

CIVICS LEARNING PROJECT proudly sponsors the

Oregon High School Mock Trial Competition

2024-2025 Mini Mock Case



Malcolm

v.

Utopia Zoo

A SPECIAL THANK YOU to The North Carolina Mock Trial Program for allowing Civics Learning Project to use their case for our Mini Mock. An additional thank you to the original case authors Carolina Center for Civic Education and the North Carolina Advocates for Justice.



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.

Malcolm v. Utopia Zoo

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CIVICS LEARNING PROJECT
**2024-25 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. The original case was created by Lionel F. Earl III, CCCE Case Committee Chair, and originally published by the North Carolina Mock Trial Program.

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 CIVICS LEARNING 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

In 2012, successful business owner Jordan Hammond purchased the Utopia Zoo. In addition to acquiring exotic animals for new exhibits, Hammond constructed a safari tour on which visitors could see animals up close in a simulated habitat. During construction, Hammond employed engineer Devin Grant to assess the safety of the new attraction. Grant expressed doubts about the security of the safari tram and was promptly fired.

On August 9, 2018, star basketball player Taylor Malcolm visited the safari at Utopia Zoo. During the tour, Malcolm imitated the call of the gorillas as a prank. Hearing Malcolm, the gorillas became agitated and approached the tram. Malcolm continued making noise, and the gorillas attacked the tram. Tour guide Sammy Dundee shot a tranquilizer dart in the direction of the gorillas.

The tranquilizer dart hit Malcolm, causing the student to slump over the side of the tram. Malcolm's arm was bitten by one of the gorillas. Dundee quickly recovered and tranquilized the attacking gorilla. Malcolm was taken to the hospital and received months of physical therapy for the arm injury. As a result of those injuries, Malcolm was unable to pursue a promising career in basketball.

Malcolm has now brought a claim of negligence against the Utopia Zoo, arguing that the zoo failed to ensure Malcolm's safety during the tour. Malcolm further alleges that the injuries from the gorilla bite could have been prevented if proper regulations had been followed. Utopia Zoo denies the allegations, asserting that its employee, Sammy Dundee, followed proper protocol. The zoo further alleges that Malcolm endangered other guests by their own negligent actions and caused his/her own injuries.

B. Witness List

For the plaintiff:

Taylor Malcolm, Plaintiff
Devin Grant, Engineer
Robin Thomas, Journalist

For the defense:

Jordan Hammond, Zoo Owner
Dr. Morgan Goodall, Professor
Sammy Dundee, Tour Guide

C. List of Exhibits

1. Medical Record for Taylor Malcolm
2. Utopia Zoo Safety Evaluation Memorandum
3. Utopia Zoo Safari Map
4. Utopia Zoo Welcome Letter
5. Curriculum Vitae for Dr. Morgan Goodall
6. Warning sign posted in all tram cars

D. Applicable Law & Stipulations

Continued on next page.

IN THE CIRCUIT COURT OF THE STATE OF UTOPIA
FOR SHUBIN COUNTY

TAYLOR MALCOLM)	
)	Plaintiff
v.)	
UTOPIA ZOO)	
)	Defendant

The Applicable Law

Utopia Civil Code

42 U. Gen. Stat. § 7101. Negligence; elements of tort.

(a) **GENERAL RULE:** To prove negligence, the party making the claim must prove four elements: duty, breach of duty, causation, and damages.

(1) **DUTY:** Negligence refers to a person's failure to follow a duty of care owed as a result of a relationship that exists between the parties. Every person is under a duty to use ordinary care to protect himself/herself and others from injury. "Ordinary care" means that degree of care which a reasonable and prudent person would use under the same or similar circumstances to protect himself/herself and others from injury. It includes both the failure to do what a reasonably prudent person would have done under the same or similar circumstances, or the doing of something which a reasonably prudent person would **not** have done under the same or similar circumstances. To prove negligence, the plaintiff must first demonstrate that the defendant owed a duty of care to the plaintiff.

(2) **BREACH OF DUTY:** A person's failure to use ordinary care is a breach of duty. On this issue the burden of proof is on the plaintiff. The plaintiff must prove, by the greater weight of the evidence, that the defendant did not uphold his/her duty to exercise reasonable and prudent care in the given circumstances. Reasonable care is an objective standard, having regard for the particular circumstances of the case, including the age and knowledge of the participants and the conditions at the scene of the injury.

(3) **CAUSATION:** Causation has two components: direct cause (or cause in fact) and proximate cause. To prove direct cause, the plaintiff must establish either that the plaintiff would not have been harmed "but-for" the defendant's conduct or that the defendant's conduct was a substantial factor in bringing about the harm. Proximate cause is a cause which in a natural and continuous sequence produces a

person's injury, and is a cause which a reasonable and prudent person could have foreseen would probably produce such injury or some similar injurious result. There may be more than one proximate cause of an injury. Therefore, the plaintiff need not prove that the defendant's negligence was the sole proximate cause of the injury.

(4) DAMAGES: Actual damages are the fair compensation to be awarded to a person for any past, present, and/or future injury proximately caused by the negligence of another. In determining the amount, if any, to be awarded to the plaintiff, evidence is considered as to each of the following types of damages: past, present, and future pain and suffering; past, present, and future medical expenses; and past, present, and future diminution of earning capacity. The total of all damages are to be awarded in one lump sum.

42 U. Gen. Stat. § 7102. Contributory negligence.

(a) GENERAL RULE: Contributory negligence refers to the Plaintiff's failure to use ordinary care which joins with the negligence of the defendant to proximately cause injury to the plaintiff. The test of what constitutes negligence is as defined in § 7101 above.

(b) BURDEN: The burden to prove contributory negligence lies upon the defendant. The defendant must prove, by a greater weight ("preponderance") of the evidence, that the plaintiff was negligent and that such negligence was a proximate cause of the plaintiff's own injury or damages.

