowsiness or sensitivity to

1 noise may be attributed to busy teen lifestyles rather than recognized as indications of a possible
2 concussion.

3 When an athlete is suspected of having sustained a concussion, it is very important that
4 they be removed from play right away and not be allowed to go back in the game that day. The
5 athlete needs to be evaluated by a health care professional who is knowledgeable about assessing
6 and treating concussions. Physicians frequently use an “Acute Concussion Evaluation,” or ACE,
7 questionnaire when interviewing a person thought to have sustained a concussion. The ACE
8 notes the characteristics of the injury, patient symptoms, and risk factors such as previous
9 concussions or a history of headaches that may indicate a full recovery could take longer than
10 normal. After evaluating the patient, the physician should give the individual an ACE Care Plan
11 sheet detailing what the patient should and should not do, and what types of follow-up are
12 recommended. Mia was evaluated using an ACE the day after she sustained a concussion while
13 playing on her school soccer team. It would have been important for Mia to tell her future
14 coaches about that concussion.

15 After sustaining her first concussion in Spring of 2021, Mia was at greater risk for a
16 subsequent concussion even with a lesser application of force. It is critically important for
17 organizations involved in youth athletics, whether schools or clubs, to ask incoming players
18 about any past incidents of concussions so they will know to monitor affected players more
19 closely.

20 Most players who have sustained a mild concussion are symptom-free within a week to
21 ten days, but it takes others much longer to recover. Since adolescent brains are still developing,
22 it is better to err on the side of caution when evaluating return-to-play: “When in doubt, sit them
23 out.” Individuals vary greatly in the time needed for a full recovery, and sometimes after
24 physical symptoms have resolved, the player may have lingering cognitive impairment or brain
25 metabolism abnormalities. Rest is a key part of recovery, and this includes rest from learning and
26 mental stimulation as well as physical rest. Youth athletes often feel stressed by the need to take
27 time to recover, feeling that they should “work through” their symptoms so they do not fall
28 behind in their schoolwork or lose athletic fitness. It is very important for coaches, parents,
29 athletes and school personnel to support the athlete’s need to take sufficient time to recover.
30 Research shows that it is even more critical to allow sufficient time when an athlete has suffered
31 a repeat concussion. An athlete should be completely free of symptoms at rest and have no
32 symptoms with cognitive stress (such as reading or schoolwork) before starting on a gradual
33 progression to return to play.

34 In my evaluation of Mia in February, I conducted several assessments. All her test results
35 showed that she was suffering from post-concussive syndrome. During my evaluation she
36 displayed difficulties with visual and recall memory, slowed information processing, and

1 inattentiveness. She was experiencing ongoing and severe headaches, including migraines; other
2 physical symptoms included poor balance, sensitivity to light and noise, and unusual sleepiness.
3 Mia also reported mood swings, intolerance to stress, and feelings of depression. All of these
4 symptoms made it impossible for her to attend school or take classes online. I evaluated her
5 again in early August, and although her symptoms were marginally improved, she was still
6 unable to tolerate more than one online class for school.

7 From my work with Mia and Casey Perez, it appears that Mia may have suffered one
8 concussive event on Monday, December 6, and very likely suffered two concussive events on
9 December 10, 2021. The die was cast when Coach Dempsey left Mia in the game after the first
10 event on December 10, for the occurrence of a second blow in the same game is almost certainly
11 a key factor in her ongoing and debilitating problems. We know that in the recovery phase, rest,
12 and avoidance of a second head injury is imperative; when [cerebral] blood flow is low [as
13 occurs after a concussion], another injury could be catastrophic. If the coach had recognized
14 Mia's symptoms and removed her from the game after the first incident, Mia almost certainly
15 would have received more appropriate and timely care, greatly increasing her chances for a full
16 recovery. Given the seriousness of her condition more than a year after her injury, it is strongly
17 likely that Mia will continue to suffer significant physical and cognitive problems for the rest of
18 her life. These incidents need to stop. Max's and Jenna's laws passed by the Oregon legislature
19 in 2009 and 2013, respectively, are a good start.

20 I hereby attest to having read the above statement and swear or affirm it to be my own. I
21 also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it
22 should contain all relevant testimony, and I followed those instructions. I also understand that I
23 can and must update this affidavit if anything new occurs to me until the moment before I testify
24 in this case.

25
26 Bevin Register

27 Bevin Register, PhD, AT

28
29 Subscribed and sworn before me on this day, the 23rd of August, 2022

30 Beth Eckhardt

31 Beth Eckhardt, Notary Public

Affidavit of Tobin O'Reilly

My name is Tobin O'Reilly. I am 35 years old. I teach Sports Medicine, Health, and PE at Rowe High School in Rowe, Oregon. I also coach the boys' and girls' varsity and JV soccer teams. RHS is a great place to work! I've always loved soccer; I played in high school and became a FIFA-certified soccer referee to help pay for college. I even earned a scholarship to play soccer at the University of North Carolina where I majored in Exercise and Sports Science with a minor in Coaching Education. Before I graduated, I began coaching youth soccer part-time at Triad Soccer Club and started attending soccer coaching courses. I eventually earned my NSCAA (National Soccer Coaches Association of America) Advanced National Coaching Diploma, their second highest certification. It is an intense course, equivalent to a USSF "B" level license.

I learned a lot about general sport safety and fitness in my college classes and coaching certification courses. I know that sports injuries can hurt the whole team so I do everything I can to keep our players healthy. I make sure they are hydrated and eat the right kinds of foods before and after games and practices. I talk with them about getting enough rest and, of course, about keeping their schoolwork as their top priority. A few of them will be able to play ball in college but most of them won't, so I emphasize that they need to have good grades to stay on the team.

When I first started coaching, we didn't learn much about concussions in my training classes. We mostly learned about sprains, strains, and hydration. But several years ago I heard in the news about several high school football players who died after suffering a second concussion. I knew soccer players sometimes got repeat concussions – I had a teammate in college who had short-term memory problems and recurring headaches after several concussions. I started reading all I could about concussions. Without athletic trainers at RHS, it became my job to stay on top of current research in the field.

I learned about the "Heads Up" concussion awareness initiative of the Centers for Disease Control and Prevention and Oregon's Max's and Jenna's Laws. The CDC provides a free online training video for coaches, as well as fact sheets for student-athletes and parents. The information is incredibly helpful; it tells the signs and symptoms of concussions, how to prevent them and what to do if you suspect an athlete has a concussion. The website has a guidebook for high school coaches, and clipboard stickers and wallet cards that make it easy to keep the information with you. That fall I began implementing the CDC recommendations at the beginning of the season. I sent home the CDC high school athlete and parent fact sheets with all my students because I wanted to make sure that my players knew not to hide their symptoms or try to "play through" the pain. I put up several CDC posters in my office and in the gym to remind students to take concussions seriously.

1 When the season began in the spring of 2021, with Mia on the team, I knew there was
2 potential to make the playoffs. Mia was our leading scorer, and an overall incredible player, fast,
3 had wonderful ball control, could place her shot exactly where she wanted it, and had an intuitive
4 feel for the game. She had an incredible work ethic and her example inspired the other players.
5 She was well-liked and respected by all of her teammates, even the seniors, and they voted her as
6 a co-captain at the beginning of the spring. I knew that if any of my players had the potential to
7 play in college or the pros, it was Mia.

8 The team, and Mia in particular, certainly lived up to my expectations. We were
9 undefeated going into the playoffs, and our first playoff game was against our archrival,
10 Carthage High School. We really dominated in the first half; Mia scored a goal and sent a
11 beautiful cross in to get an assist on another goal. I'd never seen the girls play better. With a 2-0
12 lead at halftime, we were focused and confident going into the second half.

13 But about 20 minutes into the half, Mia collided with a Carthage player when trying to
14 score on a header. Mia went down and seemed to hit her head on the ground. She took a minute
15 to get up and looked kind of dazed, so I pulled her out right away. I asked Mia some questions
16 based on my CDC clipboard sticker. She answered my questions slowly and she said she was
17 feeling "foggy." It was clear to me that she might have sustained a concussion so I told her she
18 would need to sit out for the rest of the game. Ten minutes later Carthage scored and Mia begged
19 to go back in, but there was no way I was going to do that. I'd rather lose the game than risk my
20 player's health.

21 In the end, we won 2-1. The crowd and all the players went wild, except for Mia. She had
22 a huge grin on her face, but she didn't try to dance around like the other girls. I spoke with Mia
23 and her parent and told them she needed to go to a doctor the next day because I suspected she
24 might have a concussion. They both assured me they would do that first thing.

25 I learned that Mia did see a doctor the next day and was told she needed to rest for a week
26 and return for a follow up. Without Mia in the game on Saturday, we lost a close match. Mia and
27 her teammates were disappointed, but I told them we would be even better the next year, and the
28 important thing was that everyone played their best.

29 As a junior that year, Mia didn't have to take PE as a required course. Yet she signed up
30 for my Tuesday-Thursday "Advanced Personal Fitness" class. Mia seemed to enjoy the class and
31 said it gave her a nice break from all her AP and Honors courses. She always went all-out in
32 class and often encouraged other students who were not as athletic as she was. That's why I
33 remember thinking that she must be getting sick the week after Thanksgiving when she asked to
34 sit out halfway through our Zumba session on Tuesday. When I asked if she was okay, she said
35 she had a bit of a headache from all her studying. On Thursday she didn't seem any better, so I
36 gave her a pass to go to the library to study instead of sitting around in the gym. She had talked

1 about having a big club soccer tournament that weekend, so I hoped she would recover in time to
2 play.

3 The next Monday I heard that Mia had sustained a serious concussion at the soccer
4 tournament. She has not come back to classes on campus at all since that weekend because of her
5 lasting injuries. I am devastated to hear that Mia, such a promising athlete and student, has
6 suffered such serious long-term problems because of that concussion. I don't know the specifics
7 of her injury, but I do know that if a coach doesn't recognize the symptoms of a concussion and
8 keeps a player in the game who has taken a hard hit, it can lead to problems like this. Max's Law
9 applies to public schools not to club soccer organizations, but Jenna's Law should also apply.
10 The dangerous effects of concussions had been in the news long before Mia was injured in
11 December, and the CDC materials have been available online for several years. Any reasonable
12 coach or club who cares about their players would have taken steps to educate themselves and
13 their team families about concussions even without being required to do so by law.

14 I hereby attest to having read the above statement and swear or affirm it to be my own. I
15 also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it
16 should contain all relevant testimony, and I followed those instructions. I also understand that I
17 can and must update this affidavit if anything new occurs to me until the moment before I testify
18 in this case.

19 Tobin O'Reilly

20 Tobin O'Reilly
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22
23

24 Subscribed and sworn before me on this day, the 23rd of August, 2022.

25 Beth Eckhardt

26 Beth Eckhardt, Notary Public
27

Affidavit of Shannon Dempsey

My name is Shannon Dempsey. I am 27 years old. In 2012 I began coaching soccer full-time for the Rubicon Soccer Club after graduating from Julian College in Rowe, Oregon, with a degree in communications. I played soccer at Julian on a full scholarship, and I was the second leading scorer on my team. I also coached part-time at Rubicon during my last two years in college. When I graduated, I got an offer to play in the pros but I turned it down. Rubicon Soccer Club Director Jordan Reddick told me I could go full-time if I wanted. It sounded good to me, so I did. I've been really happy to work for Rubicon. It is the best club in the state and a lot of our players have gone on to play in college.

Right now, I'm coaching three different level clubs of boy's soccer. Club soccer is divided into different competitive levels, with premier level soccer being the highest statewide division, followed by first division classic teams, second division classic teams, and challenge level teams. Before I could start working for Rubicon full-time, I had to obtain my National "D" level soccer coaching license from the U.S. Soccer Federation. The licensing course was pretty intense. The course covered learning styles of players, soccer techniques and soccer tactics. We also had a short session on the care and prevention of injuries which mostly focused on strains and sprains, broken bones, and heat exhaustion.

After I got my "D" license, the club moved me up from coaching challenge teams to coaching three classic level teams. In early July of 2021, Michelle Foudy, the coach of the Rubicon U-17 girls' Premier team, found out that their dad had been diagnosed with cancer. Michelle was devastated and left to be with him right away. Rubicon doesn't have assistant coaches for the teams, so the club needed someone to step in and take Michelle's place. Jordan Reddick asked if I was up to the job, I jumped at the chance. It would be my first-time coaching girls but I couldn't turn down an opportunity to coach one of the top teams in the club.

Michelle had evaluated the players at tryouts and picked the maximum of 18 players. They had already turned in all their paperwork to the club administrator, who had given the team medical forms to the team manager. I didn't ask to look at the forms; I figured I'd get them if a player ever got injured and we needed to know her insurance information. When we began holding our regular practices on Mondays, Wednesdays, and Thursdays, I was very impressed by their skills and teamwork. I knew that with a bit of luck, we were going to have a great season. And, if the team did well, that would help solidify my reputation in the club, too.

The club website has links to great information on sports nutrition and hydration so I made sure the girls knew what to eat and drink to help them perform their best at practices and games. Rubicon is also involved in an ACL Injury Prevention study in partnership with Julian College. It's cool; it seemed to be working because none of my players ever tore their ACL.

1 The team worked incredibly hard and stayed focused. Team co-captain Mia Perez was a
2 big part of that. She had an incredible work ethic and really set a high standard for the rest of the
3 girls. The hard work paid off and the team won every game in the regular season. Mia was
4 amazing playing as a striker. She scored at least one goal in every game, two goals in two games,
5 and a “hat trick” (three goals) in one game! She clearly had the potential to play in college and
6 maybe even in the Olympics or the pros. We went on to win the State Cup championship two
7 weeks before Thanksgiving. I knew that the team’s success had caught the eye of Jordan Reddick
8 and I figured I would have my pick of teams for the next year. All we had left now was the
9 December College Showcase tournament, one week after Thanksgiving.

10 We didn’t practice the week after Thanksgiving but resumed practice the next Monday.
11 Near the end of practice, Mia was tripped, fell, and hit her head on the ground pretty hard. She
12 was slow to get up and she seemed confused for a moment about where she was. She was also
13 holding on to her head and saying that she felt a little dizzy, so I made her sit out the last 10
14 minutes while I finished leading practice. As soon as practice ended, Mia headed to her car
15 before I could talk with her. I meant to call and check on her but it was too late when I got home
16 and it slipped my mind the next day.

17 Mia emailed me on Wednesday, she had had a big test and couldn’t make practice. I think
18 it was the first practice she had missed all season. On Thursday we had a light practice; I mainly
19 reviewed the scouting reports on our opponents. Mia seemed tired and quieter than usual. When I
20 asked her how her test had gone, she acted confused for a moment and then said it went okay.
21 She said she had a bit of a headache from stress and staying up late studying but she’d be fine by
22 our game that weekend. I didn’t think much else about it.

23 On game day everyone, including Mia, was excited. We were playing a team from Triad
24 Soccer Club that was good but not great. I figured we should be able to put ball out and that
25 would make Jordan Reddick happy. Jordan always liked it if we could beat ‘the old club.’ Lots
26 of college coaches were at our field, and I heard several of them mention Mia’s name
27 specifically. I wanted to give Mia as much playing time as I could so they could get a good look.

28 About 10 minutes into the game, I noticed that Mia wasn’t playing as well as usual, so I
29 subbed her out to check on her. She said she was just a little tired still and she begged to go back
30 in so she could show the college coaches what she could do. I subbed her in, and she did play
31 better. She was in a perfect position to score on a header when we got a corner kick near the end
32 of the half, but she sent the ball over the goal. I think she might have gotten jostled by a
33 defender. Mia sort of stood around for a minute and Megan went over to her. Then Mia jogged
34 back into position, although not with her usual energy and enthusiasm. I didn’t think anything of
35 it at the time.

1 The first half ended with the score tied 0-0. Sure, winning isn't the most important thing
2 in a College Showcase but goals are always impressive to college coaches. I laid into the team at
3 half and then sent them on their way. Afterwards, Megan came over to me and said that she was
4 concerned about Mia and maybe I should pull her out. She said that she knew that Mia wanted to
5 play but that she just didn't seem like herself. Megan also said something about asking Mia if she
6 was okay "after she took an elbow on that header" but she got a blank look and didn't say
7 anything. Before I could reply, the referee blew his whistle to start the second half and Megan
8 had to run onto the field.

9 I thought about yelling for a sub to pull Mia out, but she had seemed so eager to get back
10 on the field that I decided to just watch her. Five minutes later Mia sent a rocket toward the goal,
11 but the goalkeeper made an amazing save. Mia seemed back to her usual self; I knew it was just
12 a matter of time until she would score. Maybe 10 minutes later a teammate sent a beautiful pass
13 to Mia just outside the penalty box and Mia took a touch on the ball to get ready to shoot. From
14 out of nowhere a defender rushed at her and tackled the ball hard, and Mia lost her balance. She
15 didn't even have time to put out her arms to stop her fall, and she hit her head on the ground
16 hard. The referee was sprinting over blowing his whistle; I figured he would call for a penalty
17 kick and Mia would get her goal after all. But Mia didn't get up, and she wasn't moving. The
18 referee motioned for me to come out on the field and, when I got there, I saw that Mia's eyes
19 were closed and it looked like she was unconscious. The field marshal and athletic trainer ran
20 out, too, and they radioed for the ambulance. Casey Perez had run out on the field, too, and I said
21 how sorry I was that Mia had gotten hurt.

22 After the game, I called Casey to get an update on Mia. Casey said that Mia had a serious
23 concussion and that she was going to stay in the hospital overnight. Casey said Mia mentioned
24 something about hitting her head in practice on Monday and why didn't I make sure Casey knew
25 about it?! Casey also told me that Mia had suffered a concussion in the spring on her school
26 team and I should have known to keep a closer eye on her. That was the first thing I had ever
27 heard about a previous concussion! Neither of them mentioned it prior.

28 After Casey told me that, I looked at Mia's Medical Waiver form in the team manager's
29 notebook. I saw that the form mentioned Mia's concussion from the spring. Even though the
30 team manager brought those forms to all our games as she was required to do, I had never read
31 through them. I guess I should have read them, but it just didn't occur to me in the busyness of
32 the transition back in the summer.