42 U. Gen. Stat. § 7103. Comparative negligence.

(a) GENERAL RULE: In all actions brought to recover damages for negligence resulting in death or injury to person or property, the fact that the plaintiff may have been guilty of contributory negligence shall not bar a recovery by the plaintiff or his legal representative where such negligence was not greater than the causal negligence of the defendant or defendants against whom recovery is sought, but any damages sustained by the plaintiff shall be diminished in proportion to the amount of negligence attributed to the plaintiff. Thus, even if the plaintiff is also negligent, plaintiff can recover some percentage from liable defendants as long as the plaintiff is 50% or less at fault than the defendant.

IN THE CIRCUIT COURT OF THE STATE OF UTOPIA
FOR SHUBIN COUNTY

TAYLOR MALCOLM)
Plaintiff)
v.) **STIPULATIONS**
UTOPIA ZOO)
Defendant)

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. For purposes of the Mini Mock, student competitors need only prove the fact of injury and the elements of duty, breach, and causation. The amount of damages need not be proven or argued by participants and will not be determined by Mock Trial Judges
4. The Case Summary provides background information only. Witnesses may testify to information contained in the Case Summary only if it is also found in their witness statement.

Pat Jenkins
Pat Jenkins, Esq.
Attorney at Law

Chris Sinclair
Chris Sinclair, Esq.
Attorney at Law

E. Witness Statements

Affidavit of Taylor Malcolm

Taylor Malcolm, being duly sworn, hereby deposes and states as follows:

My name is Taylor Malcolm. I was born in 1989 and I live in Jordan Hall at the University of Utopia. Although my grades were good enough to get me into UU, school has never been my “thing.” First and foremost I am a basketball player. I have been playing since I was big enough to dribble a ball. My dad always told me to work hard and I guess it paid off. After my senior year in high school, I was given a full scholarship to play basketball at the University of Utopia. It was my dream-come-true! I gave it my all during freshman year both on and off the court. During my first season, we were the Division Champions for the first time since 2001.

Naturally with all the success came a lot of attention. Every time I went out for a walk on campus, students would stop me and ask for an autograph. Pictures of me at the dining hall would randomly appear on the internet. Even when I went to visit my small hometown, strangers would tag along just so they could claim they knew me. I guess you could say it went to my head. Whenever I wanted to show off, my teammates and I would do stupid stunts at parties to see who was crazier. I always won.

The only time I actually got in trouble with the law was after winning the game against our rivals at Utopia State. Everyone on the team was having a great time at the party. We were on the balcony of someone’s house and could see straight into the neighbor’s yard. As a basketball player, I can jump fairly high, so a friend bet me I couldn’t jump into the other yard and land on the neighbor’s trampoline. I admit, I had a little to drink, but that wasn’t what motivated me. Once I’m challenged, I can never back down. So I climbed over the balcony and jumped from the ledge onto the trampoline. The neighbors called the police for trespassing, but I got off with a warning. Mostly, everyone was just grateful I wasn’t hurt, or else I would have missed the next game.

Towards the end of sophomore year, I tried to tone down the crazy lifestyle. I made more of an effort to volunteer in the community and I devoted more time to my true friends.

On August

9, 2018, my friends decided to surprise me with tickets to Utopia Zoo. We hadn’t been there since we were kids, and I had heard that the new owner had built some cool new exhibits. We arrived just after lunch. My friend, Tom, darted straight for the snake exhibit. I am terrified of snakes, but I did not want to seem like a wimp so I went anyway. Once inside we stopped to look

at the anaconda. It was asleep, so Tom dared me to knock on the glass. I pointed out the sign above the display and read aloud, “No Flash Photography or Disturbing the Animals.” Tom said I was getting soft. I waited to make sure no one was nearby, and then I tapped the glass. The snake did not move, but a zoo worker rounded the corner, so all of us ran from the exhibit. I had forgotten how much fun getting in trouble could be.

Later we went to the zoo safari where you can ride a tram and see the animals up close. While waiting in line, we read the signs that said disturbing the animals was prohibited and cause for expulsion from the zoo. But when we boarded the tram, the tour guide never explained exactly what the sign meant. The antelopes were fairly boring and by the time we got to the gorilla exhibit, my friends and I were ready to see something exciting. Most of the gorillas were in the far corner of the exhibit, but two of them were closer to us. Tom said we should try to get their attention so they would get closer to the tram, so I started making a gorilla sound.

The two larger gorillas came closer to the tram. My friends thought it was hilarious that my gorilla calls were working, so I kept making noise. When one of the gorillas started howling back at me, I stopped yelling. I only wanted to see the animals up close, not make them angry.

The next thing I remember is waking up at the hospital with my left arm bandaged and in a lot of pain. Apparently, the incompetent tour guide shot me with a tranquilizer dart instead of hitting the gorilla. How do you miss a 500 pound gorilla? After I was hit with the dart, I passed out and slumped over the side of the tram. That’s when the gorilla attacked me. It bit my arm before they finally were able to tranquilize him.

My personal sports doctor, Jesse Cruz, told me it would take weeks before I would be able to fully move my hand, and months before my arm would recover. Dr. Cruz went over my medical records with me when he explained my injuries and the treatment and physical therapy I would need. The hospital bills were insane. Even though I have a full scholarship, my family is not rich, and it has been difficult paying off the bill. To make matters worse, I missed most of the pre-season workouts because of my injuries. Even though it has been some time since the injury, my game is still off and I don’t think I’ll ever reach the level of playing I was at before I was hurt. Ever since I was little, I set my sights on playing in the pros. Before this happened, pro scouts were following me, but not anymore. I had so much going for me, it’s hard to take.

Of the available exhibits, I am familiar with the following, and only the following: “Medical Record for Taylor Malcolm,” which my doctor showed to me; the zoo “Welcome” letter,

and “Utopia Zoo Safari Map” which I received in my brochure when I was at the zoo. I hereby attest to having read the above statement and swear or affirm it to be my own. By signing this document I swear to or affirm the truthfulness of its content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to such a time whereas I may be called upon to testify in court, and that in such an event a copy of my updated statement is given to all parties involved in this case, I am bound by the content herein.