33 If I had known about Mia's previous concussion, I would have watched her more closely,
34 but I don't know what I could have done differently. I knew she hit her head in practice on that
35 Monday, but players hit their heads in practice all the time. She wasn't knocked out or anything,
36 so I figured she was okay. I mean, when I was playing soccer in college we just played through

1 the pain; a little dizziness didn't stop me from playing. I've always thought you had to be
2 unconscious to have a concussion.

3 I am truly sorry that Mia is still having so many problems. She was always a leader on
4 the team and had so much potential. But I can't be expected to read a player's mind, especially if
5 the player tells me that she's just tired from studying, what am I supposed to do? Am I really
6 supposed to pull out every player who complains of a headache or a little dizziness after taking a
7 hit in a game?

8 I hereby attest to having read the above statement and swear or affirm it to be my own. I
9 also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it
10 should contain all relevant testimony, and I followed those instructions. I also understand that I
11 can and must update this affidavit if anything new occurs to me until the moment before I testify
12 in this case.

13
14 Shannon Dempsey
15 Shannon Dempsey
16
17

18 Subscribed and sworn before me on this day, the 27th of August, 2022.

19 Beth Eckhardt
20 Beth Eckhardt, Notary Public
21
22

Affidavit of Jordan Reddick

My name is Jordan Reddick. I am 39 years old and have been the Director of the Rubicon Soccer Club since 2010. I attended Julian College on a soccer scholarship. I earned my bachelor's degree in Sport Administration in 1999, which included coursework in sport marketing, statistics, finance, licensing, facility and event management, and community relations. After I graduated, I played professionally for a few years before coming back home to Oregon in 2002. I coached youth soccer part-time at Triad Soccer Club while working as Director of the Parks and Recreation Department in the town. In 2008 I became the fulltime Director of Player Development for the Under-15 through Under-18 year old teams at Triad, but I soon realized that I disagreed with the Triad Board of Directors over their coaching philosophy. The Triad teams were underperforming, they should have been winning State Cup championships with the players they had. When I was offered a position at Rubicon, I was happy to leave Triad.

Rubicon was the "new kid on the block" back then; I knew that Rubicon could gain respect from other clubs by producing players who earned college scholarships. I insisted that all my classic level coaches must have played in college so they could demonstrate correct soccer techniques and understand how to compete at a high level. I had earned my National "C" level coaching license and I required my coaches to earn a National "D" license or higher (an "A" license is the highest). I knew that requiring my coaches to obtain their National "D" license would make sure that they not only knew how to *play* soccer, they would also learn how to *coach* soccer.

Under my leadership, Rubicon Soccer Club has excelled. We are now the third largest club in the state, and every year about a dozen of our players earn college soccer scholarships. Between our recreational, challenge, and classic teams, we have over 2000 athletes playing soccer at Rubicon. I think our club success proves that we are on the right track, and the huge turnout of players at tryouts every year shows that the parents think so, too.

Each team has one paid coach and a volunteer manager; we do not have money for paid assistant coaches or athletic trainers. We are not unusual for not having trainers; only the largest soccer club in Oregon has an athletic trainer on staff. However, we do have an association with the sports medicine department at Julian College. The college provides athletic trainers at our club-hosted tournaments, and we refer players who need services to their trainers and physical therapists. It's a great arrangement; the sports medicine students at Julian College get hands-on experience and we get services for free.

We emphasize health and injury prevention in our club because I know from personal experience what a difference good health habits can make. Both in college and in the pros, I had

1 coaches who were fanatics about proper nutrition before and after games and practices. So, we
2 have links on our website to information about hydration, pre-game and post-game meals, and
3 how to eat right when traveling to tournaments. When I checked last summer, I found that fewer
4 than half of the soccer clubs in the state have any kind of nutrition or hydration information
5 posted on their website, much less any additional information on injury prevention.

6 We're the only soccer club in the state that is involved in ACL Injury Prevention Project.
7 The ACL, or anterior cruciate ligament, is one of the main ligaments that stabilize a player's
8 knee. It can get torn if the player tries to turn while her foot is firmly planted, or if a player lands
9 wrong after jumping, or sometimes during a collision with another player. Sports medicine grad
10 students at Julian College work with players on our classic teams to help them learn how to
11 move and jump correctly to prevent ACL injuries.

12 It's true that we don't have any information our website about concussions although we
13 are planning to add that before next season. I had always thought that serious injuries from
14 concussions happened to football players or boxers. I think there might have been some articles
15 about concussions in my coaching magazines a few years ago, but I didn't read them very
16 closely because I was setting up our ACL Injury Prevention Study at the time. When I was
17 playing soccer, the big concern for soccer players was always torn ACLs or broken bones. Sure,
18 I suffered one concussion when I played professionally and several of my teammates had
19 concussions. But we all stayed in the game or went back in the very next game and none of us
20 had any problems.

21 Every soccer club in Oregon is a member of the Oregon Youth Soccer Association
22 (OYSA). OYSA is a member of both the USYS and the US Soccer Federation (USSF), both of
23 which are under the oversight of FIFA, the international governing body for soccer. The OYSA,
24 USSF, and USYS are all non-profit organizations designed to provide education and support for
25 soccer players, coaches, and clubs. They want to make sure that the sport stays safe and fun for
26 everyone. So, these organizations post educational information about health and injury
27 prevention on their websites.

28 I was not aware of any information about concussions on the USYS or USSF sites when
29 Mia was injured. If it was on there, it wasn't immediately obvious. After Mia was injured, I did a
30 specific search on the USYS site and found concussion protocol and notification forms that were
31 posted in August, evidently for use in USYS Regional and National tournaments. But I did not
32 know about them at that time. Obviously, that was too late to help Mia Perez, and you still have
33 to search for it to find it. I was not familiar with Jenna's Law at all until this trial.

34 I have heard of the CDC but I thought they mainly tried to track down the causes of
35 disease epidemics like the flu. I do remember seeing some free "Heads Up" concussion kits for
36 coaches at a Triad Soccer Club tournament back in November. I couldn't pick one up because

1 my hands were full at the time and I forgot to go back later to get one.

2 I was at the College Showcase tournament in December when Mia was injured; after
3 working with my own team, I was able to start watching Shannon's team at the beginning of the
4 second half. They were playing my old club, Triad, and I knew Rubicon was going to destroy
5 them. I also knew Shannon had several players who were good enough to play in college
6 including Mia Perez. I heard a couple of scouts saying that they weren't impressed by Mia in the
7 first half. I was surprised to hear that because Mia was probably Shannon's best player.

8 Mia looked a bit uncoordinated to start the second half, and she wasn't playing with her
9 usual intensity. But then she took a great shot a few minutes later, which was barely saved by the
10 opposing keeper. I figured she'd soon show those college coaches what she could do. I was glad
11 to hear the coaches say that maybe it had been worth the trip to come watch the team after all.
12 Keeping those college coaches happy is good for them and good for Rubicon, too.

13 But Mia still wasn't running with her usual speed, and she looked a bit confused at times.
14 Then one of her teammates sent her a great pass and Mia started dribbling the ball into the
15 penalty area. The only person between Mia and the goal was the keeper and, with Mia, that was
16 practically a guaranteed goal. Then a defender came out of nowhere from the side and tackled
17 the ball hard and Mia went flying. She landed hard on her head. The referee sprinted in, blasting
18 the whistle and I waited for Mia to get up and score the penalty kick. But she didn't move and,
19 next thing I knew, Shannon, the Julian College athletic trainer, and the field marshal all huddled
20 around Mia. The ambulance soon arrived and took Mia to the hospital. I called Shannon that
21 night to see if they had heard anything and was told that Mia had suffered a serious concussion.

22 I'm very sorry that Mia was injured that day, and even that she continues to have
23 problems. Mia is a terrific young woman. What happened seems like a freak accident to me.
24 After all this happened, I checked out the statistics on high school sport-related concussions from
25 Dr. Dawn Comstock at Ohio State like I was trained to do in college. It's clear that serious
26 concussions like Mia's are certainly not a common occurrence.

27 Looking back, I just don't know what Shannon, or I could have done to prevent Mia's
28 injury. Rubicon was not educating our coaches about concussions at that time but, as far as I
29 know, Triad Soccer Club was the only club in Oregon handing out those "Heads Up" kits to
30 coaches. Looking back at it now, I wish I had gotten one of those kits. Evidently the CDC had its
31 "Heads Up" materials on its website but the USYS and USSF didn't make an effort to publicize
32 it to all the state associations at that time as far as I know.

33 And sure, Max's and Jenna's Laws were passed a few years ago so stories on concussions
34 were probably in the news at that time. But I didn't see them and there wasn't a lot of media
35 about them. We're going to start doing more now at Rubicon to educate our coaches and club
36 families about concussions. I understand that Mia and Casey are upset but I don't think it's

1 reasonable to sue us for Mia's injuries when we have always tried to educate our players about
2 health, good nutrition, and injury prevention.

3 I hereby attest to having read the above statement and swear or affirm it to be my own. I
4 also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it
5 should contain all relevant testimony, and I followed those instructions. I also understand that I
6 can and must update this affidavit if anything new occurs to me until the moment before I testify
7 in this case.

8
9 Jordan Reddick
10 Jordan Reddick

11
12 Subscribed and sworn before me on this day, the 27th of August, 201822.

13 Beth Eckhardt
14 Beth Eckhardt, Notary Public
15

Affidavit of Chris Durant

My name is Chris Durant. I'm a senior at Rowe High School and a classmate of Mia Perez's. At least we used to be classmates until Mia was injured and couldn't come to class anymore. We've been friends since middle school when we both ran track. Mia used to say that track made her run fast and that helped with soccer. She was always crazy about soccer, talking about how she wanted to play in the Olympics and pros. I've always been into basketball myself; I think soccer is a bit too boring. Still, I'd listen to Mia go on about soccer, and she'd listen to me about basketball. She's a good friend, listening and helping others, so it's hard for me to testify for the defense. But I promised to tell the truth when I was called to testify, and that's what I'm gonna do.

When we moved from middle school to the high school, we both quit running track and focused on our favorite sports. We had a lot of AP classes together though. Mia is really smart and was in the running for valedictorian before her injury. We used to study APUSH, AP English and AP Chemistry together. We were also in National Honor Society together and we had a lot of fun working on service projects in Rowe.

I got to know some of Mia's soccer friends pretty well, we'd go to the movies or hang out at the mall. It was interesting to hear them talk about their different coaches. Mia and her school teammates love Coach O'Reilly; they said Coach O'Reilly has legit credentials and pushes them in practice, but also emphasizes the importance of keeping school first and staying healthy. I took Coach O'Reilly's Advanced Personal Fitness class my junior year, and I can see why they're so impressed.

Mia and her Rubicon teammates really like Coach Dempsey, too. They said Coach Dempsey played in college and had the chance to go pro but turned it down. I've never met Coach Dempsey, but all of the players talk up the soccer skills they've learned from Coach Dempsey. They have mentioned that Coach Dempsey is more serious and less of a friend. They know that winning games is more important on a club team because the reputation of the club is at stake. They said that everyone knows that Coach Dempsey expects a lot and will bench them for being late to practice or pull them if they're having a bad game, but that expectation makes them work harder and give them a better chance of getting a scholarship.

However, some kids who were no longer on the top Rubicon team with Mia would complain that the club was too ruthless and too quick to demote players who were having a bad day. I remember Mia being upset after tryouts because her best friend got dropped down onto the second team. Mia said her friend was sick during tryouts and didn't do as well as normal, so she got demoted even though she had been one of the best players. Mia said she overheard the club director, Jordan Reddick, saying that it does not matter, and didn't care if the player was sick – if

1 she couldn't tough it out, she'd be useless in tough games. I clearly remember Mia saying, "if
2 the club would do that to her, would they do it to me if I had a bad day?" Some of the joy of the
3 game seemed to drain out of Mia after that and she often looked a bit worried if she thought she
4 might be getting sick before a game.

5 Mia and I had several classes together in our junior year, including Advanced Personal
6 Fitness. With most of our classes, it was a killer schedule, so we were all tense when it was time
7 for midterms and finals. I knew Mia was looking at several top schools and was hoping she had
8 the grades to get accepted and get soccer scholarships so she could afford to go.

9 The way our classes were structured, we all had a bunch of big tests the week right after
10 Thanksgiving. So, in between family holiday time, I tried to study for exams. I was glad when
11 Mia called me on Saturday afternoon to ask if I wanted to hang. Of course, I jumped at the
12 chance. When I arrived, Mia was already there along with five of her teammates, all Rubicon
13 players. They were excited because the College Showcase tournament was only a week away.
14 Mia said she had heard that coaches from all the schools she cared about were going to be there,
15 so she wanted to do her best.

16 On Monday we had our Honors Pre-Calc exam; both Mia and I felt like we had aced it.
17 One down, three more to go! Mia said she was glad for the chance to run around at practice to
18 blow off steam. But Tuesday when she got to our Advanced Personal Fitness class, she seemed
19 different, quieter than usual and kind of "down." I asked her what was wrong, and she said,
20 "nothing." But when she looked uncoordinated in Zumba and asked to sit out part-way through, I
21 asked again. She told me she had a bit of a headache and asked if I had any medicine so, I gave
22 her some ibuprofen. When we were walking to AP Chemistry, I asked if she was feeling any
23 better. She said, "no, not really." I asked if the headache came from the stress of all our tests, she
24 said, "maybe that's part of it, but mostly I think it's because I tripped in practice last night and
25 hit my head really hard. Remember the concussion I got last spring? I'm feeling a bit like I did
26 then, sort of out of it. The started headache last night." I asked if she told Casey or anyone about
27 her head, she said, "are you kidding? If I did, they wouldn't let me play in the Showcase. I can't
28 afford college without a scholarship. Promise you won't tell anyone about this!" She grabbed my
29 arm hard and said, "I mean it! Promise me you won't tell anyone!!" I promised.

30 After the AP Chem exam, Mia rushed out. I tried checking in, but she didn't reply. The
31 next time I saw her was in APF class on Thursday. But as soon as she got there, I saw her talking
32 with Coach O'Reilly and, next thing I knew, Coach O'Reilly gave Mia a library pass and Mia
33 left. I thought about saying something to Coach O'Reilly, but I didn't want to "rat".

34 After AP Chem she rushed out the door, seemingly avoiding me. On Friday she looked
35 pretty groggy during AP World History, and she kept rubbing her head during the exam. I tried
36 to talk with her on the way out the door, but she just glared at me and said, "remember your

1 promise!” I should have told Coach O’Reilly or Casey, but I thought that a friend wouldn’t rat on
2 a friend. From the way she acted, I’m sure she suspected she had gotten a concussion. And given
3 the look in her eyes and the way she grabbed my arm when she made me promise to keep silent,
4 I am positive she tried to hide it from Coach Dempsey too.

5 I feel truly awful that Mia is injured, and I hope nothing like this ever happens to any
6 other athlete. I remember a bunch of news stories about football players who got seriously
7 injured or even died after suffering repeat concussions. I never dreamed something like that
8 could happen to one of my close friends. But it still doesn’t seem fair to hold Coach Dempsey or
9 the soccer club responsible. I think that if Mia was able to hide her symptoms from her parent,
10 how could anyone expect Coach Dempsey or Jordan Reddick to know?

11 I hereby attest to having read the above statement and swear or affirm it to be my own. I
12 also swear or affirm to the truthfulness of its content. Before giving this statement, I was told it
13 should contain all relevant testimony, and I followed those instructions. I also understand that I
14 can and must update this affidavit if anything new occurs to me until the moment before I testify
15 in this case.