Taylor Malcolm

Taylor Malcolm

Subscribed and sworn before me on this day, the 23rd of October, 2018

Beth Eckhardt

Beth Eckhardt, Notary Public

Affidavit of Devin Grant

Devin Grant, being duly sworn, hereby deposes and states as follows:

My name is Devin Grant. I was born in 1971 and live in Houston, Texas. I attended the Trinity School of Engineering at Duke University where I received a degree in Mechanical Engineering. I then went to MIT, but I only completed the master's program. My first job was in Michigan overseeing the collision testing of automobiles. Through this line of work, I became familiar with various safety standards and construction processes that determine whether a structure is safe. In 2000, I noticed a flaw in the production of my company's newest vehicle. I notified my superiors of the problem with the vehicle, but I was told to keep quiet. The company had invested a lot into this specific car and if I delayed production, the company would lose a lot of money. Nonetheless, I independently submitted a report expressing my lack of faith in the automobile's design. Less than a year later, a lawsuit was filed against the company. A politician had been injured in a car wreck due to the very flaw I noticed in the car. My report was discovered and I was called upon by the plaintiff's lawyers to testify. For my time in court and evidence that I provided, I earned \$50,000! This money allowed me to finally quit my job and start my own consulting business.

The type of jobs I took with my own business varied. Sometimes I was flown out west to consult with architects about the structural integrity of buildings along the fault lines where earthquakes can occur. Other times, I've been hired by amusement parks to run tests on attractions to see if they are safe for the public. Although my training is in mechanical engineering, I consider myself a jack-of-all-trades. I have experience in physics and civil engineering that allows me to be knowledgeable in any situation.

In 2012, I received a phone call from Jordan Hammond, a business owner in Utopia. S/he discussed hiring me to inspect the safari feature of their zoo. I offered to fax Hammond my credentials and asked for background information on the zoo to prepare for my inspection. Hammond ignored me. I was annoyed by Hammond's rudeness but I'm not one to refuse a job, so I booked my flight to Utopia for the next day. After our phone conversation, I didn't expect a warm welcome, and I wasn't disappointed. Hammond led me to the construction of the new exhibits and safari and left me alone to conduct my inspection. My investigation of the zoo exhibits yielded no significant conclusions. The steel fences and concrete moats enclosing the animals were sufficient

to ensure the safety of both the guests and animals. However, I deemed the safari ride unsafe for visitors.

The first problem was the tram itself. Instead of the usual gas propelled vehicle, the tram was a train-like vehicle that ran on an automatic track. This set-up meant that the tour guide had no control over the movement of the vehicle. Secondly, I noted that given the size of the tram and railing, it was likely that the tram could malfunction and become locked on the track. In addition, any animal of significant size could prevent the tram from moving. Thirdly, I noticed that the tram itself was too long for the tour guide to adequately monitor the zoo visitors. Using precise measurements, I found a tour guide sitting at the front of the tram had a 25 degree blind spot. Finally, I inspected the walls of the tram itself. Hammond boasted that the “money-maker” of the safari was the lack of fences. The visitors would be able to view the animals in a simulated habitat without any barriers. The structural integrity of the tram’s body was sound, but the height of the car doors was too low. At three feet from ground level, I felt visitors would be in danger of animals reaching into the car.

Hammond was too busy to speak with me after my inspection, so I summarized my findings in a report. Additionally, I made recommendations to remedy the problems I found. I suggested changing the tram to a manually controlled vehicle, redesigning the head car of the tram to allow the tour guide more visibility, and adding landscaping to elevate the track onto higher ground. I offered to continue consulting during this process to ensure that the changes were appropriate and safe.

When I returned home, I received a nasty phone call from Hammond. Hammond asked me how I came up with these conclusions after only one afternoon of inspections. I was accused of underestimating the safety standards of the safari. Hammond finished by shouting “You’re not going to make an extra buck out of me!” Hammond paid the price we originally negotiated and told me my services were no longer needed. That was the last I heard from Hammond or the Utopia Zoo.

Back in summer of 2018, I was contacted by a reporter. A college student was attacked at Hammond’s safari and somehow my name came up. The reporter asked about my connections to the zoo, and we discussed how I was hired briefly as a consultant. Given Hammond’s treatment of me and my lack of surprise at the animal attack, I didn’t hold anything back. I was completely clear about my views regarding Hammond’s lack of safety standards and expressed my opinion

that the situation could have been avoided if Hammond had followed my advice. Plaintiff Taylor Malcolm hired me to win this case. In addition to my \$500 per hour fee for appearing in court, I have received \$3,000 for my time in preparation for this case, for which I have done 10 hours of work reviewing my documents and figures from the inspection of the zoo.

Of the available exhibits, I am familiar with the following, and only the following: “Utopia Zoo Safety Evaluation Memo” which I wrote, and the “Utopia Zoo Safari Map” which I referenced during my day at the zoo.

I hereby attest to having read the above statement and swear or affirm it to be my own. By signing this document I swear to or affirm the truthfulness of its content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to such a time whereas I may be called upon to testify in court, and that in such an event a copy of my updated statement is given to all parties involved in this case, I am bound by the content herein.

Devin Grant

Devin Grant

Subscribed and sworn before me on this day, the 23rd of October, 2018

Beth Eckhardt

Beth Eckhardt, Notary Public

Affidavit of Robin Thomas

Robin Thomas, being duly sworn, hereby deposes and states as follows:

My name is Robin Thomas. I graduated in 1997 from the School of Journalism at the University of North Carolina at Chapel Hill. After a few small jobs around the area, I landed a job in Utopia as a newspaper reporter. It was my dream job! I was able to use my sleuth skills to expose lies and reveal the truth to the people. However, my boss felt my zealous search for the truth tended to be overly dramatic. As a result, I was told to be cautious in the stories I wrote.

Back in 2012, I was sent to report on the new expansions of Utopia Zoo by the new owner Jordan Hammond. It was an odd assignment since usually my work is investigative. I have done reports on embezzlement, fraud, and crime, but nothing on something as mundane as a zoo reopening. I supposed it was given to me since my other stories had been controversial. Nevertheless, I took the assignment because I was confident in my ability to manipulate words to create an interesting story. Luckily enough for me, the story created itself.

I arrived at Utopia Zoo around 8:00 am just before the gates opened for visitors. I spoke to one of the employees and asked if I could take a look around the zoo for my story. He let me inside the zoo and I went straight for the safari. Rumor had it that naturalist and TV personality Sammy Dundee was running the safari attraction. Sure enough, Dundee was in one of the facilities outside the safari. I asked Dundee for a quick interview and Dundee obliged. I first asked whether Dundee felt qualified for the job. Dundee said, "Not necessarily, but when you have a pretty face, things turn out well for you." Upon hearing this comment, I pressed further and asked what type of training Dundee had completed to lead the safari attraction. Dundee stumbled for a moment and admitted there was not much training, but that years of traveling the world was more than enough experience for the job. I asked Dundee if there was any pressure after the incident with Dundee's cameraman almost getting killed on a shoot, but Dundee refused to answer. I thanked Dundee and terminated the interview.

After Dundee left, I looked around the building for any information that would help me with the story. I looked through some files relating to the employees at the zoo. I didn't find anything on Sammy Dundee. However, I found a document on an engineer named Devin Grant, and I took it with me. Right after I put the paper away, an office worker caught me as I was looking through the files and told me to leave.

It was nearly 8:30 a.m. and the guests started arriving in the zoo. Based on my interview, I felt that Dundee was not qualified for the safari. I knew that I could write a great story about the dangers involved with Utopia Zoo hiring Sammy Dundee. So I bought a hat at the gift store for a disguise, cut in line at the safari, and managed to get a front seat on the safari tram. Surprisingly, Dundee was very calm at the beginning of the safari. Dundee gave a rehearsed speech about the importance of nature and also warned the guests to be safe during the ride. I do recall seeing warning signs posted in the tram cars.

However, Dundee's confidence vanished once the safari arrived in the gorilla sector. From my seat, I could see a small family of gorillas near the trees. But the main focus was on two gorillas that were directly on the tram tracks. Based on their size, it appeared that they were male. The larger male was beating his chest and the smaller gorilla was roaring. Upon seeing this, Dundee became red faced and began to sweat. I asked what was wrong and Dundee snapped back, "Not now, the males are about to fight again." Dundee must have realized that the guests were worried because Dundee turned back and told them it was not a problem. However, I saw Dundee tremble and reach for a tranquilizer gun.

The tram must have been on an automated system because we did not slow down, even as we approached the two male gorillas on the track. As we got closer, the larger gorilla walked away, but the smaller one continued to roar and even swiped at the tram. The rest of the safari went without incident. As I left, however, I noticed a dent where the gorilla hit the tram.

I went straight to my office after leaving the zoo and wrote my entire story in one hour. I wrote about the incident with the gorilla, Dundee's interview, and the inherent danger involved with allowing Dundee to lead the Utopia Zoo safari. It was a great story and consistent with the other stories I produced. The only problem was the stories for the following day's paper were already selected. I called in a few favors, went behind my bosses' backs, and got my story submitted for the paper. The next day, I was called into my supervisor's office. My boss found out about my snooping at the zoo. Not only was I told that my story was too sensational, but I was told I needed to seek other employment.

After getting fired, I started work as an internet blogger. It was not my ideal job, but it allowed me to continue writing stories. I usually covered local events, and my recognition in the area gained me limited advertising and sponsorships that allowed me to support myself. However, I'm still not happy about the way things turned out, and I blame Utopia Zoo for my situation.

In August 2018, I finally got my chance to expose Utopia Zoo. A basketball player from the University of Utopia was in the news for getting attacked by a gorilla at the safari. This was exactly the situation I had predicted when the safari first opened. I looked for the document I took from the zoo office and contacted the engineer, Devin Grant, whose name was mentioned. Grant was in Houston but agreed to speak by telephone. It turns out that Grant was hired to assess the safety of the safari, but was ignored after making recommendations that the zoo did not like. At this point, I knew I had my story. After posting the article, I received three job offers from local news stations. I never got my original job back as a newspaper reporter, but as an investigative journalist, I still have a rewarding career.

Of the available exhibits, I am familiar with the following, and only the following: “Utopia Zoo Safety Evaluation Memo”, which I took from the office, and “Utopia Zoo Safari Map” which I received at the entrance to the zoo.

I hereby attest to having read the above statement and swear or affirm it to be my own. By signing this document I swear to or affirm the truthfulness of its content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to such a time whereas I may be called upon to testify in court, and that in such an event a copy of my updated statement is given to all parties involved in this case, I am bound by the content herein.

Robin Thomas

Robin Thomas

Subscribed and sworn before me on this day, the 23rd of October, 2018.

Beth Eckhardt

Beth Eckhardt, Notary Public

Affidavit of Jordan Hammond

Jordan Hammond, being duly sworn, hereby deposes and states as follows:

My name is Jordan Hammond. I was born in 1959. I live at 218 Nirvana Nook in Utopia. I graduated from San Diego State with a degree in economics and a minor in biology and then received an MBA from Stanford. My family owns a string of restaurants in California that I ran for about ten years, learning the trade, but business grew stagnant. My spouse noticed that many older celebrities were retreating from Hollywood and moving to Utopia. Utopia seemed like a nice enough place, so I packed up and decided to move my business there. The money was good, but I soon grew tired of running restaurants and catering to Utopia's "fat cats." I had always loved working with kids, so I decided to buy out a local amusement park.

In 1999 I became the owner of Hedge Gardens. Hedge Gardens used to be a sleepy amusement park that had extensive landscaping and scenery, but few rides and attractions. It had virtually no marketing department and relied on locals and word-of-mouth for business. That's where I came in. I completely revamped the park's image into an exciting theme park to attract visitors from all over Utopia. I spent thousands of dollars constructing new rides to cash in on the need of today's youth for extreme fun.