16 Chris Durant
17 Chris Durant
18

19 Subscribed and sworn before me on this day, the 27th of August, 2022.

20 Beth Eckhardt
21 Beth Eckhardt, Notary Public

EXHIBIT 1: Acute Concussion Evaluation (ACE) Physician/Clinician (Page 1 of 2)



ACUTE CONCUSSION EVALUATION (ACE)

PHYSICIAN/CLINICIAN OFFICE VERSION

Gerard Gioia, PhD¹ & Micky Collins, PhD²
¹Children's National Medical Center
²University of Pittsburgh Medical Center

Patient Name: Mia Perez
 DOB: 4/3/05 Age: 16
 Date: 5/7/21 ID/MR#: 17645

A. Injury Characteristics Date/Time of Injury 5:30pm Reporter: ☒ Patient ☐ Parent ☐ Spouse ☐ Other

1. Injury Description Injured during school soccer game. Tried to "head" soccer ball collided with opposing players, fell down and struck head on ground. (left side head)

1a. Is there evidence of a forcible blow to the head (direct or indirect)? ☒ Yes ☐ No ☐ Unknown

1b. Is there evidence of intracranial injury or skull fracture? ☐ Yes ☒ No ☐ Unknown

1c. Location of Impact: ☐ Frontal ☒ Left Temporal ☐ Right Temporal ☐ Left Parietal ☐ Right Parietal ☐ Occipital ☐ Neck ☐ Indirect Force

2. Cause: ☐ MVC ☐ Pedestrian-MVC ☐ Fall ☒ Assault ☒ Sports (specify) soccer ☐ Other

3. Amnesia Before (Retrograde) Are there any events just BEFORE the injury that you/ person has no memory of (even brief)? ☒ Yes ☐ No Duration 10 min

4. Amnesia After (Anterograde) Are there any events just AFTER the injury that you/ person has no memory of (even brief)? ☐ Yes ☒ No Duration

5. Loss of Consciousness: Did you/ person lose consciousness? ☐ Yes ☒ No Duration

6. EARLY SIGNS: ☒ Appears dazed or stunned ☐ Is confused about events ☐ Answers questions slowly ☐ Repeats Questions ☐ Forgetful (recent info)

7. Seizures: Were seizures observed? ☐ No ☒ Yes Detail

B. Symptom Check List* Since the injury, has the person experienced any of these symptoms any more than usual today or in the past day?
 Indicate presence of each symptom (0=No, 1=Yes). *Lovell & Collins, 1998 JHTR

PHYSICAL (10)		COGNITIVE (4)		SLEEP (4)	
Headache	0 <input checked="" type="radio"/> 1	Feeling mentally foggy	<input checked="" type="radio"/> 0 1	Drowsiness	<input checked="" type="radio"/> 0 1
Nausea	<input checked="" type="radio"/> 0 1	Feeling slowed down	<input checked="" type="radio"/> 0 1	Sleeping less than usual	<input checked="" type="radio"/> 0 1 N/A
Vomiting	<input checked="" type="radio"/> 0 1	Difficulty concentrating	<input type="radio"/> 0 <input checked="" type="radio"/> 1	Sleeping more than usual	<input checked="" type="radio"/> 0 1 N/A
Balance problems	<input checked="" type="radio"/> 0 1	Difficulty remembering	<input checked="" type="radio"/> 0 1	Trouble falling asleep	<input type="radio"/> 0 <input checked="" type="radio"/> 1 N/A
Dizziness	<input type="radio"/> 0 <input checked="" type="radio"/> 1	COGNITIVE Total (0-4) <u>1</u>		SLEEP Total (0-4) <u>1</u>	
Visual problems	<input checked="" type="radio"/> 0 1	EMOTIONAL (4)		Exertion: Do these symptoms worsen with: Physical Activity <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Cognitive Activity <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Overall Rating: How different is the person acting compared to his/her usual self? (circle) Normal 0 <input checked="" type="radio"/> 1 2 3 4 5 6 Very Different	
Fatigue	<input type="radio"/> 0 <input checked="" type="radio"/> 1	Irritability	<input type="radio"/> 0 <input checked="" type="radio"/> 1		
Sensitivity to light	<input checked="" type="radio"/> 0 1	Sadness	<input checked="" type="radio"/> 0 1		
Sensitivity to noise	<input checked="" type="radio"/> 0 1	More emotional	<input checked="" type="radio"/> 0 1		
Numbness/Tingling	<input checked="" type="radio"/> 0 1	Nervousness	<input checked="" type="radio"/> 0 1		
PHYSICAL Total (0-10) <u>3</u>		EMOTIONAL Total (0-4) <u>1</u>			
(Add Physical, Cognitive, Emotion, Sleep totals)					
Total Symptom Score (0-22)				<u>6</u>	

C. Risk Factors for Protracted Recovery (check all that apply)

Concussion History? Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	Headache History? Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	Developmental History	Psychiatric History
Previous # 1 2 3 4 5 6+	Prior treatment for headache	Learning disabilities	Anxiety
Longest symptom duration Days <u> </u> Weeks <u> </u> Months <u> </u> Years <u> </u>	History of migraine headache <input type="checkbox"/> Personal <input checked="" type="checkbox"/> Family <u>Casey Perez</u>	Attention-Deficit/ Hyperactivity Disorder	Depression
If multiple concussions, less force caused reinjury? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Other developmental disorder	Other psychiatric disorder

List other comorbid medical disorders or medication usage (e.g., hypothyroid, seizures)

D. RED FLAGS for acute emergency management: Refer to the emergency department with sudden onset of any of the following:

* Headaches that worsen	* Looks very drowsy/ can't be awakened	* Can't recognize people or places	* Neck pain
* Seizures	* Repeated vomiting	* Increasing confusion or irritability	* Unusual behavioral change
* Focal neurologic signs	* Slurred speech	* Weakness or numbness in arms/legs	* Change in state of consciousness

E. Diagnosis (ICD): ☒ Concussion w/o LOC 850.0 ☐ Concussion w/ LOC 850.1 ☐ Concussion (Unspecified) 850.9 ☐ Other (854)

☐ No diagnosis

F. Follow-Up Action Plan Complete ACE Care Plan and provide copy to patient/family.

☐ No Follow-Up Needed

☒ Physician/Clinician Office Monitoring: Date of next follow-up 5/14/21

Referral:

☐ Neuropsychological Testing

☐ Physician: Neurosurgery ☐ Neurology ☐ Sports Medicine ☐ Physiatrist ☐ Psychiatrist ☐ Other

☐ Emergency Department

ACE Completed by: Dr. Rick Mueller

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This form is part of the "Heads Up: Brain Injury in Your Practice" tool kit developed by the Centers for Disease Control and Prevention (CDC).

EXHIBIT 1: Acute Concussion Evaluation (ACE) Physician/Clinician (Page 2 of 2)

A concussion (or mild traumatic brain injury (MTBI)) is a complex pathophysiologic process affecting the brain, induced by traumatic biomechanical forces secondary to direct or indirect forces to the head. Disturbance of brain function is related to neurometabolic dysfunction, rather than structural injury, and is typically associated with normal structural neuroimaging findings (i.e., CT scan, MRI). Concussion may or may not involve a loss of consciousness (LOC). Concussion results in a constellation of physical, cognitive, emotional, and sleep-related symptoms. Symptoms may last from several minutes to days, weeks, months or even longer in some cases.

ACE Instructions

The ACE is intended to provide an evidence-based clinical protocol to conduct an initial evaluation and diagnosis of patients (both children and adults) with known or suspected MTBI. The research evidence documenting the importance of these components in the evaluation of an MTBI is provided in the reference list.

A. Injury Characteristics:

1. Obtain **description of the injury** – how injury occurred, type of force, location on the head or body (if force transmitted to head). Different biomechanics of injury may result in differential symptom patterns (e.g., occipital blow may result in visual changes, balance difficulties).
2. Indicate the **cause of injury**. Greater forces associated with the trauma are likely to result in more severe presentation of symptoms.
- 3/4. **Amnesia**: Amnesia is defined as the failure to form new memories. Determine whether amnesia has occurred and attempt to determine length of time of memory dysfunction – **before** (retrograde) and **after** (anterograde) injury. Even seconds to minutes of memory loss can be predictive of outcome. Recent research has indicated that amnesia may be up to 4-10 times more predictive of symptoms and cognitive deficits following concussion than is LOC (less than 1 minute).¹
5. **Loss of consciousness (LOC)** – If occurs, determine length of LOC.
6. **Early signs**. If present, ask the individuals who know the patient (parent, spouse, friend, etc) about specific signs of the concussion that may have been observed. These signs are typically observed early after the injury.
7. Inquire whether **seizures** were observed or not.

B. Symptom Checklist:²

1. Ask patient (and/or parent, if child) to report presence of the four categories of symptoms since injury. It is important to assess all listed symptoms as different parts of the brain control different functions. One or all symptoms may be present depending upon mechanisms of injury.³ Record "1" for Yes or "0" for No for their presence or absence, respectively.
2. For all symptoms, indicate presence of symptoms as experienced within the past 24 hours. Since symptoms can be present preinjury/at baseline (e.g., inattention, headaches, sleep, sadness), it is important to assess **change** from their usual presentation.
3. **Scoring**: Sum total number of symptoms present per area, and sum all four areas into Total Symptom Score (score range 0-22). (Note: most sleep symptoms are only applicable after a night has passed since the injury. Drowsiness may be present on the day of injury.) If symptoms are new and present, there is no lower limit symptom score. Any score ≥ 0 indicates **positive symptom** history.
4. **Exertion**: Inquire whether any symptoms worsen with physical (e.g., running, climbing stairs, bike riding) and/or cognitive (e.g., academic studies, multi-tasking at work, reading or other tasks requiring focused concentration) exertion. Clinicians should be aware that symptoms will typically worsen or re-emerge with exertion, indicating incomplete recovery. Over-exertion may protract recovery.
5. **Overall Rating**: Determine how different the person is acting from their usual self. Circle "0" (Normal) to "6" (Very Different).

C. Risk Factors for Protracted Recovery: Assess the following risk factors as possible complicating factors in the recovery process.

1. **Concussion history**: Assess the number and date(s) of prior concussions, the duration of symptoms for each injury, and whether less biomechanical force resulted in re-injury. Research indicates that cognitive and symptom effects of concussion may be cumulative, especially if there is minimal duration of time between injuries and less biomechanical force results in subsequent concussion (which may indicate incomplete recovery from initial trauma).⁴⁻⁶
2. **Headache history**: Assess personal and/or family history of diagnosis/treatment for headaches. Research indicates headache (migraine in particular) can result in protracted recovery from concussion.⁸⁻¹¹
3. **Developmental history**: Assess history of learning disabilities, Attention-Deficit/Hyperactivity Disorder or other developmental disorders. Research indicates that there is the possibility of a longer period of recovery with these conditions.¹²
4. **Psychiatric history**: Assess for history of depression/mood disorder, anxiety, and/or sleep disorder.¹³⁻¹⁶

D. Red Flags: The patient should be carefully observed over the first 24-48 hours for these serious signs. Red flags are to be assessed as **possible signs of deteriorating neurological functioning**. Any positive report should prompt strong consideration of referral for emergency medical evaluation (e.g. CT Scan to rule out intracranial bleed or other structural pathology).¹⁷

E. Diagnosis: The following ICD diagnostic codes may be applicable.

850.0 (Concussion, with no loss of consciousness) – Positive injury description with evidence of forcible direct/ indirect blow to the head (A1a); plus evidence of active symptoms (B) of any type and number related to the trauma (Total Symptom Score >0); no evidence of LOC (A5), skull fracture or intracranial injury (A1b).

850.1 (Concussion, with brief loss of consciousness < 1 hour) – Positive injury description with evidence of forcible direct/ indirect blow to the head (A1a); plus evidence of active symptoms (B) of any type and number related to the trauma (Total Symptom Score >0); positive evidence of LOC (A5), skull fracture or intracranial injury (A1b).

850.9 (Concussion, unspecified) – Positive injury description with evidence of forcible direct/ indirect blow to the head (A1a); plus evidence of active symptoms (B) of any type and number related to the trauma (Total Symptom Score >0); unclear/unknown injury details; unclear evidence of LOC (A5), no skull fracture or intracranial injury.

Other Diagnoses – If the patient presents with a positive injury description and associated symptoms, but additional evidence of intracranial injury (A 1b) such as from neuroimaging, a moderate TBI and the diagnostic category of 854 (Intracranial injury) should be considered.

F. Follow-Up Action Plan: Develop a follow-up plan of action for symptomatic patients. The physician/clinician may decide to (1) monitor the patient in the office or (2) refer them to a specialist. Serial evaluation of the concussion is critical as symptoms may resolve, worsen, or ebb and flow depending upon many factors (e.g., cognitive/physical exertion, comorbidities). Referral to a specialist can be particularly valuable to help manage certain aspects of the patient's condition. (Physician/Clinician should also complete the ACE Care Plan included in this tool kit.)

1. **Physician/Clinician serial monitoring** – Particularly appropriate if number and severity of symptoms are steadily decreasing over time and/or fully resolve within 3-5 days. If steady reduction is not evident, referral to a specialist is warranted.
2. **Referral to a specialist** – Appropriate if symptom reduction is not evident in 3-5 days, or sooner if symptom profile is concerning in type/severity.
 - **Neuropsychological Testing** can provide valuable information to help assess a patient's brain function and impairment and assist with treatment planning, such as return to play decisions.
 - **Physician Evaluation** is particularly relevant for medical evaluation and management of concussion. It is also critical for evaluating and managing focal neurologic, sensory, vestibular, and motor concerns. It may be useful for medication management (e.g., headaches, sleep disturbance, depression) if post-concussive problems persist.

EXHIBIT 2: Acute Concussion Evaluation (ACE) Care Plan (Page 1 of 2)



ACUTE CONCUSSION EVALUATION (ACE) CARE PLAN

Gerard Gioia, PhD¹ & Micky Collins, PhD²
¹Children's National Medical Center
²University of Pittsburgh Medical Center

Patient Name: Mia Perez
DOB: 4/3/05 Age: 16
Date: 5/7/21 ID/MR#: 17645
Date of Injury: 5/6/21

You have been diagnosed with a concussion (also known as a mild traumatic brain injury). This personal plan is based on your symptoms and is designed to help speed your recovery. Your careful attention to it can also prevent further injury.

You should not participate in any high risk activities (e.g., sports, physical education (PE), riding a bike, etc.) if you still have any of the symptoms below. It is important to limit activities that require a lot of thinking or concentration (homework, job-related activities), as this can also make your symptoms worse. If you no longer have any symptoms and believe that your concentration and thinking are back to normal, you can slowly and carefully return to your daily activities. Children and teenagers will need help from their parents, teachers, coaches, or athletic trainers to help monitor their recovery and return to activities.

Today the following symptoms are present (circle or check).				___ No reported symptoms
Physical		Thinking	Emotional	Sleep
Headaches <input checked="" type="checkbox"/>	Sensitivity to light	Feeling mentally foggy	Irritability	Drowsiness
Nausea	Sensitivity to noise	Problems concentrating	Sadness	Sleeping more than usual
Fatigue <input checked="" type="checkbox"/>	Numbness/Tingling	Problems remembering	Feeling more emotional	Sleeping less than usual
Visual problems	Vomiting	Feeling more slowed down	Nervousness	Trouble falling asleep
Balance Problems	Dizziness <input checked="" type="checkbox"/>			

RED FLAGS: Call your doctor or go to your emergency department if you suddenly experience any of the following			
Headaches that <u>worsen</u>	Look <u>very</u> drowsy, can't be awakened	Can't recognize people or places	Unusual behavior change
Seizures	<u>Repeated</u> vomiting	Increasing confusion	Increasing irritability
Neck pain	Slurred speech	Weakness or numbness in arms or legs	Loss of consciousness

Returning to Daily Activities

- Get lots of rest. Be sure to get enough sleep at night- no late nights. Keep the same bedtime weekdays and weekends.
- Take daytime naps or rest breaks when you feel tired or fatigued.
- Limit physical activity as well as activities that require a lot of thinking or concentration. These activities can make symptoms worse.**
 - Physical activity includes PE, sports practices, weight-training, running, exercising, heavy lifting, etc.
 - Thinking and concentration activities (e.g., homework, classwork load, job-related activity).
- Drink lots of fluids and eat carbohydrates or protein to main appropriate blood sugar levels.
- As symptoms decrease, you may begin to gradually return to your daily activities. If symptoms worsen or return, lessen your activities, then try again to increase your activities gradually.**
- During recovery, it is normal to feel frustrated and sad when you do not feel right and you can't be as active as usual.
- Repeated evaluation of your symptoms is recommended to help guide recovery.

Returning to School

- If you (or your child) are still having symptoms of concussion you may need extra help to perform school-related activities. As your (or your child's) symptoms decrease during recovery, the extra help or supports can be removed gradually.
- Inform the teacher(s), school nurse, school psychologist or counselor, and administrator(s) about your (or your child's) injury and symptoms. School personnel should be instructed to watch for:
 - Increased problems paying attention or concentrating
 - Increased problems remembering or learning new information
 - Longer time needed to complete tasks or assignments
 - Greater irritability, less able to cope with stress
 - Symptoms worsen (e.g., headache, tiredness) when doing schoolwork

-Continued on back page-

This form is part of the "Heads Up: Brain Injury in Your Practice" tool kit developed by the Centers for Disease Control and Prevention (CDC).

SCHOOL VERSION

EXHIBIT 2: Acute Concussion Evaluation (ACE) Care Plan (Page 2 of 2)

Returning to School (Continued)

Until you (or your child) have fully recovered, the following supports are recommended: (check all that apply)

- ☐ No return to school. Return on (date) _____
- ☐ Return to school with following supports. Review on (date) _____
- ☐ Shortened day. Recommend _____ hours per day until (date) _____
- ☐ Shortened classes (i.e., rest breaks during classes). Maximum class length: _____ minutes.
- ☐ Allow extra time to complete coursework/assignments and tests.
- ☐ Lessen homework load by ____%. Maximum length of nightly homework: _____ minutes.
- ☒ No significant classroom or standardized testing at this time.
- ☒ Check for the return of symptoms (use symptom table on front page of this form) when doing activities that require a lot of attention or concentration.
- ☒ Take rest breaks during the day as needed.
- ☐ Request meeting of 504 or School Management Team to discuss this plan and needed supports.

Returning to Sports

1. **You should NEVER return to play if you still have ANY symptoms** – (Be sure that you do not have any symptoms at rest and while doing any physical activity and/or activities that require a lot of thinking or concentration.)
2. Be sure that the PE teacher, coach, and/or athletic trainer are aware of your injury and symptoms.
3. It is normal to feel frustrated, sad and even angry because you cannot return to sports right away. With any injury, a full recovery will reduce the chances of getting hurt again. It is better to miss one or two games than the whole season.

The following are recommended at the present time:

- ☒ Do not return to PE class at this time
- ☐ Return to PE class
- ☒ Do not return to sports practices/games at this time
- ☐ **Gradual** return to sports practices under the supervision of an appropriate health care provider.
 - Return to play should occur in **gradual steps** beginning with aerobic exercise only to increase your heart rate (e.g., stationary cycle); moving to increasing your heart rate with movement (e.g., running); then adding controlled contact if appropriate; and finally return to sports competition.
 - Pay careful attention to your symptoms and your thinking and concentration skills at each stage of activity. Move to the next level of activity only if you do not experience any symptoms at the each level. If your symptoms return, stop these activities and let your health care professional know. Once you have not experienced symptoms for a minimum of 24 hours and you receive permission from your health care professional, you should start again at the previous step of the return to play plan.

Gradual Return to Play Plan

1. No physical activity
2. Low levels of physical activity (i.e.,). This includes walking, light jogging, light stationary biking, light weightlifting (lower weight, higher reps, no bench, no squat).
3. Moderate levels of physical activity with body/head movement. This includes moderate jogging, brief running, moderate-intensity stationary biking, moderate-intensity weightlifting (reduced time and/or reduced weight from your typical routine).
4. Heavy non-contact physical activity. This includes sprinting/running, high-intensity stationary biking, regular weightlifting routine, non-contact sport-specific drills (in 3 planes of movement).
5. Full contact in controlled practice.
6. Full contact in game play.

*Neuropsychological testing can provide valuable information to assist physicians with treatment planning, such as return to play decisions.

This referral plan is based on today's evaluation:

- ☒ Return to this office. Date/Time 4:00pm 5/14/21
- ☐ Refer to: Neurosurgery _____ Neurology _____ Sports Medicine _____ Physiatrist _____ Psychiatrist _____ Other _____
- ☐ Refer for neuropsychological testing
- ☐ Other _____

ACE Care Plan Completed by: Rick Mueller (MD) RN NP PhD ATC

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EXHIBIT 3: CDC Facts About Concussion and Brain Injury (Page 1 of 1)

Facts about Concussion and Brain Injury







About Concussion

A concussion is a type of traumatic brain injury (TBI) caused by a bump, blow, or jolt to the head. Concussions can also occur from a fall or a blow to the body that causes the head and brain to move quickly back and forth. Doctors may describe a concussion as a “mild” brain injury because concussions are usually not life-threatening. Even so, their effects can be serious.

Concussion Signs and Symptoms

Most people with a concussion recover quickly and fully. But for some people, symptoms can last for days, weeks, or longer. In general, recovery may be slower among older adults, young children, and teens. Those who have had a concussion in the past are also at risk of having another one and may find that it takes longer to recover if they have another concussion. Symptoms of concussion usually fall into four categories:

 Thinking/Remembering	Difficulty thinking clearly	Feeling slowed down	Difficulty concentrating	Difficulty remembering new information
 Physical	Headache Fuzzy or blurry vision	Nausea or vomiting (early on) Dizziness	Sensitivity to noise or light Balance problems	Feeling tired, having no energy
 Emotional/Mood	Irritability	Sadness	More emotional	Nervousness or anxiety
 Sleep	Sleeping more than usual	Sleep less than usual	Trouble falling asleep	

Getting Better

Rest is very important after a concussion because it helps the brain to heal. Ignoring your symptoms and trying to “tough it out” often makes symptoms worse. Be patient because healing takes time. Only when your symptoms have reduced significantly, in consultation with your doctor, should you slowly and gradually return to your daily activities, such as work or school. If your symptoms come back or you get new symptoms as you become more active, this is a sign that you are pushing yourself too hard. Stop these activities and take more time to rest and recover. As the days go by, you can expect to gradually feel better.

Tips to help you get better:

- Get plenty of sleep at night, and rest during the day.
- Avoid activities that are physically demanding (e.g., sports, heavy housecleaning, working-out) or require a lot of concentration (e.g., sustained computer use, video games).
- Ask your doctor when you can safely drive a car, ride a bike, or operate heavy equipment.
- Do not drink alcohol. Alcohol and other drugs may slow your recovery and put you at risk of further injury.



There are many people who can help you and your family as you recover from a concussion. You do not have to do it alone. Keep talking with your doctor, family members, and loved ones about how you are feeling, both physically and emotionally. If you do not think you are getting better, tell your doctor.

For more information and resources, please visit CDC on the Web at: www.cdc.gov/Concussion.



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Disease Control and Prevention



EXHIBIT 4: Sports Concussion Fact Sheet SB721, Jenna's Law (Page 1 of 2)

How Common are Concussions?

- Each year more than one million children sustain a traumatic brain injury, 80-90 % of which are mild and are due to motor vehicle accidents, falls, and pedestrian accidents.
- The national Centers for Disease Control and Prevention says as many as 3.8 million sports- and recreation-related concussions occur every year. In sports alone, 300,000 concussions in children are estimated to occur each year.
- Concussions can occur in a wide variety of sports, including (but not limited to) football, hockey, rugby, wrestling, horseback riding, lacrosse, basketball, cheerleading, and soccer.
- Brain injuries cause more deaths than any other sports injury. In football, brain injury accounts for 65 to 85% of all fatalities.

Did You Know:

- A concussion is the most common type of brain injury sustained in sports.
- Most concussions do NOT involve loss of consciousness.
- You can sustain a concussion even if you do NOT hit your head. An indirect blow elsewhere on the body can transmit an "impulsive" force to the head and cause a concussion to the brain.
- Multiple concussions can have cumulative and long lasting life changes.
- Concussions typically do NOT appear in neuroimaging studies such as MRI or CAT Scans.
- During 2001-2005, children and youth ages 5-18 years accounted for 2.4 million sports-related emergency department (ED) visits annually, of which 6% (135,000) involved a concussion.
- Among children and youth ages 5-18 years, the **five leading sports or recreational activities**, which account for concussions, include **bicycling, football, basketball, playground activities, and soccer.**

Sports Concussion Fact Sheet SB721 Jenna's Law

A concussion is an injury to the brain caused by a blow or jolt to the head. Other terms used for concussion include mild traumatic brain injury or minor head trauma. Immediately following a concussion, a person may feel several types of symptoms affecting their cognitive, physical or emotional functioning. Symptoms can vary from one person to another, and can last for minutes, hours or weeks after a concussion.

Recovery from Concussion

Recovery from concussion can be different for every person. Symptoms can last from only a few minutes to days or weeks after the concussion. Long-standing symptoms can interfere with a child or adolescent's performance at school, or limit their participation in activities at home or in the community. Therefore, it is important to systematically evaluate and monitor any ongoing symptoms.

Football

- Football injuries associated with the brain occur at a rate of one in every 3.5 games.
- Football is responsible for more than 250,000 head injuries in the United States. In any given season 20% of all high school players sustain brain injuries and at least two will die.
- Football players with brain injuries are six times more likely to sustain new injuries.

Snow Sports

The high profile skiing deaths of Sonny Bono and Michael Kennedy in 1998, and actress Natasha Richardson in 2009, lead to awareness and reports on the need to wear helmets and receive immediate medical attention in snow sports.

- 68,761 reports of head injuries sustained while skiing or snowboarding presented to ER's from 2004-2010
- Males have the highest rates at 68.8 % of total reported head injuries, snowboarders (57.9 %), and young riders between the ages of 11-17 (47.7 %) most likely to be injured.

Too many kids are returning to the playing field too soon after a concussion.

- **62 % of organized sports-related injuries occur during practices** ¹ (Journal of Athletic Training).
- **41% of concussed athletes returned to play too soon**, if an athlete's concussion symptoms, such as dizziness or nausea, last longer than 15 minutes, he should be benched until he's been symptom-free for a week. (American Academy of Neurology guidelines).
- **Girls have a higher incidence of concussion than boys** - In some sports played by both sexes, girls actually run a higher risk of getting hurt.
- **High school Soccer:** female athletes suffered almost 40% more concussions than males (female players suffer some 29,000 concussions annually, males have 21,000).
- **High school basketball:** female concussions were nearly 240% higher (girls got 13,000 concussions playing basketball, boys 4,000).
- **In girls' volleyball and boys' basketball and baseball**, more than half of concussed players returned to play too soon (Journal of Athletic Training).

Mandatory Annual Coach & Referee Training on Sports Concussion

- Currently youth sports coaches are required to have annual training to spot child abuse, but not for sports concussion
- Provide annual training through online and community resources such as Center for Disease Control (CDC), BIAOR, local hospitals and other non-profits
- Remove a child from play if they have concussion symptoms for at least 8 day-they cannot return to play without a medical professional's release
- Parents and students over 12 read and sign form on the signs & symptoms of concussion

SB 721 - Jenna's Law

SB 721 expands the provisions of a 2009 bill called "Max's Law" that requires public school coaches and referees to protect student athletes from brain injury. SB 721 adds coaches and referees for club and recreational teams to those who must get yearly training on concussions and who must keep athletes who have signs of concussion out of competition for a day and get them medical screening.

Jenna Sneva, a former champion ski racer, after suffering repeated concussions as a skier, softball player and soccer player, was diagnosed with permanent brain damage. She recalled that when ski training, crashing was considered a sign of hard effort. If her coaches had recognized the symptoms of concussion, she could have been spared serious injury. "We need to protect the kids from suffering from the extreme pain that I did," she said. Her mother, Ronda Sneva, states that Jenna "might have a gold medal, but she has the brain of a 60-year-old stroke victim."

EXHIBIT 4: Sports Concussion Fact Sheet SB721, Jenna's Law (Page 2 of 2)

Why are girls hurt more than boys

Of course, many girls suck it up too, but there are anatomical reasons that explain why they are more likely to have a concussion diagnosed. For starters, look to the neck. Bigger, stronger neck muscles can balance the head during impact and lower the chances of the brain's being jolted in a collision. According to a study that will be published in the *Journal of Biomechanics*, the circumference of men's necks is 20% larger than that of women's necks. Further, resistance tests showed that men's necks are 50% stronger than those of women. Another new biomechanical study shows that during adolescence, boys develop significantly stronger necks than girls do. "More-developed necks allow boys to better absorb a blow to the head," says Dr. Joseph Maroon, a neurosurgeon and consultant to the Sports Concussion Program at the University of Pittsburgh Medical Center.

The way girls play may also make a difference. Kevin Guskiewicz, director of the Sports Medicine Research Laboratory at the University of North Carolina, has found that female athletes are more likely than male athletes to land on the floor or field with their knees locked. The less flexible their knees, the worse their balance. The worse their balance, the more likely they'll hit the ground or another player.

Why is playing sports with concussion symptoms so risky?

During a concussion, arteries constrict, slowing blood flow to the brain. At the same time, calcium floods the energy-producing portions of brain cells. That calcium plays a mean defense, blocking oxygen- and glucose-rich blood from replenishing neurons' energy supply. Brain cells get sluggish, and a concussed athlete who can't focus or suffers from slower reaction times is left more susceptible to a slew of other injuries, including another concussion. A second blow to the head could lead to more arterial constriction and more calcium infusions. "Concussion produces an energy crisis in the brain," says David Hovda, director of the Brain Injury Research Center at UCLA's David Geffen School of Medicine. "A second concussion will cause such an energy demand that it will overwhelm the survival capability of the brain."

That's why caution should be the name of the game. Robert Cantu, a neurosurgeon and concussion expert, insists that even after a mild first-time concussion, athletes must be free of all symptoms for at least a week, both at rest and during exertion, before returning to the field. Cantu's mantra: "When in doubt, sit them out."

CONCUSSION

- 50% of "second impact syndrome" incidents – brain injury caused from a premature return to activity after suffering initial injury (concussion) – result in death.²
- Female high school soccer athletes suffer almost 40% more concussions than males (29,000 annually).³
- Female high school basketball players suffer 240% more concussions than males (13,000).³
- Concussion rates more than doubled among students age 8–19 participating in sports like basketball, soccer and football between 1997 and 2007, even as participation in those sports declined.⁴
- The concussion rate was highest for ice hockey, at 10 per 10,000 participants for 7- to 11-year-olds and 29 per 10,000 participants for 12- to 17-year-olds.⁴
- Football accounted for the second highest concussion rate, at 8 per 10,000 for 7- to 11-year-olds and 27 per 10,000 for 12- to 17-year-olds.⁴
- **Youth sports are getting extremely competitive, and kids, in general, are getting bigger; so you end up with 8-year-olds in 13-year-old bodies but with the maturity still of 8-year-olds.**⁴

¹ Rachel J. Yard E, Comstock R. *An Epidemiologic Comparison of High School Sports Injuries Sustained in Practice and Competition*. *J Athl Train*. 2008;43(2):197–204.

² Cantu RC. Second impact syndrome: immediate management. *Phys Sportsmed*. 1992;20(9):14–17.

³ Covassin T, Swannik C. Sex Differences and the Incidence of Concussions Among Collegiate Athletes. *J Athl Train*. 2003;38(3):238–244.

⁴ Bakhos L, Lockhart G, Myers R. Emergency Department Visits for Concussion in Young Child Athletes. *Pediatrics*. 2010;126(3):e550–6.

Signs and Symptoms

Parents may not be familiar with concussion symptoms. Contrary to popular belief, the child does not have to lose consciousness to sustain a concussion. In fact, the majority of children do not lose consciousness. A child or teenager suspected of having a concussion should be carefully assessed for any of the following symptoms listed below.

Cognitive Symptoms

Poor attention/Concentration
Problems remembering
Difficulty following conversation
Answers questions slowly
Asks same question repeatedly
Mentally foggy

Physical Symptoms

Headaches
Vacant stare
Appears dazed or stunned
Dizziness
Clumsiness/Balance problems
Fuzzy/Blurry vision
Sleeps more or less than usual
Appears fatigued, tired or sleepy
Vomiting/Nausea

Emotional Symptoms

Nervousness/Anxiety
Sad
Irritability
Personality changes
Plays less

Concussion Evaluation

Appropriate evaluation and management are the keys to a safe outcome. The symptoms of a concussion can cause problems when the child returns to school, home or community activities. The concussion evaluation assesses possible cognitive, emotional or physical symptoms to assist in planning during recovery. During an evaluation, a child is given tests of attention, memory and speed. Test results are used to determine any needed interventions, as well as plan for return to school, sports, and other physical activities.

EXHIBIT 5: Rubicon Soccer Club Medical Consent/Waiver of Liability and Release

RUBICON SOCCER CLUB
Medical Consent / Waiver of Liability and Release
 2021-2022

Player First Name Mia MI Perez Last Name Rubicon Soccer Club Full Association Name 9 Jersey #

Birth Date 4/3/05 Sex ☐ Male ☒ Female

Address of Player 12271 Timber Dr. Rose, OR City 97205 State OR Zip

Parent/Legal Guardian Full Name Casey Perez Home Phone 503-768-4973 Work Phone _____ Cell Phone _____

Additional Person to Contact in an Emergency Mike Ditka Home Phone 503-768-4973 Work Phone _____ Cell Phone _____

Date of Last Tetanus Shot 12/1/05 Current Medications n/a

List Any Unusual Health Information mild concussion in May 2021 while playing for school soccer team. Parent Email for Soccer Information _____

I (we), the undersigned, the parent/legal guardian of the above Registrant, a minor, who resides with us, do hereby declare our intent to allow that child to practice, train, play and participate in all soccer-related activities with the above mentioned soccer team affiliated with the North Carolina Youth Soccer Association and the United States Youth Soccer Association.

I (we) further release, discharge, and agree to hold harmless and indemnify Rubicon Soccer Club coaches from any and all liability, claims or demands arising from the Registrant participating in the programs with the club specifically to include any and all claims for personal injuries sustained while present or participating in the programs or traveling to or from events in the programs or while on trips sponsored by or in conjunction with the Programs.

In addition, I (we) do hereby authorize any one of the designated adults of the Team, if after a reasonable attempt has been made to reach a parent or guardian to obtain consent or if sound medical practice dictates that there is not time to make such an attempt, to consent to any x-ray examination, anesthetic, medical or surgical procedure, treatment, and/or hospital care, to be rendered to the Registrant under the general or special supervision of and/or on the advice of any physician, surgeon or dentist duly licensed to practice.

The undersigned have read and fully understand and agree to the foregoing.

Insurance Information: Insurance Company: Red Shield

ID Number: 987654-W3

Confirmation Number: _____

Casey Perez
 Parent/Legal Guardian Signature

V. The Form and Substance of a Trial

A. The Elements of a Civil Case

In civil law, when a person commits a wrong, it is called a tort. It is a civil wrong committed by one against another. The injured party, or plaintiff, may sue the wrongdoer, or defendant, in court for a remedy which is usually money damages. In this case the plaintiff alleges that a tort has been committed and is suing under the legal theory of negligence.

The tort of negligence contains four elements and the plaintiff has the burden of proving each of them. They are:

- **Duty:** the defendant owed a duty of care to the plaintiff;
- **Breach of duty:** that duty was violated, or breached, by the defendant's conduct;
- **Causation:** the defendant's conduct caused the plaintiff's harm; and
- **Damages:** the plaintiff suffered actual damages.

A defendant can defend himself or herself by showing that plaintiff has failed to meet her burden of proof on at least one of the four elements above. But, if the plaintiff has proved that the defendant was negligent, the defendant may ask the jury to find that the plaintiff's harm resulted from her own **comparative negligence**. On this defense, the defendant has the burden of proof. Comparative negligence means dividing the loss according to the degree to which each party is at fault. If the defendant can prove that 50% or more of the fault lies with the plaintiff, then the plaintiff gets no damages and the defense wins.

B. Proof by a Preponderance of Evidence

The standard of proof in a civil case is the preponderance of the evidence. This standard requires that more than 50% of the weight of the evidence be in favor of the winning party. This means that Perez only has to show that it is more likely than not that the injuries occurred as a result of actions or inactions of the defendants. Likewise, the defendants need only prove that is more likely than not that Perez's injuries occurred as a result her own actions or inactions.

C. Role Descriptions

1. Attorneys

Trial attorneys control the presentation of evidence at trial and argue the merits of their side of the case. They introduce evidence and question witnesses to bring out the facts surrounding the allegations.

The plaintiff's attorneys present the case for the plaintiff, Mia Perez. By questioning witnesses, they will try to convince the jury that the defendants, Shannon Dempsey, Jordan Reddick and Rubicon Soccer Club, Inc., are liable by a preponderance of the evidence.

The defense attorneys present the case for all three co-defendants, Shannon Dempsey, Jordan Reddick and Rubicon Soccer Club, Inc. They will offer their own witnesses to present their clients' version of the facts. They may undermine the plaintiff's case by showing that their witnesses cannot be depended upon, or that their testimony makes no sense, or is seriously inconsistent.

Demeanor of **all attorneys** is very important. On direct examination it is easy to be sympathetic and supportive of your witnesses. On cross-examination it is no less important to be sympathetic and winning. An effective cross-examination is one in which the cross examiner, the witness, the judge and jury all agree on the outcome. It is bad

manners and unethical to be sarcastic, snide, hostile or contemptuous. The element of surprise may, in fact, be a valuable attorney's tool, but it is best achieved by being friendly and winning in the courtroom, including with the other side.

Attorneys on both sides will:

- conduct direct examination and redirect if necessary;
- conduct cross examination conduct redirect and re-cross if necessary;
- make appropriate objections (note: only the direct and cross-examining attorneys for a particular witness may make objections during that testimony);
- be prepared to act as a substitute for other attorneys; and
- make opening statement and closing arguments.

a. Opening Statement

The opening statement outlines the case it is intended to present. The attorney for plaintiff delivers the first opening statement and the defense follows with the second. A good opening statement should explain what the attorney plans to prove, how it will be proven; mention the burden of proof and applicable law; and present the events (facts) of the case in an orderly, easy to understand manner.