But the papers said my ambition to remake the park went too far. In 2001, construction was completed on a ride called "The Slayer." The Slayer boasted the fastest speeds of any rollercoaster in the nation! I hired a panel of engineers to ensure the ride's safety. All but two claimed it was safe. I later found the two engineers that did not approve of the ride's safety had connections with a competing amusement park in a neighboring county, so I disregarded those opinions as unreliable. In June 2001, three months after The Slayer's debut, seven park guests received broken noses when their restraints became loose and they slammed their faces on the ride. Fortunately, they all recovered quickly, but the group sued and was awarded a small amount of damages. Less than a year later, another suit was brought against the park when a costumed employee allegedly harassed a small child. The charges were dropped, but the incident brought bad publicity to the park. I began to seek other opportunities.

In late 2002, I learned that the owner of Utopia Zoo was planning to close it. Public interest in the zoo had declined sharply, and it was becoming more difficult to care for the animals and maintain the zoo. I immediately sold Hedge Gardens and bought the zoo. It seemed risky, but I

have always loved animals and I decided it would be much easier to care for animals than people. Over a period of five weeks, I used all my contacts abroad to acquire rare and exotic animals so the people of Utopia would be interested in the zoo again. I coordinated with local schools to plan discounts for field trips so business would thrive. Even with these elements, I still felt something was missing.

In addition to the main zoo exhibits, I decided to feature a safari and began construction on it. The safari is an interesting concept because it allows the guests to encounter the animals without fences and barriers. I recognized the risk involved, but with careful planning I knew this was my chance to make it big and to offer something new and exciting at the zoo! My plans for the safari included sections for animals from diverse niches, with the most notable exhibits hosting the antelope, alligators, and gorillas. The antelope and alligators were easy enough to bring to the zoo. But I wasn't able to acquire the group of gorillas until I contacted an associate from abroad.

I wanted to avoid any other "incidents," and I also wanted to be sure that zoo visitors would be safe. At the suggestion of a colleague, I hired engineer Devin Grant to ensure my safety precautions and regulations would protect the guests. I had already spent a fortune hiring new employees and buying the gorillas, so I hired Grant in a strictly advisory role and not as a full-time employee. That being said, Grant's only job was to inspect the current zoo structures and observe the construction of the safari in which the gorillas would be displayed. Grant rated most of the zoo's exhibits as "satisfactory" but claimed the design of the new safari was insufficient to protect guests. Beyond the scope of their job, Grant proposed a new plan that would cost me an additional \$500,000. Considering the money I had already invested in the project and the precautions I had taken, Grant's plan was out of the question. As part of that cost, s/he also expected to be kept on retainer until the proposed changes were completed. As a part time advisor, Grant never really seemed on board like the rest of the employees, and I suspected they didn't have my company's best interest in mind. I promptly dismissed Grant and proceeded with construction.

Even though I did not follow through with Grant's plan, I did establish safety guidelines for the zoo. I placed over fifty signs around the park warning guests about disturbing the animals. In light of recent zoo accidents, I created an emergency plan that all new employees were required to learn before they began working. I also established a company motto of "caution, care, and credibility." Each employee was taught that caution for the guests, care for the animals, and credibility as knowledgeable animal caretakers are the paramount concerns for Utopia Zoo. For

guests on the safari, there were warning signs in each car stating:

WARNING! STAY INSIDE THE TRAM CAR AND DO NOT EXTEND ARMS OR HANDS OUTSIDE THE TRAM. DO NOT PROVOKE THE ANIMALS. DO NOT ATTEMPT TO FEED THE ANIMALS.

With the security situation taken care of, the only thing my park did not have was a recognizable face. I decided to hire naturalist and TV personality, Sammy Dundee, to run the new exhibit at the zoo. Dundee had some trouble getting a job with the usual TV networks because of a stunt that put a cameraman in danger. I saw the footage and personally thought blaming Dundee was absurd, so I was glad to hire Dundee. Despite the recent notoriety, Dundee's charisma and dedication to the animals brought new life to the zoo. Dundee also had significant knowledge of the animals in the park as well as their behaviors. For six years my management, Dundee's personality, and the safari solidified a renewed success for the zoo.

On August 9, 2018, I received a phone call from Dundee. Dundee told me that there was an accident at the zoo. I was furious, but I kept it together long enough to drive from my office to the zoo. The paramedics were leaving just as I arrived, and I rushed to the safari. I saw Dundee at the scene and Dundee told me that a kid upset the gorillas and got hurt. Fortunately, no one else was injured, but I knew the gorilla would have to be put down. It was very sad, especially when there had been no other incidents and, because of this one kid deciding to torment the gorillas, the zoo and the safari would suffer.

If matters weren't bad enough, the media went berserk over the incident because the victim was Taylor Malcolm, a star on a university basketball team. What really irked me was the interview with none other than Devin Grant. Some blogger contacted Grant and posted a story all over the internet. Grant went on a rant completely trashing my zoo and claiming my standards were so low, it was a wonder that it took so long for someone to get hurt. Grant's claims and this lawsuit are absurd. The precautions at the zoo were more than enough to protect the guests. Malcolm got hurt because Malcolm did not follow the zoo regulations and Dundee's instructions. The injuries were unfortunate, but that's what happens when you don't follow the rules.

Of the available exhibits, I am familiar with the following, and only the following: "Utopia Zoo Safety Evaluation Memo" which I received from Devin Grant, "Utopia Zoo Safari Map" which I designed, "Utopia Zoo Welcome Letter" which I wrote, "Curriculum Vitae for Dr.

Goodall” which I saw prior to hiring Dr. Goodall, and the “Warning” sign posted in the tram cars.

I hereby attest to having read the above statement and swear or affirm it to be my own. By signing this document I swear to or affirm the truthfulness of its content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to such a time whereas I may be called upon to testify in court, and that in such an event a copy of my updated statement is given to all parties involved in this case, I am bound by the content herein.

Jordan Hammond
Jordan Hammond

Subscribed and sworn before me on this day, the 27th of October, 2018.