One way to begin your statement could be as follows:

“Your Honor, my name is (full name), representing the prosecution/defendant in this case.”

Proper phrasing in an opening statement includes:

- “The evidence will indicate that ...”
- “The facts will show that ...”
- “Witnesses (full names) will be called to tell ...”
- “The defendant will testify that ...”

Tips: You should appear confident, make eye contact with the judges, and use the future tense in describing what your side will present. Do not read your notes word for word – use your notes sparingly and only for reference.

b. Direct Examination

Attorneys conduct direct examination of their own witnesses to bring out the facts of the case. Direct examination should:

- call for answers based on information provided in the case materials;
- reveal all of the facts favorable to your position;
- ask questions which allow the witness to tell the story. Do not ask leading questions which call for only “yes” or “no” answers – leading questions are only appropriate during cross-examination;
- make the witness seem believable;
- keep the witness from rambling.

Call for the witness with a formal request:

“Your Honor, I would like to call (full name of witness) to the stand.”

The clerk will swear in the witness before you ask your first question.

It is good practice to ask some introductory questions of the witness to help them feel comfortable. Appropriate introductory questions might include asking the witness' name, residence, present employment, etc.

Proper phrasing of questions on direct examination include:

- “Could you please tell the court what occurred on (date)?”
- “How long did you remain in that spot?”
- “Did anyone do anything while you waited?”

Conclude your direct examination with:

“Thank you Mr./s. _____. That will be all, your Honor.”

Tips: Isolate exactly what information each witness can contribute to proving your case and prepare a series of clear and simple questions designed to obtain that information. Be sure all items you need to prove your case will be presented through your witnesses. Never ask questions to which you do not know the answer. Listen to the answers. If you need a moment to think, it is appropriate to ask the judge for a moment to collect your thoughts, or to discuss a point with co-counsel.

c. Cross Examination, Redirect, Re-Cross, and Closing

For cross examination, see explanations, examples, and tips for *Rule 611*.

For redirect and re-cross, see explanation and note to *Rule 25* and *Rule 611*.

For closing, see explanation to *Rule 26*.

2. Witnesses

Witnesses supply the facts in the case. As a witness, the official source of your testimony, or record, is your witness statement, all stipulations, and exhibits you would reasonably have knowledge of. The witness statements contained in the packet should be viewed as signed and sworn affidavits.

You may testify to facts stated in or reasonably inferred from your record. If an attorney asks you a question, and there is no answer to it in your official statement, you can choose how to answer it. You may reply, “I don’t know” or “I can’t remember,” or you can infer an answer from the facts you do officially know. Inferences are only allowed if they are *reasonable*. If your inference contradicts your official statement, you can be impeached. Also see Rule 3.

It is the responsibility of the attorneys to make the appropriate objections when witnesses are asked to testify about something that is not generally known or cannot be inferred from the witness statement.

IN-PERSON COMPETITION

3. Court Clerk and Bailiff

It is recommended that a team provide two separate team members for these roles. If a team only provides one person for both roles, then that person must be prepared to perform as clerk or bailiff in every trial. The court clerk and bailiff aid the judge during the trial. For the purpose of the competition, the duties described below are assigned to the roles of clerk and bailiff.

The **Prosecution** is expected to provide the **clerk**. The **Defense** provides the **bailiff**.

When evaluating the team performance, the Presiding Judge will consider contributions by the clerk and bailiff.

Duties of the Clerk – Provided by the Prosecution

When the judge arrives in the courtroom, the clerk should introduce themselves and explain that they will assist as the court clerk. The clerk's duties are as follows:

- a. **Roster and rules of competition:** The clerk is responsible for bringing a roster of students and their roles to each trial round. The clerk should have enough copies to be able to give a roster to each judge in every round, one for the opposing team, and some extras (5-6 copies per round). The roster form contained in this packet should be used. In addition, the clerk is responsible for bringing a copy of the "Rules of Competition" to each round. In the event that questions arise and the judge needs clarification, the clerk shall provide this copy to the judge.
- b. **Swear in the Witnesses:** The clerk should swear in each witness as follows:

"Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the Mock Trial Competition?"

Witness responds, "I do."

Clerk then says, "Please be seated, state your name for the court, and spell your last name."

- c. **Provide Exhibits:** The clerk should provide copies of the exhibits for attorneys or judges if requested (both sides should have their own copies of the exhibits, however, a well-prepared clerk has spare copies).
- d. **Extra Duties:** A clerk may also be asked to perform other duties to assist the judges or Competition Coordinator. A clerk should be prepared to assist in whatever way possible to help the competition run smoothly.

A proficient clerk is critical to the success of a trial and points will be given on the clerk's performance.

Duties of the Bailiff – Provided by the Defense

When the judge arrives in the courtroom, the bailiff should introduce themselves and explain that they will assist as the court bailiff. The bailiff's duties are to call the court to order and to keep time during the trial.

- a. **Call to Order:** As the judges enter the courtroom, the bailiff says, "All rise. The Court with the Honorable Judge _____ presiding, is now in session. Please be seated and come to order." Whenever the judges leave or enter the courtroom, you should ask the audience to rise.
- b. **Timekeeping:** The bailiff is responsible for bringing a stopwatch to the trial. The stopwatch cannot be a cell phone; no electronic devices are permitted. A bailiff should practice with the stopwatch and know how it works before the competition. Time limits are provided for each segment of the trial. The bailiff should keep track of time used and time remaining for each segment of the trial using the timesheet provided in this packet.

Time should stop when attorneys make objections and restart after the judge has ruled on the objection and the next question is asked by the attorney. The time should also stop if the judge questions a witness or attorney.

After each witness has finished testifying, the bailiff should announce the time remaining in the segment. For instance, if after direct examination of two witnesses, the Prosecution has used 12 minutes announce, "Ten minutes remaining." (20 minutes total allowed for direct/redirect, less the 10 minutes already used). After each witness has completed his/her testimony, the bailiff marks the timesheet the time to the nearest 10 seconds. When three minutes remain, the bailiff holds up the "3 minutes" card, followed by the "1 minute" and "0" cards. When time has run out for a segment, the bailiff announces, "Time." The bailiff should make certain the time cards are visible to all judges and attorneys when they are held up.

Timesheets for each round will be provided at the competition. The bailiff is responsible for bringing the sheets to each round. Each team will also be provided with time cards.

A proficient bailiff who times both teams in a fair manner is critical to the success of a trial. Points will be given on the bailiff's performance.

4. Team Manager and Unofficial Timer

Team Manager (optional)

Teams may wish to have a person acting as Team Manager. This person can be responsible for tasks such as keeping phone numbers of all team members and ensuring that everyone is well-informed of meeting times, Q&A posts, and so on. In case of illness or absence of a team member, the manager could keep a record of all witness testimony and a copy of all attorneys' notes so that someone else may fill in. This individual could also serve as the clerk or bailiff. This position is not required for the competition.

Unofficial Timekeeper (optional)

Teams may provide an unofficial timekeeper during the trial rounds. The unofficial timekeeper can be a clerk or a currently performing attorney from the Prosecution's side. This unofficial timekeeper must be identified before the trial begins and may check the time with the bailiff twice during the trial (once during the Prosecution's case-in-chief and once during the presentation of the Defense's case). When possible, the unofficial timekeeper should sit next to the official timekeeper.

Any objections to the bailiff's official time must be made by the unofficial timekeeper during the trial before the judges score the round. The Presiding Judge shall determine if there has been a rule violation and whether to accept the bailiff's time or make a time adjustment. Only current-performing team members in the above-stated roles may serve as unofficial timekeepers.

To conduct a time check, the unofficial timekeeper should request one from the Presiding Judge and ask the bailiff how much time was recorded in every completed category for both teams. The unofficial timekeeper should then compare times with the bailiff. If the times differ *significantly*, the unofficial timekeeper should notify the judge and ask for a ruling as to the time remaining. If the judge approves the request, the unofficial timekeeper should consult with attorneys and determine if time should be added or subtracted in any category. If the judge does not allow a consultation, the unofficial timekeeper may request an adjustment. The following sample questions and statements may be used.

"Your Honor, before calling the next witness, may I compare time records with the bailiff?"

"Your Honor, there is a discrepancy between my records and those of the bailiff. May I consult with the attorneys on my team before requesting a ruling from the court?"

"Your Honor, we respectfully request that ____ minutes/seconds be subtracted from the Prosecution's direct/cross-examination."

"Your Honor, we respectfully request that ____ minutes/seconds be added to the Defense direct/cross-examination."

The trial should not be interrupted for minor time differences. A team should determine in advance a minimum time discrepancy to justify interrupting the trial. The unofficial timekeeper should be prepared to show records and defend requests. Frivolous complaints will be considered by judges when scoring for the round. Likewise, valid complaints will be considered against the violating team.

Time shall be stopped during a timekeeping request.

VIRTUAL COMPETITION

1. Swearing in of the Witnesses

In virtual competitions, all witnesses will be sworn in by the Presiding Judge as a preliminary matter. The Presiding Judge will use the following oath:

"Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the Mock Trial Competition?"

All witnesses respond, "I do."

Subsequently, the attorneys for each side will ask each witness to "state your name for the court, and spell your last name" as the first question when the witness begins their testimony.

2. Timekeepers

Both teams will provide a timekeeper to keep time throughout the trial. Timekeepers are responsible for providing their own timekeeping devices. Time limits are provided for each segment of the trial. The timekeeper should keep track of time used and time remaining for each segment of the trial using the timesheet provided at the end of this packet.

Time should stop when attorneys make objections and restart after the judge has ruled on the objection and the next question is asked by the attorney. The time should also stop if the judge questions a witness or attorney.

Times should be announced by both timekeepers in the chat area of the Zoom courtroom. After each witness has finished testifying, the timekeepers should announce the time remaining in the segment. For instance, if after direct examination of two witnesses, a team has used 12 minutes, the timekeepers should type "10:00 remaining" in the chat area. (20 minutes total allowed for direct/redirect, less the 10 minutes already used). After each witness completes their testimony, the timekeepers mark their timesheets with the time to the nearest 10 seconds. The timekeepers will announce a 3 minute, 1 minute, and TIME warning in the chat area of the Zoom courtroom. If the TIME announcement goes unnoticed, the timekeepers should unmute and announce TIME aloud.

Timekeepers are responsible for keeping time and providing time information if requested by performing students. Time should be stopped during a timekeeping request. Major discrepancies between the timekeepers should be settled by the Presiding Judge. The Presiding Judge will choose how to adjust the time in order to remedy the discrepancy. Minor time differences should not be brought to the Presiding Judge. Frivolous complaints concerning timekeeping will be considered by judges when scoring for the round.

3. Team Manager (Virtual)

Teams may wish to have a person acting as Team Manager. This person can be responsible for tasks such as keeping phone numbers of all team members and ensuring that everyone is well-informed of meeting times, Q&A posts, and so on. In case of illness or absence of a team member, the manager could keep a record of all witness testimony and a copy of all attorneys' notes so that someone else may fill in. This individual could also serve as the timekeeper if needed. This position is not required for the competition.

VI. RULES OF THE COMPETITION

I. General Rules of the Competition (Virtual & In-Person Applicable)

A. Administration

Rule 1. Rules

All trials will be governed by the Rules of the Oregon High School Mock Trial Competition and the Federal Rules of Evidence – Mock Trial Version.

Rules of the competition, as well as rules of courthouse and courtroom decorum and security, must be followed. Classroom Law Project and Regional Coordinators have the authority to impose sanctions, up to and including forfeiture or disqualification, for any misconduct, flagrant rule violations, or breaches of decorum that affect the conduct of a trial or that impugn the reputation or integrity of any team, school, participant, court officer, judge, or mock trial program. Questions or interpretations of these rules are within the discretion of Classroom Law Project and its decisions are final.

Rule 2. The Problem

The problem is a fact pattern that contains statements of fact, stipulations, witness statements, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered.

Rule 3. Witness Bound by Statements

Each witness is bound by the facts contained in their own witness statement, also known as an affidavit, and/or any necessary documentation relevant to their testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' statement. If on direct examination, an attorney asks a question that calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 4, Unfair Extrapolation.

If in cross-examination, an attorney asks for unknown information, the witness may or may not respond, so long as any response is consistent with the witness' statement and does not materially affect the witness's testimony. A witness may be asked to confirm (or deny) the presence (or absence) of information in their statement.

Example. A cross-examining attorney may ask clarifying questions such as, “Isn’t it true that your statement contains no information about the time the incident occurred?”

A witness is not bound by facts contained in other witness statements.

MVP Tip continued: In cross-examination, anticipate what you will be asked and prepare your answers accordingly. Isolate all of the possible weaknesses, inconsistencies, or other problems in your testimony and be prepared to explain them as best you can. Be sure that your testimony is never inconsistent with, nor a material departure from, the facts in your statement. You may be impeached if you contradict what is in your witness statement. See [Rule 607](#).

MVP Tip: As a witness, you will supply the facts in the case. You may testify only to facts stated in or reasonably inferred from your own witness statements or fact situation. On direct examination, when your side's attorney asks you questions, you should be prepared to tell your story. Know the questions your attorney will ask and prepare clear answers that contain the information that your attorney is trying to elicit. However, do not recite your witness statement verbatim. Know its content beforehand so you can put it into your own words. Be sure that your testimony is never inconsistent with, nor a material departure from, the facts in your statement.

Rule 4. Unfair Extrapolation

Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial. A fair extrapolation is one that is neutral. Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting unfair extrapolation.

If a witness is asked information not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness's testimony or any substantive issue of the case.

Attorneys for the opposing team may refer to *Rule 4* when objecting and refer to the violation as "unfair extrapolation" or "outside the scope of the mock trial material." Possible rulings a judge may give include:

1. no extrapolation has occurred;
2. an unfair extrapolation has occurred;
3. the extrapolation was fair; or
4. ruling taken under advisement.

When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings. See [Rule 602](#) and [Rule 3](#). The decision of the Presiding Judge regarding extrapolation or evidentiary matters is final.

Rule 5. Gender of Witnesses

All witnesses are gender-neutral. Personal pronouns in witness statements indicating gender of the characters may exist but are inadvertent. Any student may portray the role of any witness of any gender. Teams are requested to indicate members' gender pronouns on the Team Roster for the benefit of judges and opposing counsel.

Rule 6. Student Accommodations (Students with Disabilities)

The Rules of Competition will be interpreted and administered consistent with all applicable laws. Accordingly, should any applicable law require variance from these rules or accommodation of any competitor for any reason, including a legally-recognized disability, that team member or their coach may apply to Classroom Law Project for accommodation, and such reasonable accommodation shall be granted. Classroom Law Project will consider all requests and conduct an individualized assessment of the student with a disability's request, to determine what reasonable accommodations can be made that will enable the student to participate to the fullest extent possible in Classroom Law Project programming (i.e., Mock Trial). These accommodations may include adjustments of the Rules of Competition and program policies and practices, where appropriate. Classroom Law Project will consider the reasonableness of the accommodations; a request will not be granted that fundamentally alters the program. The timeliness of the request for accommodation may be material to whether an accommodation is granted. If a team is competing against a team for which an accommodation was granted, and the accommodation requires an alternation that impacts the opposing team, the team will be informed in advance of the accommodation, when possible, but will not be informed of the specific student nor their disability that led to the accommodation.

B. The Trial

Rule 7. Team Eligibility – Mini Mock

Teams competing in the Oregon High School Mock Trial Mini Mock must register by the registration deadline. There will be a limit on the amount of teams that may participate in the Mini Mock event, which will be determined by the size and accessibility of the venue.

Teams who are not participating in the Oregon High School Mock Trial Regional Competition, and those teams with students who have never competed in Oregon High School Mock Trial will receive priority in registration for the Mini Mock event.

Rule 8. Team Composition

A mock trial team must consist of a **minimum of six** and a **maximum of 18** students, all from the same school or organization. The timekeeper is not counted as a team member. Classroom Law Project will determine on a case-by-case basis whether a team affiliated with an organization, rather than a school, is eligible to compete.

Additional students may be used in support roles as researchers, understudies, photographers, court reporters, and news reporters. However, none of these roles will be used in the competition.

For a virtual competition, a mock trial team is defined as an entity that includes attorneys and witnesses for both the Plaintiff and Defense (students may play roles on both sides if necessary) and a timekeeper. For in-person competition, a mock trial team will be an entity that includes attorneys and witnesses for both the Plaintiff and Defense (again, students may play roles on both sides if necessary), a clerk and a bailiff.

All mock trial teams **must submit** a Team Roster listing the team name and all coaches and students to the Competition Coordinators prior to the beginning of the regional competitions. If a team fails to submit a Team Roster by the deadline, the team will forfeit their space in the competition. Once rosters have been submitted, students may not be added or substituted in a role. If there is an emergency causing a student to be absent from the competition, students must follow the emergency absence procedure contained in these materials. **If a school or organization enters more than one team in the competition, team members cannot switch teams at any time for any round of regional or state competition.**

Schools will provide a color to accompany the team name in order to differentiate between teams from the same school. For instance, West Ridge Green and West Ridge Purple.

For purposes of competition, all teams will be assigned a random letter code such as EQ or MZ. The code is assigned to maintain anonymity of the team for judging. Teams will be assigned a letter code by Classroom Law Project prior to the competition. Notification of the letter code assignments will be made to the registered teams prior to the Mini Mock Event.

Rule 9. Team Presentation

Teams must present both the Plaintiff and Defense sides of the case. All team members must be available to participate in all rounds. The Competition Coordinators will make certain that both the Plaintiff and Defense sides of each team will have at least one opportunity to argue its side of the case at competition.

Rule 10. Team Duties

Team members should divide their duties as evenly as possible.

Opening statements must be given by both sides at the beginning of the trial. The attorney who will examine a particular witness on direct is the only person who may make objections to the opposing attorney's questions of that witness's cross-examination, and vice versa.

Each team must call all three witnesses. Failure to do so results in a mandatory two-point penalty. Witnesses must be called by their own team and examined by both sides. Witnesses may not be recalled by either side.