Beth Eckhardt
Beth Eckhardt, Notary Public

Affidavit of Morgan Goodall

Morgan Goodall, being duly sworn, hereby deposes and states as follows:

My name is Morgan Goodall and I am Chair of the Department of Evolution and Ecology at the University of California-Davis. My specialty is primate behavior, specifically gorillas and chimpanzees. My studies consist of how these primates interact within small social groups found both in the wild and captivity. I have been a professor since 1982 and have published a textbook and articles on the subject of primates. I was asked by the lawyers defending Utopia Zoo to examine and evaluate the condition of the gorillas at the zoo.

Primate behavior is determined by a number of factors such as group size, daily activity cycle, and the ecological niche in which the primates live. In terms of the gorillas, an average group consists of about a dozen gorillas: one dominant male, a few adult females, and offspring. Gorillas are, in fact, diurnal animals and are active during the day. Their time is spent almost equally between feeding, traveling, and resting. Gorillas' diet consists of fruit and various types of vegetation. They are not carnivorous animals. Therefore, aggression is determined by security and not by feeding patterns.

On September 16, 2018, I was contacted by Jordan Hammond's attorneys. They asked me to visit the zoo so I could evaluate the gorillas in the safari exhibit. Usually, when I observe a primate community, I will spend a week noting the primates' diet, watching their interactions, and observing any external factors that may influence the community's behavior. However, I wasn't able to follow my usual protocols when I visited the zoo. Jordan Hammond was under intense pressure to put down the gorilla responsible for the student's injury, so I only had three days of observation with the full community.

My first observation was the composition of the gorilla community. Most groups have a single male with multiple females. This particular group, however, had multiple females with two males. One male was older and was the traditional alpha male of the group. The second male gorilla was younger. Traditionally, when a younger male gorilla reaches maturity, he will leave the group and seek out mates from another community. Due to the fact the safari is a closed environment, the younger male had no such opportunity to leave. I believe this was a source of tension within the safari's community. Upon questioning the safari guide Sammy Dundee, I learned that conflict between the older and younger males occurred occasionally.

Contrary to popular belief, gorillas are not violent animals. I blame Hollywood for this

misconception. Gorillas rarely commit violence against other animals and, instead, resort to making noise and trampling the ground. When a conflict does arise between two male gorillas, chest-beating is common, but the display rarely ends in a fight. Because of this typical behavior, I was surprised to find out that the younger male not only attacked a guest, but also bit the guest. I decided to see the younger gorilla individually.

When I visited the gorilla exhibit, the zookeeper accompanied me to see the younger male gorilla, Joe. Joe appeared to be a healthy male of about 17 years old. His head was defined by a large sagittal crest to which the muscles for a powerful jaw are attached. These jaws are strong enough to snap bamboo, so it did not surprise me that the victim's arm was so badly injured. Despite his health, Joe exhibited general irritation and an inability to focus, even while eating. Unlike the other gorillas, Joe had difficulty sleeping and was highly disturbed by loud noises during the day. Since Joe has spent most of his life in captivity, he is unaccustomed to the behavior of gorillas outside of his community. It is likely that an encounter with another gorilla, or even the call of another male, would greatly upset him. While not notable in their own right, I believe these factors may have arisen due to Joe's captivity and possibly contributed to his attack.

Based on my observations, my conclusion is that Joe did not put the patrons of the zoo in any significant danger. While the conditions of his captivity were not optimal for his wellbeing, he appeared to be a healthy animal and most likely attacked under stress and fear. I believe that a disturbance of an obnoxious and overt nature would have been necessary to prompt Joe to violence. However, since I was not present for the attack, I cannot be 100% sure if the blame can be attributed to Joe or the guest.

Of the available exhibits, I am familiar with the following, and only the following: "Utopia Zoo Safari Map", which I received upon visiting the zoo, and "Curriculum Vitae for Dr. Goodall" which I wrote and delivered to Jordan Hammond.

I hereby attest to having read the above statement and swear or affirm it to be my own. By signing this document I swear to or affirm the truthfulness of its content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to such a time whereas I may be called upon to testify in court, and that in such an event a copy of my updated statement is given to all parties involved in this case, I am bound by the content herein.

Morgan Goodall
Morgan Goodall

Subscribed and sworn before me on this day, the 27th of October, 2018.

Beth Eckhardt

Beth Eckhardt, Notary Public

Affidavit of Sammy Dundee

Sammy Dundee, being duly sworn, hereby deposes and states as follows:

My name is Sammy Dundee. I was born in 1980 in London, but I have lived all over the world. Both of my parents are naturalists, so my family has traveled many places filming videos for National Geographic and BBC. Growing up in front of the cameras made me a ham, and I always enjoyed being in the spotlight. So, when it came time for me to move out of the house, instead of going to college, I went straight into the television business. Even though I was young, my charisma and knowledge of animals scored me a position on an Animal Adventure show. Within a year, it was clear that I was too big time for the show. I knew more about animals than the host! The executives at Animal Adventure recognized my talent and gave me my own show.

I was thrilled at being the host, and my parents were proud that I was following in their footsteps. But it wasn't all fun and games. Traveling eight months out of the year took its toll. After spending nearly three years stalking lions, crawling in jungles for snakes, and hiking through caves to see reclusive species of bats, I considered seeking another program to host. Unfortunately, things did not turn out as I hoped.

In 2002, my crew was filming elephants in Africa. Normally, the elephants are docile, and I told my cameraman to move closer to the herd to get some better footage. Something must have spooked the elephants, because the next thing I knew, the herd was charging toward us. As scary as it was, I realized it was a great opportunity to catch a first-hand view of a stampede on film. I yelled at my cameraman not to move and get everything on camera. He didn't listen and ran away, nearly getting trampled by the elephants. Once the stampede had cleared, I screamed and cursed at him for not following my orders. I told him that he ruined my chance to make a big break so I could find another job. Unfortunately, he caught my rant on camera. Duke basketball Coach K's behavior paled by comparison. Once the footage was leaked, I was fired for endangering the lives of my crew.