Rule 11. Swearing in the Witnesses

In a virtual competition, the Presiding Judge will swear in all witnesses before the trial begins as a preliminary matter using the following oath:

“Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the Mock Trial Competition?”

In an in-person competition, the clerk, provided by the Prosecution, swears in each witness as they are seated, using the same oath.

Rule 12. Trial Sequence and Time Limits

Each side will have a maximum of 43 minutes to present its case. The trial sequence and time limits are as follows:

Introductory Matters/Swearing-In of Witnesses	5 minutes total (conducted by Presiding Judge)*
Opening Statement	5 minutes per side
Direct and Re-Direct (optional)	20 minutes per side
Cross and Re-Cross (optional)	15 minutes per side
Closing Argument	5 minutes per side**
Judges' Deliberations	7 minutes total (judges in private)*
Total Competition Time Per Side	45 minutes

*Not included in 45 minutes allotted for each side of the case.

**Plaintiff may reserve time for rebuttal at the beginning of its Closing Argument. The Presiding Judge should grant time for rebuttal (if any time remains) even if time has not been explicitly reserved.

The Plaintiff delivers its Opening Statement and Closing Argument first. The Plaintiff may reserve a portion of its closing argument time for rebuttal. The rebuttal is limited to the scope of the Defense's closing argument. Objections are not allowed during the Opening Statement or Closing Argument.

None of the foregoing may be waived (except rebuttal), nor may the order be changed.

The attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one segment of the trial may not be transferred to another part of the trial.

Rule 13. Timekeeping

Time limits are mandatory and will be enforced. Timing will stop during objections or extensive questioning from a judge. Timing will **not** stop during the admission of evidence unless there is an objection by opposing counsel.

For in-person competitions, Three- and One-Minute card warnings must be given before the end of each segment. Students will be stopped by the bailiff at the end of the allotted time for each segment. The bailiff will also time the judges' scoring time after the trial. The judging panel is allowed 10 minutes to complete their ballots. The bailiff will notify the judges when time has elapsed.

In virtual competitions, Three- and One-Minute warnings must be given before the end of each trial segment in the chat area of the Zoom courtroom. Both timekeepers should announce the time warnings. When time has expired, timekeepers will state TIME in the chat area. If the TIME call goes unnoticed, timekeepers will unmute and announce TIME aloud. The timekeepers will also time the judges' scoring time after the trial. The judging panel is allowed 10 minutes to complete their ballots. The timekeepers will notify the judges when time has elapsed.

Rule 14. Time Extensions and Scoring

The Presiding Judge has sole discretion to grant time extensions, though they should be rare. If time has expired and an attorney continues without permission from the Court, the scoring judges may account for overruns in time in their scoring.

Rule 15. Supplemental Material, Illustrative Aids, Costuming

Teams may refer only to materials included in these trial materials. No illustrative aids of any kind may be used unless provided in the case materials. No enlargements of the case materials will be permitted unless a necessary accommodation for a participant's disability. In accordance with Rule 6, the Competition Coordinator should be made aware prior to the competition of any accommodation needed. Absolutely no props or costumes are permitted unless authorized in these case materials or by Classroom Law Project. Use of easels, flip charts, and the like is prohibited. Violation of this rule may result in a lower team score.

Rule 16. Trial Communication

Coaches, non-performing team members, alternates, and observers (each team will be allowed three observers per round in a virtual competition) shall not talk, signal, communicate with, or coach their teams during trial. This rule remains in force during any recess time that may occur. Performing team members may communicate among themselves during trial, however, no disruptive communication is allowed. In virtual competitions, communication shall not occur in the Zoom courtroom chat area. Performing students may communicate among themselves by other means (Google Chat, text message, etc.) as long as the notifications are silent and the communication is not disruptive.

In virtual competitions, only team members participating in the round and coaches may be in the same physical room with the performing students. Spectators and non-performing team members must not be in the same physical room as performing team members during the trial.

For in-person competitions, everyone in the courtroom shall turn off all electronic devices except stopwatches being used by the timekeeper(s). Non-team members, alternate team members, teachers and coaches must remain outside the bar in the spectator section of the courtroom. Only team members participating in the round may sit inside the bar.

Communication in violation of these rules is grounds for disqualification from the competition. Competition Coordinators may exercise their discretion in deducting points if they find a complaint is frivolous or the conversation was harmless.

Rule 17. Viewing a Trial

Team members, alternates, coaches, teacher-sponsors, and any other persons directly associated with a mock trial team, except those authorized by the Competition Coordinator, are **not** allowed to view other teams in competition, so long as their team remains in the competition. Courtroom artists may compete in a courtroom that is not associated with their school or organization.

Rule 18. Videotaping, Photography, Media

Any team has the option to refuse participation in videotaping, audio recording, still photography, or media coverage. However, media coverage shall be allowed by the two teams in the championship round of the state competition. Trials may be recorded by participating teams as long as the opposing team approves.

C. Before the Trial

Rule 19. Stipulations

[Stipulations](#) shall be considered part of the record and already admitted into evidence.

Rule 20. The Record

No stipulations, pleadings, or jury instructions shall be read into the record.

Rule 21. Motions Prohibited

The only motion permissible is one requesting the judge strike testimony following a successful objection to its admission.

Rule 22. Objection During Opening Statement, Closing Argument

No objections shall be raised during opening statements or during closing arguments.

Note: It will be the Presiding Judge's responsibility to handle any legally inappropriate statements made in the closing argument. All judges may consider the matter's weight when scoring.

D. Presenting Evidence

Rule 23. Objections

i. Argumentative Questions

An attorney shall not ask argumentative questions.

Example: During cross-examination of an expert witness the attorney asks, "You aren't as smart as you think you are, are you?"

ii. Lack of Proper Foundation

Attorneys shall lay a proper foundation prior to moving for the admission of evidence. After the exhibit has been offered into evidence, the exhibit may still be objected to on other grounds.

iii. **Assuming Facts Not in Evidence**

Attorneys may not ask a question that assumes unproven facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by the evidence (sometimes called a *hypothetical question*).

iv. **Questions Calling for Narrative or General Answer**

Attorneys may not ask questions that are so general that they do not call for a specific answer.

Example: “Tell us what you know about the case.”

v. **Non-Responsive Answer**

A witness’ answer is objectionable if it fails to respond to the question asked.

MVP Tip: This objection also applies to a witness who talks on and on unnecessarily in an apparent ploy to run out the clock at the expense of the other team.

iv. **Repetition**

Questions designed to elicit the same testimony or evidence previously presented in its entirety are improper if merely offered as a repetition of the same testimony or evidence from the same or similar source.

Rule 24. Procedure for Qualifying Expert Witnesses

Only a witness who is qualified as an expert may give an opinion as to scientific, technical, or other specialized knowledge in the area of their expertise. The following steps will effectively qualify an expert:

1. Ask the expert to describe factors such as education, professional training, work experience, special skills, or publications they have authored.
2. Ask the Court to qualify the witness as an expert in a particular field.

3. Once qualified, ask for witness's expert opinion on__.

Example: The wife of Harold Hart is suing General Hospital for malpractice. She claims the hospital did not treat Mr. Hart for an obvious heart attack when he was brought to the hospital. Mrs. Hart's lawyer is examining the hospital's expert witness, Dr. Jones:

Attorney: "Dr. Jones, what is your occupation?"

Witness: "I am a heart surgeon at the Oregon Health & Science University Knight Cardiovascular Institute."

Attorney: "Where did you attend medical school?"

Witness: "I graduated from OHSU Medical School in 1985."

Attorney: "Where did you do your internship?"

Witness: "I did a two-year internship in Cardiology at Johns Hopkins University from 1985-1987."

Attorney: "Did you then specialize in any particular field of medicine?"

Witness: "Yes, I specialized in the treatment of heart attacks and cardiothoracic surgery."

Attorney: "Have you published any books or articles on the topic?"

Witness: "Yes, I have written several chapters in medical texts on heart surgery and care for patients after heart attacks."

Attorney: "Do you hold any professional licenses?"

Witness: "Yes, I am certified by both the Oregon and Washington Boards of Medical Examiners to practice medicine in both states."

Attorney: "Your Honor, I ask that Dr. Jones be qualified as an expert in the fields of cardiothoracic surgery and heart attack care."

Judge: "Any objections?"

Rule 25. Redirect, Recross

Redirect and recross examinations are permitted, provided they conform to the restrictions in [Rule 611\(d\)](#).

E. Closing Arguments

Rule 26. Scope of Closing Arguments

Closing arguments must be based on the actual evidence and testimony presented during the trial.

MVP Tip: A good closing argument summarizes the case in the light most favorable to your position. The Prosecution delivers the first closing argument and should reserve time for rebuttal before beginning. The closing argument of the Defense concludes that side's presentation.

A closing argument should:

- be spontaneous and synthesize what actually happened in the court;
- be emotionally charged and strongly appealing (unlike the calm, composed opening statement);
- review the witnesses' testimony and physical evidence presented, but not raise new facts;
- outline the strengths of your side's witnesses and the weaknesses of your opponent's witnesses;
- isolate the issues and describe briefly how your presentation addressed these issues;
- attempt to reconcile any inconsistencies in your presentation;

F. Critique

Rule 27. The Critique

For the Mini Mock event, in addition to making a brief, general, congratulatory statement to each team, the judging panel should make substantive comments and/or constructive criticism in the spirit of improving each team's performances in the future.

G. Judging and Team Advancement

Rule 28. Decisions

All decisions of the judging panels are FINAL.

Rule 29. Composition of Panel

The judging panel will consist of two individuals: one Presiding Judge and one other judge. A judge **MUST** be supplied by the competing team. Failure to supply a judge for the trial by a team, may result in forfeiture of the trial and a disqualification/removal from the Mini Mock event. Since the Mini Mock event is not a tournament style competition, judges may be directly connected to a team. For example, an attorney coach of the team, may serve as that team's judge during the Mini Mock event, as their sole purpose is to hear and adjudicate the trial, as well as provide honest and constructive feedback as it relates to both teams' performances. The two judges in a trial round will confer, prior to the beginning of the trial and determine which will serve as the Presiding Judge.

If necessary, the Competition Coordinator may assign which judge will serve as a Presiding Judge.

Rule 30. Ballots

The term "ballot" refers to the decision made by each judge as to which side had the better performance in a round. In the Mini Mock event, a judge's ballot will be used solely for the purposes of offer written feedback to the competing teams, as there will be no winner or loser of the trial/round.

Rule 31. Team Schedule

Teams will participate in two rounds/trial at Mini Mock. Each side will be scheduled to perform as both the Plaintiff and Defense in the case. Individual team schedules will be shared prior to the competition, in order to help teams properly prepare themselves for the Mini Mock event.

Rule 32. Merit Decisions

Judges **shall not** announce a ruling either based on the legal merits of the trial or based on the ballots and score sheets.

II. In-Person Mock Trial Rules of Procedure

A. Before the Trial

Rule 33. Team Roster

Copies of the [Team Roster](#) shall be completed and duplicated by each team prior to arrival at the courtroom for each round of the Mini Mock event. Teams must be identified by their letter code only; no information identifying team origin should appear on the form. Before beginning a trial, teams shall exchange copies of the Team Roster. Witness lists should identify the preferred gender pronouns of each witness for the benefit of the judges and the opposing team.

Rule 34. Courtroom Setting

The Prosecution/Plaintiff team shall be seated closest to the jury box. No team shall rearrange the courtroom without permission of the judge.

B. Beginning the Trial

Rule 35. Jury Trial

The case will be tried to a jury; arguments are to be made to the Presiding Judge and jury. Teams may address the judges seated in the jury box as the jury.

Rule 36. Motions Prohibited

The only motion permissible is one requesting the judge strike testimony following a successful objection to its admission.

Rule 37. Standing During Trial

Unless excused by the Presiding Judge, attorneys will stand while giving opening statements and closing arguments, direct and cross-examinations, and for all objections.

Rule 38. Objection During Opening Statement, Closing Argument

No objections shall be raised during opening statements or during closing arguments.

C. Presenting Evidence

Rule 39. Procedure for Introduction of Exhibits

The following steps effectively introduce evidence:

Introduce the Item for Identification

1. Hand a copy of the exhibit to opposing counsel while asking permission to approach the bench. "I am handing the Clerk what has been marked as Exhibit _____. I have provided a copy to opposing counsel. I request permission to show Exhibit _____ to witness _____."
2. Show the exhibit to the witness. "Can you please identify Exhibit _____ for the Court?"
3. The witness identifies the exhibit.

Offer the Item into Evidence

1. Offer the exhibit into evidence. “Your Honor, we offer Exhibit ____ into evidence at this time. The authenticity of the exhibit has been stipulated.”
2. Court: “Is there an objection?” If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.
3. Opposing counsel: “No, Your Honor,” or “Yes, Your Honor.” If yes, the objection will be stated on the record. Court: “Is there any response to the objection?”
4. Court: “Exhibit ____ is/is not admitted.”

The attorney may then proceed to ask questions. If admitted, Exhibit ____ becomes a part of the Court’s official record and, therefore, is handed over to the Clerk. The exhibit should not be left with the witness or taken back to counsel table.

Attorneys do not present admitted evidence to the jury because they have exhibits in their case materials; thus, there is no publishing to the jury.

Rule 40. Use of Notes; No Electronic Devices

Attorneys may use notes when presenting their cases. Witnesses, however, are not permitted to use notes while testifying. Attorneys may consult with one another at counsel table verbally or through the use of notes. The use of laptops or other electronic devices is prohibited.

VI. Federal Rules of Evidence – Mock Trial Version

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

For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence. **The numbering of some rules does not match the Federal Rules of Evidence and some rule numbers or sections are skipped because those rules were not deemed applicable to mock trial procedure.**

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

Article I. General Provisions

Rule 101. Scope

The *Mock Trial Rules of Competition* and these *Federal Rules of Evidence – Mock Trial Version* govern the Oregon High School Mock Trial Competition.

Rule 102. Purpose and Construction

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

Article II. Judicial Notice

Rule 201. Judicial Notice of Adjudicative Facts

1. This rule governs judicial notice of an adjudicative fact only, not a legislative fact.
2. The court may judicially notice a fact that is not subject to reasonable dispute because it is a matter of mathematical or scientific certainty. For example, the court could take judicial notice that $10 \times 10 = 100$ or that there are 5,280 feet in a mile.
3. The court must take judicial notice if a party requests it and the court is supplied with the necessary information.
4. The court may take judicial notice at any stage of the proceeding.
5. A party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed.
6. In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

Article IV. Relevancy and Its Limits

Rule 401. Definition of Relevant Evidence

Evidence is relevant if:

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

Rule 402. General Admissibility of Relevant Evidence

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

Example: Questions and answers must relate to an issue in the case. The following is likely inadmissible in a traffic accident case: “Mrs. Smith, how many times have you been married?”

Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, etc.

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

Rule 404. Character Evidence; Crimes or Other Acts

a) Character Evidence

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

b) Crimes, Wrongs, or Other Acts

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

Rule 405. Methods of Proving Character

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

Rule 406. Habit, Routine Practice

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

Rule 407. Subsequent Remedial Measures

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

1. negligence;
2. culpable conduct;
3. a defect in a product or its design;
4. a need for a warning of instruction.

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

Rule 408. Compromise Offers and Negotiations

- a) Prohibited Uses. Evidence of the following is not admissible – on behalf of any party – either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or contradiction:
 1. furnishing, promising, or offering – or accepting, promising to accept, or offering to accept – a valuable consideration in compromising or attempting to compromise the claim; and
 2. conduct or a statement made during compromise negotiations about the claim – except when offered in a criminal case and when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative, or enforcement authority.
- b) Exceptions. The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Rule 409. Offers to Pay Medical and Similar Expenses

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

Rule 410. Pleas, Plea Discussions, and Related Statements

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

Rule 411. Liability Insurance (civil cases only)

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

Article V. Privileges

Rule 501. General Rule

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

1. communications between husband and wife;
2. communications between attorney and client;
3. communications among grand jurors;
4. secrets of state; and
5. communications between psychiatrist and patient.

Article VI. Witnesses

Rule 601. General Rule of Competency

Every person is competent to be a witness.

Rule 602. Lack of Personal Knowledge

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under [Rule 703](#). See [Rule 3](#).

Example: Witness knows that Harry tends to drink a lot at parties and often gets drunk. Witness was not at the party and did not see Harry drink.

Attorney 1: "Do you think Harry was drunk at the party?"

Witness: "Harry gets drunk all the time, so yes he was probably drunk."

Attorney 2: "Objection, Your Honor. Lack of personal knowledge. Witness was not at the party and can't know if Harry was drunk or not."

Judge: "Sustained. The jury will disregard the witness's answer."

Rule 607. Who May Impeach

MVP Tip: An effective cross-examiner tries to show the jury that a witness should not be believed. This is best accomplished through a process called *impeachment* which may use one of the following tactics: (1) showing that the witness has contradicted a prior statement, particularly one made by the witness in an affidavit (see example below); (2) asking questions about prior conduct of the witness that makes the witness's truthfulness doubtful (see [Rule 608](#)); or (3) asking about evidence of certain types of criminal convictions (see [Rule 609](#)).

In order to impeach the witness by comparing information in the witness's affidavit to the witness's testimony, attorneys should use this procedure:

1. Introduce the witness's affidavit for identification (See [Rule 39](#));
2. Repeat the statement the witness made on direct or cross-examination that contradicts the affidavit.

Attorney: "Now, Mrs. Burns, on direct examination you testified that you were out of town on the night in question, didn't you?"

Mrs. Burns: "Yes."

3. Ask the witness to read the portion of the affidavit that contradicts the testimony.

Attorney: "Mrs. Burns, will you read Line 18 of your affidavit?"

Witness: Reading from affidavit, "Harry and I decided to stay in town and go to the theater."

4. Dramatize the conflict in the statements. Remember the point of this line of questioning is to show the contradiction, not to determine whether Mrs. Burns was in town.

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

Attorney: So, Mrs. Burns, you testified you were *out* of town the night in question, didn't you?"

Witness: "Yes."

Attorney: "Yet, in your affidavit, you said you were *in* town, did you not?"