The following year I struggled to find a job. It was a surprise when I received a phone call from Jordan Hammond, an up-and-coming business owner. Hammond told me about the purchase of the Utopia Zoo and offered me a job as a guide on the safari. I had always been a global person and going to Utopia did not appeal to me. However, I needed a job, so I agreed to work for Hammond. Despite my initial reservations, working at the Utopia Zoo was a great job. Leading the safari was fun and it allowed me to show off my knowledge of animals. My original contract

was for three years to help bring publicity to the zoo, but I signed on for an additional three years.

Other than some nervousness on my first day, I never had any trouble leading the safari until August 9, 2018. When the tour started that day, I gave my usual speech about the safety precautions for the safari and urged the visitors not to disturb the animals. In the first sector of the safari, we stopped briefly to see the antelope. Usually, the antelope are skittish, but this time they actually approached the tram. Just as some of the guests were taking pictures, one guest yelled and scared the animals away. I used the intercom to notify the guests that disturbing the animals is cause for expulsion from the zoo. I also reminded them to read and review the warning signs at the front of each tram car.

We continued on the safari and stopped at the swamp sector with the alligators. No one yelled this time, but I turned around quickly enough to see a person in a University of Utopia shirt throwing food towards the gators. The gators splashed towards the food, and I heard someone scream, “Stop it, Taylor!” I didn’t know if this was the same person from before, but I was determined to confront this person for failing to follow the rules. The only problem is that the tram runs on an automatic track, so there is no way for me to end the tour to remove offenders. I decided to wait until the tour finished. We reached the gorilla sector last. This time I heard someone imitating gorilla calls. It was the person in the UU shirt again. I announced over the intercom to stop or else the gorillas would become angry. The person didn’t stop and the gorillas approached the tram.

I knew we were in trouble. Unlike the antelope, the gorillas are powerful and, when angry, can easily damage the tram or even harm a guest. I used my radio to notify the staff that we had an incident on our hands. When I turned back, the student was still yelling, and the two gorillas were within ten feet of the tram. The gorillas were males and started beating their chests, so I knew I had to do something to prevent them from attacking. I reached for my tranquilizer gun which I had never had to use before. It was extremely difficult to aim the gun accurately from my seat at the front of the tram. It happened so quickly but I had to do something to help that youngster. I aimed and fired the gun, but I wasn’t sure if I hit the gorilla. I stopped for a moment and saw that I had missed and hit the student instead. The student slumped over the side of the tram. The closest gorilla reached for and bit the person’s arm. I panicked for a moment, then fired a second shot. This time, I hit the gorilla. He was knocked unconscious, and the second gorilla ran away.

By now, someone at HQ overrode the tram’s controls and brought us back to the entrance.

One of the guests had already called the police by cell phone and the paramedics were waiting for us. I told the policeman at the scene everything that happened and waited until the student was taken to the hospital. I later found out that the student was Taylor Malcolm, a star basketball player at the University of Utopia. It's a shame that Malcolm got hurt, but star or not, if Malcolm had listened to me in the first place, we would not have had an incident at the zoo. Malcolm was not following the rules after being told repeatedly. The student and other innocent visitors and animals were put in danger as a result.

Of the following exhibits, I am familiar with the following and only the following: "Utopia Zoo Safari Map" which I referenced on a regular basis; the "Utopia Zoo Welcome Letter" which Jordan Hammond required me to read as part of my job; and the "Warning" sign posted in all tram cars.

I hereby attest to having read the above statement and swear or affirm it to be my own. By signing this document I swear to or affirm the truthfulness of its content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to such a time whereas I may be called upon to testify in court, and that in such an event a copy of my updated statement is given to all parties involved in this case, I am bound by the content herein.

Sammy Dundee

Sammy Dundee

Subscribed and sworn before me on this day, the 27th of October, 2018.

Beth Eckhardt

Beth Eckhardt, Notary Public

UTOPIA GENERAL HOSPITAL

DATE: 8/9/18 TIME: 1643 ROOM: 7 EMS Arrived
 HISTORIAN: patient parent paramedic other
 AGE: 21 M F
 History limited by _____

HPI

Chief complaint: Bite Gorilla bite LUE

Duration / occurred: today where occurred: work
 Just prior to arrival: home school
neighbor's park
yesterday work street ZOU

Animal: dog gorilla
 family pet neighborhood animal unknown animal
 Appearance of animal: appeared well appeared unknown
 Description:
 Animal's immunization status: UTD unknown not immunized
 Observation / capture: animal is known; can be observed for 10 days
 animal unknown; not captured animal control notified

Context of attack: unprovoked attack
provoked attack (see below)
approached animal entered animal's domain animals fighting
 playing with or teasing animal other

Severity of injury:
bitten scratched mucous membrane contact

Pain level: current ___ /10 max ___ /10

Location of injury:
 head face neck shoulder R/L
 chest abdomen hip R/L
 back (upper, mid, lower) RUP LUE RLE LLE

Agree w/ nurse's note for PFSH / ROS

ROS ROS below otherwise negative
tingling / numbness distally suspected FB (skin lac.)
painful unable to bear weight headache nausea / vomiting

PAST HX Tetanus UTD
 prior records reviewed
 diabetes Type I
 other
 Meds: none / see list - confirmed
 Allergies: NKDA / see list - confirmed

PHYSICAL EXAM

Review of vital signs BP ___ Resp ___ POX ___ Temp ___ Pulse ___
 Other _____
 Pulao O2 sat ___ % RA ___ O2 L/min
 Interpretation: normal abnormal Dx _____

Exam limited by _____
CONSTITUTIONAL
 no acute distress mild / moderate / severe distress

NEURO VASCULAR-TENDON
awake and alert lethargic
oriented x3 disoriented to person / place / time
no vascular abnml color / warmth / cap refill
cap refill pulse deficit
 sensation intact sensory / motor deficit
 CN's nml as tested facial droop / EOM palsy / anisocoria
 ROM nml ROM limited by pain / tendon injury

PSYCH
depressed affect
mood / affect nml anxious

SKIN
intact see diagram

HEENT
normocephalic see diagram
traumatic TM obscured by cerumen (R/L)
PEARL
ENT nml external
 inspection
 eye lids/conjun. uninjured