Witness: "Yes."

Rule 608. Evidence of Character and Conduct of Witness

- a) Reputation or Opinion Evidence. A witness's credibility may be attacked or supported by testimony about the witness's reputation for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.
- b) Specific Instances of Conduct. Except for a criminal conviction under [Rule 609](#), extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:
 1. the witness; or
 2. another witness whose character the witness being cross-examined has testified about.

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

Example:

Attorney 1 (on cross-examination): "Isn't it true that you once lost a job because you falsified expense reports?"

Witness: "Yes, but..."

Attorney 1: "Thank you."

Attorney 2 (on redirect): "Did you do anything to mitigate the falsified reports?"

Witness: "Yes, I paid back all of the money and entered a program for rehabilitation."

Attorney 2: "And how long ago was this?"

Witness: "25 years."

Attorney 2: "And have you successfully held jobs since then that required you to be truthful and to be trusted by your employer?"

Witness: "Yes."

Rule 609. Impeachment by Evidence of Conviction of Crime

- a) In General. The following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:
 1. for a crime that, in the convicting jurisdiction, was punishable by death or by imprisonment for more than one year, the evidence:
 - A. must be admitted, subject to Rule 403, in a civil case or in a criminal case in which the witness is not a defendant; and
 - B. must be admitted in a criminal case in which the witness is a defendant if the probative value of the evidence outweighs its prejudicial effect to that defendant; and
 2. for any crime regardless of the punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime required proving – or the witness's admitting – a dishonest act or false statement.
- b) Limit on Using the Evidence After 10 Years. This subdivision 2. applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect.
- c) Effect of a Pardon, Annulment, or Certificate of Rehabilitation. Evidence of a conviction is not admissible if:
 1. the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding that the person has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or
 2. the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

- d) Juvenile Adjudications. Evidence of a juvenile adjudication is admissible under this rule only if:
1. it is offered in a criminal case;
 2. the adjudication was of a witness other than the defendant;
 3. an adult's conviction for that offense would be admissible to attack the adult's credibility; and
 4. admitting the evidence is necessary to fairly determine guilt or innocence.
- e) Pendency of an Appeal. A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency is also admissible.

Rule 610. Religious Beliefs or Opinions

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

Rule 611. Mode and Order of Interrogation and Presentation

- a) Control by Court; Purposes. The Court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:
1. make those procedures effecting for determining the truth;
 2. avoid wasting time; and
 3. protect witnesses from harassment or undue embarrassment.
- b) Scope of cross-examination. The scope of cross-examination **shall not** be limited to the scope of the direct examination, but **may inquire into any relevant facts or matters contained in the witness' statement, including all reasonable inferences** that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.

MVP Tip: Cross-examination follows the opposing attorney's direct examination of a witness. Attorneys conduct cross-examination to explore weaknesses in the opponent's case, test the witness's credibility, and establish some of the facts of the cross-examiner's case whenever possible. Cross-examination should:

- call for answers based on information given in witness statements or the fact pattern;
- use leading questions which are designed to get "yes" or "no" answers (see examples below);
- never give the witness a chance to unpleasantly surprise the attorney;
- include questions that show the witness is prejudiced or biased or has a personal interest in the outcome of the case;
- include questions that show an expert witness or even a lay witness who has testified to an opinion is not competent or qualified due to lack of training or experience.

Remember to stay relaxed and be ready to adapt your prepared cross questions to the actual testimony given on direct examination; always listen to the witness's answer; avoid giving the witness an opportunity to reemphasize the points made against your case on direct; don't harass or attempt to intimidate the witness; and do not quarrel with the witness. **Be brief and ask only questions to which you already know the answer.**

- c) Leading questions. Leading questions should not be used on direct examination except as necessary to advance the witness's testimony. Ordinarily, the court should allow leading questions:
1. on cross-examination; and
 2. when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

Example:

Attorney 1 (on cross-examination): "So, Mr. Smith, you took Ms. Jones to a movie that night, didn't you?"

- d) Redirect/Recross. After cross-examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on recross, but such questions must be limited to matters raised on redirect examination and should avoid repetition. **For both redirect and recross, attorneys are limited to two questions each.**

MVP Tip: Following cross-examination, the counsel who called the witness may conduct redirect examination. Attorneys redirect to clarify new or unexpected issues or facts brought out in the immediately preceding cross-examination only; they may not bring up new issues. Attorneys may or may not want to redirect. If an attorney asks questions beyond the issues raised on cross, they may be objected to as "outside the scope of cross-examination." It is sometimes more beneficial not to conduct it for a particular witness. Attorneys should pay close attention to what is said during cross-examination to determine whether it is necessary to conduct redirect.

If the credibility or reputation for truthfulness of the witness is attacked on cross-examination, the direct examining attorney may wish to "save" the witness on redirect. If so, the questions should be limited to the damage the attorney thinks was done and should enhance the witness's truth-telling image in the eyes of the court. Work closely with your coaches on redirect and recross strategies. Remember that time will be running during both redirect and recross and may take away from the time you need for questioning other witnesses.

- e) Permitted Motions. The only motion permissible is one requesting the judge to strike testimony following a successful objection to its admission.

Rule 612. Writing Used to Refresh a Witness's Memory

If a written statement is used to refresh the memory of a witness either while testifying or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross-examine the witness on the material and introduce into evidence those portions which relate to the testimony of the witness.

Rule 613. Witness's Prior Statement

- a) Showing or Disclosing the Statement During Examination. When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's attorney.
- b) Extrinsic Evidence of a Prior Inconsistent Statement. Extrinsic evidence of a witness's prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an

adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision 2. does not apply to an opposing party's statement under [Rule 801 4.b.](#)

Article VII. Opinions and Expert Testimony

Rule 701. Opinion Testimony by Lay Witness

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

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

Example:

Inadmissible Lay opinion testimony: "The doctor put my cast on incorrectly. That's why I have a limp now."

Admissible Lay Opinion Testimony: "He seemed to be driving pretty fast for a residential street."

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify in the form of an opinion or otherwise. See Rule 24.

Rule 703. Bases of Opinion Testimony by Experts

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

MVP Tip: Unlike lay witnesses who must base their opinions on what they actually see and hear, expert witnesses can base their opinions on what they have read in articles, texts, records they were asked to review by a lawyer, or other documents which may not actually be admitted into evidence at the trial. **These records or documents *may* include statements made by other witnesses.**

Rule 704. Opinion of Ultimate Issue

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

Article VIII. Hearsay

The following scenario will be used in all of the hearsay or hearsay exception examples below:

Mary is on trial for manslaughter. She allegedly drove after drinking, jumped a curb, and hit a pedestrian on the sidewalk. The pedestrian later died from his extensive injuries. Mary claims at trial that she was not driving – her boyfriend, Nate, was – and he swerved to miss a dog in the street. Several bystanders saw the accident and told the police that Mary was driving.

Rule 801. Definitions

The following definitions apply under this article:

- a) Statement. "Statement" means a person's oral assertion, written assertion, or nonverbal conduct if the person intended it as an assertion.
- b) Declarant. "Declarant" means the person who made the statement.
- c) Hearsay. "Hearsay" means a statement that:
 - 1. the declarant does not make while testifying at the current trial or hearing; and
 - 2. a party offers in evidence to prove the truth of the matter asserted.

Example: Mary's attorney calls Mary's friend Susan to testify.

Mary's Attorney: "And was Mary driving the car in question?"

Susan: "Well, Nate told me that he was driving, not Mary."

Nate's statement is hearsay. Nate (the declarant) made an oral assertion to Susan. The statement was not made while testifying and Mary's attorney is (assuming no other facts) offering it to prove that Nate, not Mary, was driving (the truth of the matter asserted).

- d) Statements that are not Hearsay. A statement that meets the following conditions is not hearsay:
 - 1. A Declarant Witness's Prior Statement. The declarant testifies and is subject to cross-examination about a prior statement, and the statement
 - A. is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;

Example: Prior to Mary's criminal trial, the victim's family sued Mary for wrongful death and won. Nate was a witness in the civil trial and has now been called as a witness in Mary's criminal trial.

Prosecutor: "Nate, you say you were driving the vehicle before it hit the curb, correct?"

Nate: "Yes."

Prosecutor: "And you swerved and hit the curb because...?"

Nate: "I swerved to miss a dog."

Prosecutor (after properly introducing civil trial transcript for identification):
"Nate, will you read Line 18 of this page?"

- B. is consistent with the declarant's testimony and is offered to rebut an express or implied charge that the declarant recently fabricated it or acted from recent improper influence or motive in so testifying; or
 - C. identifies a person as someone the declarant perceived earlier.

2. An Opposing Party's Statement. The statement is offered against an opposing party and:
- A. was made by the party in an individual or a representative capacity;
 - B. is one the party manifested that it adopted or believed to be true;
 - C. was made by a person whom the party authorized to make a statement on the subject;
 - D. was made by the party's agent or employee on a matter within the scope of that relationship and while it existed; or
 - E. was made by the party's coconspirator during and in furtherance of the conspiracy.
- The statement must be considered but does not by itself establish the declarant's authority under iii.; the existence or scope of the relationship under iv.; or the existence of the conspiracy or participation in it under v.

Example: Prosecutor is cross-examining Susan, Mary's friend.

Prosecutor: "Mary actually called you after the accident, didn't she?"

Susan: "Yes."

Prosecutor: "And Mary told you all about the accident didn't she?"

Susan: "She talked about the accident, yes."

Prosecutor: "And Mary told you during that call that she'd driven her car into a person, right?"

Mary's Attorney: "Objection! Mary's statement to Susan is hearsay."

Prosecutor: "Your Honor, Mary's statement is an Opposing Party's statement."

Judge: "Objection overruled. Mary's statement is not hearsay and is admissible."

Prosecutor: "So, Mary told you she'd driven her car into a person, right?"

Susan: "Mary said, 'I can't believe I drove my car into a person.'"

Rule 802. Hearsay Rule

Hearsay is not admissible, except as provided by these rules.

Rule 803. Exceptions to the Rule Against Hearsay – Regardless of Availability

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

1. Present Sense Impression. A statement describing or explaining an event or condition made while or immediately after the declarant perceived it.

Example: Mary's attorney calls a bystander who was at the scene of the accident to testify.

Mary's Attorney: "Were you present when the accident occurred?"

Bystander: "Yes, I was across the street."

Mary's Attorney: "And what do you remember about the accident?"

Bystander: "I was across the street looking for an address. I had my back turned to the street and I heard an engine revving. Then, someone behind me said, 'That car is going really fast.'"

Prosecutor: "Objection! That statement is hearsay."

Mary's Attorney: "Your Honor, the statement is a present sense impression and is excepted from the hearsay rule."

Judge: "Objection overruled."

Mary's Attorney: "So you heard someone behind you say..."

Bystander: "That car is going really fast."

2. Excited Utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement that it caused.

Example: Mary's attorney continues to question the bystander.

Mary's Attorney: "So, then what happened?"

Bystander: "I started to turn toward the street and as I turned I heard a woman yell, 'Oh my God, that man's car is out of control!'"

Prosecutor: "Objection, Your Honor. Hearsay."

Mary's Attorney: "Your Honor, the woman's statement is an excited utterance. She made the statement while watching the car drive out of control and it is related to the event."

Judge: "Overruled. The statement is admissible."

3. Then-Existing Mental, Emotional, or Physical Condition. A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

Example: Mary's attorney continues to question the bystander.

Mary's Attorney: "Then what did you see?"

Bystander: "By the time I turned around, both people were out of the car. The man from the car staggered into a woman and she said, 'Oh my God, he reeks of alcohol!'"

Prosecutor: "Objection! Hearsay!"

Mary's Attorney: "Your Honor, the declarant's statement was a sensory condition. She smelled alcohol when my client's boyfriend fell into her and said so."

Judge: "The objection is overruled."

4. Statement Made for Medical Diagnosis or Treatment. Statements made for the purpose of medical diagnosis or treatment.
5. Recorded Recollection. A record that:
- A. is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;
 - B. was made or adopted by the witness when the matter was fresh in the witness's memory; and
 - C. accurately reflects the witness's knowledge.
- If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.
6. Records of Regularly Conducted Activity. A record of an act, event, condition, opinion, or diagnosis if:
- A. the record was made at or near the time by – or from information transmitted by – someone with knowledge;
 - B. the record was kept in the course of regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;
 - C. making the record was a regular practice of the activity;
 - D. all these conditions are shown by the testimony of the custodian or another qualified witness; and
 - E. the opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.
7. Absence of Regularly Conducted Activity. Evidence that a matter is not included in a record described in Rule 803.6. if:
- A. the evidence is admitted to prove that the matter did not occur or exist;
 - B. a record was regularly kept for a matter of that kind; and
 - C. the opponent does not show that the possible source of information or other circumstances indicate a lack of trustworthiness.
8. Public Records. A record or statement of a public office if:
- A. it sets out:
 - i. the office's activities;

- ii. a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law enforcement personnel; or
 - iii. in a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and
 - B. the opponent does not show that the source of information or other circumstances indicate a lack of trustworthiness.
10. Absence of a Public Record. Testimony that a diligent search failed to disclose a public record or statement if the testimony or certification is admitted to prove that:
- A. the record or statement does not exist; or
 - B. a matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind.
16. Statements in Ancient Documents. A statement in a document that is at least 20 years old and whose authenticity is established.
18. Statements in Learned Treatises, Periodicals, or Pamphlets. A statement contained in a treatise, periodical, or pamphlet if:
- A. the statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and
 - B. the publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.
21. Reputation Concerning Character. A reputation among a person's associates or in the community concerning a person's character.
22. Judgment of a Previous Conviction. Evidence of a final judgment of conviction if:
- A. the judgment was entered after a trial or guilty plea, but not a nolo contendere plea;
 - B. the conviction was for a crime punishable by death or by imprisonment for more than one year;
 - C. the evidence is admitted to prove any fact essential to the judgment; and
 - D. when offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.
- The pendency of an appeal may be shown but does not affect admissibility.

Rule 804. Hearsay Exceptions; Declarant Unavailable

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

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

- b) The Exceptions. The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:
- 1. Former Testimony. Testimony that:
 - A. was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and

- B. is now offered against a party who had – or in a civil case, whose predecessor in interest had – an opportunity and similar motive to develop it by direct, cross-, or redirect examination.
- 2. Statement Under the Belief of Imminent Death. In a prosecution for a homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.
- 3. State Against Interest. A statement that:
 - A. a reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and
 - B. is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.
- 4. Statement of Personal or Family History
 - A. the declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption, or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or
 - B. another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage or was so intimately associated with the person's family that the declarant's information is likely to be accurate.
- 5. Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability. A statement offered against a party that wrongfully caused – or acquiesced in wrongfully causing – the declarant's unavailability as a witness and did so intending that result.

Rule 805. Hearsay Within Hearsay

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

VII. Notes to Judges

A. Judging Guidelines

Mock Trial is most successful when judges are familiar with the witness statements and the rules of competition. Please take time before the competition to review both of these sections of the materials. Being prepared is the best way to honor the time and effort the students have given to the Mock Trial. ***Note that Mock Trial rules often differ from the rules in an actual court of law.*** Particularly, the evidence rules are simplified and modified.

The Mock Trial competition differs ***significantly*** from a real trial situation in the following ways:

1. Students are prohibited from making objections or using trial procedures not listed in the Mock Trial materials. Students should request a bench conference (to be held in open court from counsel table) if they think the opposing attorneys are using trial procedures outside the rules.
2. Students are limited to the information in the witness statements and fact situation. If a witness invents information, the opposing attorney may object on the grounds that the information is beyond the scope of the Mock Trial materials. The Presiding Judge is encouraged to request a bench conference (to be held in open court from counsel table) to ask the students to find where the information is included in the case materials.
3. Exhibits should not be admitted into evidence merely because they are contained in the Mock Trial materials. Objections to admission of exhibits should be heard and argued.
4. Mock Trial rounds are timed. Each team provides an official timekeeper for a trial for two total official timekeepers per trial. Timekeepers time all phases of the trial, including the final remarks.
5. Students have been instructed to address their presentations to the judge and jury. The students will address the Presiding Judge as the judge in the case and the Scoring Judges as the jury.
6. Each trial round should be **completed in less than two hours**. To keep the competition on schedule, please keep within the time limits set out in Rule 12. Objections stop the clock, so please be as efficient as possible when ruling while still allowing students to argue the objections.
7. At the conclusion of the trial, each judge will offer a general congratulatory comment to each team, and substantive comments and/or constructive criticism, at their discretion. Ballots will be shared with teams following the competition. See Rule 30. Additionally, judges shall **not** offer a verdict on the merits.

Each courtroom will be assigned a panel of Two Judges. In extenuating circumstances, a courtroom may have only have one Judge. See Rule 29.

B. Virtual Competition – Introductory Matters (Presiding Judge)

The Presiding Judge should handle the following introductory matters before beginning the trial:

1. Ask each side if it is ready for trial. Remind non-performing participants that their video and audio should be muted. Then, ask one team member from each team to state their team members' names, roles, and the team letter code (not school name).
2. Inquire of both teams whether they have objections to recording of the round.
3. Ask if there are people in the Zoom courtroom who are connected with other schools in the competition not performing in your courtroom. If so, they should be asked to leave the Zoom courtroom and be reassigned from the main Zoom room.
4. Remind observers of the importance of showing respect for the teams. Observers must remain muted with no video throughout the entire trial.

5. Remind teams that witnesses are permitted to testify only to the information in the fact situation, their witness statements, and what can be reasonably inferred from that information.
6. Remind teams that they must complete their presentations within the specified time limits. The timekeepers will signal you in the Zoom chat area as the time for each segment progresses. Three-minute, one minute, and TIME warnings will be posted by both timekeepers. At the end of each segment attorneys and witnesses will be stopped when time has run out, regardless of completion of the presentation.
7. All witnesses must be called and sworn in. If a team fails to call a witness penalty points will be assigned.
8. Only the following exhibits may be offered as evidence at the trial:

Exhibit 1: Acute Concussion Evaluation (ACE) Physician Clinician

Exhibit 2: Acute Concussion Evaluation (ACE) Care Plan

Exhibit 3: CDC Facts About Concussion and Brain Injury

Exhibit 4: Sports Concussion Fact Sheet SB721, Jenna's Law

Exhibit 5: Rubicon Soccer Club Medical Consent/Waiver of Liability, Release

Finally, before you begin, indicate that you have been assured that the Code of Ethical Conduct has been read and will be followed by all participants in the Mock Trial competition. Should there be a recess at any time during the trial, the communication rule shall be in effect. See the [Code of Ethical Conduct](#). If there are no other questions, begin the trial.

At the end of the trial, judges will complete their ballots. Judges should **not** announce a verdict on the merits. Once ballots are complete, judges will immediately submit them before final remarks are made.

C. In-Person Competition – Introductory Matters (Presiding Judge)

The Presiding Judge should handle the following introductory matters before beginning the trial:

1. Ask each side if it is ready for trial. If so, ask each side to provide each judge with a copy of its Team Roster. Then, ask each member to rise and state their name, role and team letter code (not school name).
2. If video or audio recorders are present, inquire with both teams whether they have objectives to recording of the round.
3. Ask if there are people in the courtroom who are connected with other schools in the competition not performing in your courtroom. If so, they should be asked to leave. They may contact the Competition Coordinator to determine the location of the courtroom in which their school is performing.
4. Remind spectators of the importance of showing respect for the teams. Ask spectators to silence electronic devices. Judges may remove spectators who do not adhere to proper courtroom decorum.
5. Remind teams that witnesses are permitted to testify only to the information in the fact situation, their witness statements, and what can be reasonably inferred from that information.
6. Remind teams that they must complete their presentations within the specified time limits. The bailiff will signal you as the time for each segment progresses. Three-minute, one minute and zero-minute cards will be held up by the bailiff. At the end of each segment attorneys and witnesses will be stopped when time has run out, regardless of completion of the presentation.
7. All witnesses must be called. If a team fails to call a witness penalty points will be assigned.
8. Only the following exhibits may be offered as evidence at the trial:

Exhibit 1: Acute Concussion Evaluation (ACE) Physician Clinician

Exhibit 2: Acute Concussion Evaluation (ACE) Care Plan

Exhibit 3: CDC Facts About Concussion and Brain Injury

Exhibit 4: Sports Concussion Fact Sheet SB721, Jenna’s Law

Exhibit 5: Rubicon Soccer Club Medical Consent/Waiver of Liability, Release

Finally, before you begin, indicate that you have been assured that the Code of Ethical Conduct has been read and will be followed by all participants in the Mock Trial competition. Should there be a recess at any time during the trial, the communication rule shall be in effect. See the [Code of Ethical Conduct](#). If there are no other questions, begin the trial.

At the end of the trial, judges will complete their ballots. Judges should **not** announce a verdict on the merits. Once ballots are complete, judges will immediately submit them before final remarks are made.

D. Evaluation Guidelines

You should use the competing team rosters (provided by each team) for note-taking and reference when evaluating performances.

Judges will be provided with the link to the online ballot. Ballots shall be completed and submitted **immediately** following completion of the round and before final remarks. If online ballots are not available, ballots shall be completed and given to the Clerk for delivery to the scoring room immediately following competition of the round and before the final remarks. Judges will provide oral critique. Comments may also be written on ballots. Teams will be provided with copies of their ballots after the competition.

Judges shall assign a score of 1-10 in each section of their ballots. Scoring is broken down as follows:

1-2 pts	Poor, Unprepared: does not meet criteria
3-4 pts	Weak, Needs Practice: developing the criteria, but inconsistent
5-6 pts	Fair, Average: meets the criteria some of the time
7-8 pts	Good, Very Good: proficient with the criteria nearly all of the time
9-10 pts	Excellent, Amazing: mastery or near mastery of the criteria at all times

Judges will be provided with a performance evaluation rubric for each role being evaluated. A good way to approach assigning points is to start each performance at a 5-6 (average). Then, the performance can either drop below or exceed average. This helps to avoid score inflation. **Remember: a score of 1 OR 10 should be extremely rare.**

E. Penalty Points

Penalty Points should be assigned if a team member:

1. uses procedures beyond the Mock Trial rules (with intent, not mistakenly);
2. goes beyond the scope of the Mock Trial materials (with intent, not mistakenly);
3. does not follow mock trial rules in any other way (with intent, not mistakenly);
4. talks to coaches, non-performing team members or other observers. This includes during breaks and recesses, if any should occur, in the trial. This violation, if determined to be harmful, carries a mandatory **2-point penalty** to be indicated on the Presiding Judge’s ballot.
5. does not call all witness. This violation carries a mandatory **2-point penalty** to be indicated on the Presiding Judge’s ballot.

Note: The conduct of teachers and attorney coaches may impact a team’s score.

Judges shall not engage in any discussion with students or coaches about scoring before, during, or after the trial. Any questions from teams about scoring should be referred to the Competition Coordinator.

1. Only the following exhibits may be offered as evidence at the trial:
 1. Acute Concussion Evaluation (ACE) Physician/Clinician
 2. Acute Concussion Evaluation (ACE) Care Plan
 3. CDC Facts About Concussion and Brain Injury
 4. Sports Concussion Fact Sheet SB721, Jenna's Law
 5. Rubicon Soccer Club Medical Consent/Waiver of Liability and Release

APPENDICES

A. Often Used Objections in Suggested Form

This appendix is provided to assist students with the proper form of objections. It is **not** a comprehensive list of all objections. Permissible objections are those related to a rule in the Mock Trial materials. Impermissible objections are those not related to the Mock Trial rules (example: hearsay exception for business records). That is to say, an objection must be based on a rule found in the Mock Trial materials, not based on additional rules even if they are commonly used by lawyers in real trials.

The following are objections are often heard in mock trials but do not represent an exhaustive list of possible objections.

Note: Objections during the testimony of a witness will be permitted only by the direct examining and cross-examining attorneys for that witness.

1. **Leading Question.** See [Rule 611](#).

Example:

Attorney 1 (on cross-examination): “So, Mr. Smith, you took Ms. Jones to a movie that night, didn’t you?” (This question calls for a yes or no answer.)

Attorney 2: “Objection! Counsel is leading the witness.”

Attorney 1: “Your Honor, leading is permissible on cross-examination.”

Judge: “Objection is overruled.”

OR

Attorney 2 (on direct examination): “So, Mr. Smith, you took Ms. Jones to a movie that night, didn’t you?”

Attorney 1: “Objection! Counsel is leading the witness.”

Attorney 2: “I’ll rephrase Your Honor. Mr. Smith, where did you and Ms. Jones go that night?” (This question is open-ended and does not call for a yes or no answer.)

2. **Relevance.** See [Rule 402](#).

Example: In a traffic accident case defendant is accused of intentionally hitting her ex-husband’s car. Her defense is that she had no intention of hitting her ex-husband, but couldn’t stop in time to avoid the collision.

Plaintiff’s Attorney (on cross-examination): “You are divorced from the Plaintiff, correct?”

Defendant: “Yes.”

Plaintiff’s Attorney: “And the Plaintiff was your 4th husband, right?”

Defendant’s Attorney: “Objection, Your Honor. My client’s past marriages are not relevant here.”

Plaintiff’s Attorney: “Your Honor, this line of questioning goes toward showing the Defendant’s motive and a pattern of behavior based on her past divorces.”

Judge: “I’ll allow it, but Counsel please lay a better foundation for the question.”

3. **Hearsay.** See [Rules 801 – 805](#).

Example: Defense attorney questions bystander in a traffic collision case resulting in a death.

Defense Attorney: “So, then what happened?”

Bystander: “I started to turn toward the street and as I turned I heard a woman yell, ‘Oh my God, that man’s car is out of control!’”

Prosecutor: “Objection, Your Honor. The woman’s statement is hearsay.”

Defense Attorney: “Your Honor, the woman’s statement is an excited utterance. She made the statement while watching the car drive out of control and it is related to the event.” (This is an explanation of the exception/exclusion which the attorney asserts applies to the statement.)

Judge: “Overruled. The statement is admissible.”

4. **Personal Knowledge.** See [Rule 602](#).

Example: Witness knows that Harry tends to drink a lot at parties and often gets drunk. Witness was not at the party and did not see Harry drink.

Attorney 1: “Do you think Harry was drunk at the party?”

Witness: “Harry gets drunk all the time, so yes he was probably drunk the night of the party.”

Attorney 2: “Objection, Your Honor. Lack of personal knowledge. Witness was not at the party and can’t know if Harry was drunk or not.”

Judge: “Sustained. The jury will disregard the witness’s answer.”

5. **Opinions.** See [Rule 701](#).

Example:

Attorney 1: And what happened when you went home from the Emergency Room?”

Witness: “I figured out the doctor put my cast on incorrectly. That’s why I have a limp now.”

Attorney 2: “Objection, Your Honor. The witness is not a doctor and can’t offer an opinion on the sufficiency of his cast.”

Attorney 1: “The witness can offer his opinion about his own cast.”

Judge: “The objection is sustained. The witness does not have the expertise to evaluate his cast or whether it caused him to limp.”

6. **Outside the Scope of Mock Trial Materials/Rules.** See [Rule 4](#).

Example: Witness’s statement says that she is a mother of eight children and works two jobs.

Attorney 1 (on cross-examination): “So, you have *eight* children?”

Witness: “Yes.”

Attorney 1: “And you work *two* jobs?”

Witness: “Yes.”

Attorney 1: “So, you must be pretty exhausted most days.”

Attorney 2: “Objection, Your Honor. Question asks witness to testify to information not contained in the mock trial materials.”

Attorney 1: “Your Honor, she would be making a reasonable inference from her witness statement.”

Judge: “Objection is overruled. It is reasonable to infer from the mock trial materials that the witness might be tired.”

OREGON HIGH SCHOOL MOCK TRIAL

Time Sheet (Civil Case)

ROUND: _____

Plaintiff Team Code _____

v.

Defendant Team Code _____

	Plaintiff Time Used		Defense Time Used	
	Opening: 5-minute maximum Used: _____		Opening: 5-minute maximum Used: _____	
	Direct* + Redirect* = Used** 20:00		Cross* + Recross* = Used** 15:00	
W1	_____ + _____ = _____ > _____ = _____	- _____ = _____	_____ + _____ = _____ > _____ = _____	- _____ = _____
W2	_____ + _____ = _____ > _____ = _____	- _____ = _____	_____ + _____ = _____ > _____ = _____	- _____ = _____
W3	_____ + _____ = _____ > _____ = _____	- _____ = _____	_____ + _____ = _____ > _____ = _____	- _____ = _____
	Cross* + Recross* = Used** 15:00		Direct* + Redirect* = Used** 20:00	
W4	_____ + _____ = _____ > _____ = _____	- _____ = _____	_____ + _____ = _____ > _____ = _____	- _____ = _____
W5	_____ + _____ = _____ > _____ = _____	- _____ = _____	_____ + _____ = _____ > _____ = _____	- _____ = _____
W6	_____ + _____ = _____ > _____ = _____	- _____ = _____	_____ + _____ = _____ > _____ = _____	- _____ = _____
	Closing: 5-minute max. Used: _____ Unused: _____ Rebuttal: _____		Closing: 5-minute max. Used: _____ N/A N/A	
Judges' Deliberation: 7 min. max Time Used: _____				

*Round to the nearest 10 seconds before recording and adding together

**Round to the nearest 30 seconds before recording and subtracting from time remaining.

C. Team Roster

OREGON HIGH SCHOOL MOCK TRIAL TEAM ROSTER

Team Code: _____

Submit copies to: (1) Competition Coordinator before trials begin; (2) Each of 3 judges in each round; and (3) Opposing team in each round (19 total copies not including spares). For the benefit of judges and the opposing team, please indicate pronouns for each student.

MOCK TRIAL ROLE	STUDENT NAME/PRONOUNS
PLAINTIFF TEAM	
Witness –	
Witness –	
Witness –	
Attorney – Opening Statement	
Attorney – Direct Examination of Witness	
Attorney – Direct Examination of Witness	
Attorney – Direct Examination of Witness	
Attorney – Cross-Examination of Defense Witness	
Attorney – Cross-Examination of Defense Witness	
Attorney – Cross-Examination of Defense Witness	
Attorney – Closing Argument	
Clerk	
DEFENSE TEAM	
Witness –	
Witness –	
Witness –	
Attorney – Opening Statement	
Attorney – Direct Examination of Witness	
Attorney – Direct Examination of Witness	
Attorney – Direct Examination of Witness	
Attorney – Cross Examination of Plaintiff Witness	
Attorney – Cross Examination of Plaintiff Witness	
Attorney – Cross Examination of Plaintiff Witness	
Attorney – Closing Argument	
Bailiff	



Witness Scores		Attorney Scores	
		Plaintiff Opening Statement	Defendant Opening Statement
Prosecution Witness One	Name:	Direct Examination One:	Cross Examination One:
Direct	Cross		
Prosecution Witness Two	Name:	Direct Examination Two:	Cross Examination Two:
Direct	Cross		
Prosecution Witness Three	Name:	Direct Examination Three:	Cross Examination Three:
Direct	Cross		
Defendant Witness One	Name:	Cross Examination One:	Direct Examination One:
Direct	Cross		
Defendant Witness Two	Name:	Cross Examination Two:	Direct Examination Two:
Direct	Cross		
Defendant Witness Three	Name:	Cross Examination Three:	Direct Examination Three:
Direct	Cross		
		Plaintiff Closing Argument	Defendant Closing Argument

Round (circle one): 1 2 3 4
Ballot 2022-2023



Prosecution Letter Code: _____

Defendant Letter Code: _____

E. Scoring Rubric

	OPENING STATEMENT	DIRECT EXAMINATION	CROSS EXAMINATION	CLOSING ARGUMENT
ATTORNEY SCORING CRITERIA	<input type="checkbox"/> Provided a case overview and story <input type="checkbox"/> The theme/theory of the case was identified <input type="checkbox"/> Mentioned the key witnesses <input type="checkbox"/> Provided a clear and concise description of their team's evidence and side of the case <input type="checkbox"/> Stated the relief or verdict requested <input type="checkbox"/> Discussed the burden of proof <input type="checkbox"/> Presentation was non-argumentative; did not include improper statements or assume facts not in evidence <input type="checkbox"/> Professional and composed <input type="checkbox"/> Spoke naturally and clearly	<input type="checkbox"/> Properly phrased and effective questions <input type="checkbox"/> Examination was organized effectively to make points clearly; questions had clear purpose <input type="checkbox"/> Used proper courtroom procedures <input type="checkbox"/> Handled objections appropriately and effectively <input type="checkbox"/> Did not overuse objections <input type="checkbox"/> Did not ask questions that called for an unfair extrapolation from the witness <input type="checkbox"/> Demonstrated an understanding of the Modified Federal Rules of Evidence <input type="checkbox"/> Handled physical evidence appropriately and effectively <input type="checkbox"/> Professional and composed <input type="checkbox"/> Spoke confidently and clearly	<input type="checkbox"/> Properly phrased and effective questions <input type="checkbox"/> Examination was organized effectively to make points clearly; questions had clear purpose <input type="checkbox"/> Used proper courtroom procedures <input type="checkbox"/> Handled objections appropriately and effectively <input type="checkbox"/> Did not overuse objections <input type="checkbox"/> Did not ask questions that called for an unfair extrapolation from the witness <input type="checkbox"/> Used various techniques to handle a non-responsive witness <input type="checkbox"/> Properly impeached witnesses <input type="checkbox"/> Demonstrated an understanding of the Modified Federal Rules of Evidence <input type="checkbox"/> Handled physical evidence appropriately and effectively <input type="checkbox"/> Professional and composed <input type="checkbox"/> Spoke confidently and clearly	<input type="checkbox"/> Theme/theory reiterated in closing argument <input type="checkbox"/> Summarized the evidence <input type="checkbox"/> Emphasized the supporting points of their own case and mistakes and weaknesses of the opponent's case <input type="checkbox"/> Concentrated on the important facts <input type="checkbox"/> Applied the relevant law <input type="checkbox"/> Discussed burden of proof <input type="checkbox"/> Did not discuss evidence that was not included in the trial presentation <input type="checkbox"/> Persuasive <input type="checkbox"/> Use of notes was minimal, effective, and purposeful <input type="checkbox"/> Contained spontaneous elements that reflected unanticipated outcomes of this specific trial <input type="checkbox"/> Professional and composed <input type="checkbox"/> Spoke naturally and clearly
WITNESS SCORING CRITERIA		<input type="checkbox"/> Responses consistent with facts <input type="checkbox"/> Did not materially go outside case materials <input type="checkbox"/> Understood witness statements and exhibits <input type="checkbox"/> Used exhibits to enhance testimony <input type="checkbox"/> Voice was clear, audible, confident and convicted <input type="checkbox"/> Performance was compelling <input type="checkbox"/> Characterization was engaging and drew you in <input type="checkbox"/> Recovered after objections <input type="checkbox"/> Took command of courtroom without being overbearing <input type="checkbox"/> Responses were spontaneous and natural	<input type="checkbox"/> Responses consistent with facts <input type="checkbox"/> Did not materially go outside case materials <input type="checkbox"/> Understood witness statements and exhibits <input type="checkbox"/> Used exhibits to enhance testimony <input type="checkbox"/> Voice was clear, audible, confident and convicted <input type="checkbox"/> Performance was compelling <input type="checkbox"/> Characterization was engaging and drew you in <input type="checkbox"/> Recovered after objections <input type="checkbox"/> Answered cross questions responsibly <input type="checkbox"/> Stayed in character during cross	Scoring Guide 9-10: Excellent, Amazing: mastery or near mastery of the criteria at all times 7-8: Good, Very Good: proficiency with the criteria nearly all of the time 5-6: Fair, Average: meets the criteria much of the time 3-4: Weak, Needs Practice: developing the criteria, but inconsistent/poorly executed 1-2: Poor, Unprepared: unpracticed; does not meet criteria

DIAGRAM OF A TYPICAL U.S. COURTROOM