NECK
uninjured see diagram
 nml inspection

CHEST
uninjured see diagram
 nml inspection wheezes / rales / rhonchi

ABDOMEN
uninjured see diagram
 nml inspection non-tender

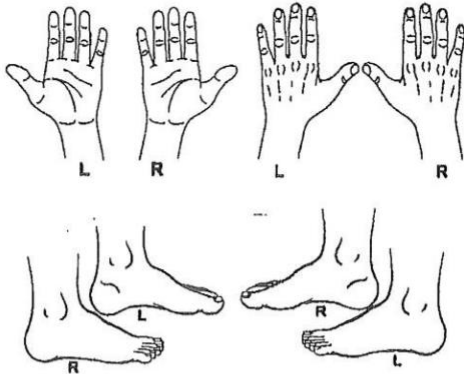
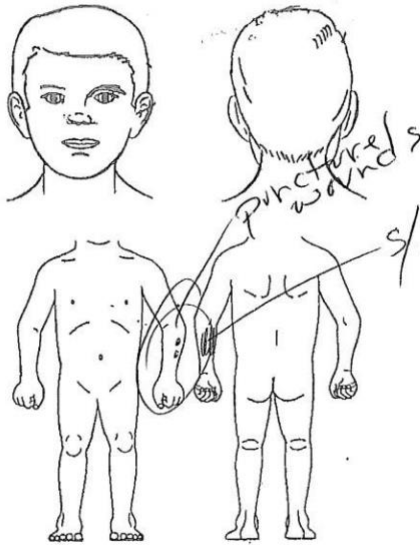
BACK
uninjured see diagram
 nml inspection

MUSCULOSKELETAL / EXTREMITIES
uninjured foreign body suspected
 nml inspection joint penetration suspected

EMERGENCY PHYSICIAN
 RECORD
 Animal Bite
 Page 1 of 2

Malcolm, Taylor

UTOPIA GENERAL HOSPITAL



T=Tenderness Pt=Point Tenderness S=Swelling E=Echymosis
 C=Contusion Lac=Laceration A=Abrasion M=Muscle spasm
 (E=without m=mild mod=moderate sv=severe)
 Example- Tsv = Tenderness on palpation (severe)

PROCEDURES

Wound Description / Repair
 length 2.5 cm location L forearm
 superficial subcut muscle linear stellate irregular
 clean contaminated moderately / heavily
 distal NVT: sensation nml distally motor nml distally
 vascular intact no muscle / tendon injury
 anesthesia: local digital block mL
 lidoc 1% 2% epi / bicarb marcaine 0.25% 0.5% LET
 prep:
 antiseptics / Betadine / Other _____
 irrigated / washed w/ saline debrided
 minimal / mod. / *extensive minimal / *mod. / *extensive
 wound explored undermined
 foreign material removed minimal / mod. / *extensive
 partially completely *wound margins revised
 minimal / mod. / *extensive
 repair: Wound closed with: wound adhesive / strip-strips
 SKIN- # _____ -0 nylon / prolene / staples
 *SUBCUT- # _____ -0 vicryl
 MUSCLE/FASCIA- # _____ -0 vicryl
 *may indicate intermediate repair. *may indicate complex repair.

XRAYS

of views
 no fracture fracture L ulna
 nml joint dislocation
 nml alignment soft-tissue swelling
 nml soft tissue fat pad sign
 NAD effusion
 foreign body

PRIOR XRAY- unchanged unavail. changed:
 interp contemporaneously by me discussed w/ Radiologist
 interp by Radiologist personally reviewed by me

ED COURSE

Time _____ re-examined _____ unchanged _____ improved _____
Sprts Med & Ortho notified
 police / animal control notified
 see concussions sedation sheet
 prophylactic antibiotics given

Discussed with Dr. Crave Time _____
 patient will be seen in: ED / hospital / office _____
 Counseled patient / family regarding: Rx given Alex
 lab/rad results diagnosis need for follow-up Prior records ordered
 EMTALA EMC present EMTALA EMC absent

CLINICAL IMPRESSION

Animal Bite Laceration Puncture Wound
Concussion

Follow up with Dr. Crave
 DISPOSITION- discharge admit transfer

ARNP / PA _____

PHYSICIAN- [Signature] Time _____

PHYSICIAN- [Signature] Time _____
 Complete 1 Sheet Add-On Copy PMD Dictated

EMERGENCY PHYSICIAN
 RECORD
 Animal Bite
 Page 2 of 2

Malcolm, Taylor

UTOPIA GENERAL HOSPITAL – EMERGENCY DEPARTMENT

CONSULTATION:

Patient: Taylor Malcolm

Date: August 9, 2018

Time: 1700 hours

Consulting Physician: Jesse Cruz, M.D., Sports Medicine

EXAMINATION:

External Evidence of Injury

1. Puncture Wounds: Two distinct punctures on the left forearm and a pattern consistent with a bite mark.
2. Fractured Left Ulna: X-ray revealed fracture along ulna. Possibility of infection. May require bone grafting procedure.
3. Bruising: Slight bruising above the 7th rib on the left side. No other bruising or fractures have been identified.

SUMMARY/PLAN:

Injury will require up to 6-8 weeks to heal and an additional 10 weeks of intensive rehabilitation and therapy. Will follow in office and prescribe physical therapy when healing sufficient. Will monitor for infection. There is a high probability that the injury will prevent the patient from performing at previous capability.

Jesse Cruz, M.D.

Jesse Cruz, M.D.

EXHIBIT 2: Utopia Zoo Safety Evaluation

To: Jordan Hammond, Utopia Zoo
From: Devin Grant, Consultant
713.234.589.
Houston, TX 77054
CC: Utopia Zoo Office File
Date: March 3, 2012
Subject: Utopia Zoo Design Safety Assessment

This memorandum outlines the assessment of safety features in Utopia Zoo.

Main Zoo:

Satisfactory: The steel fence and concrete moat security scheme is sufficient for the safety of park guests.

Safari:

A number of features on the tram were noteworthy.

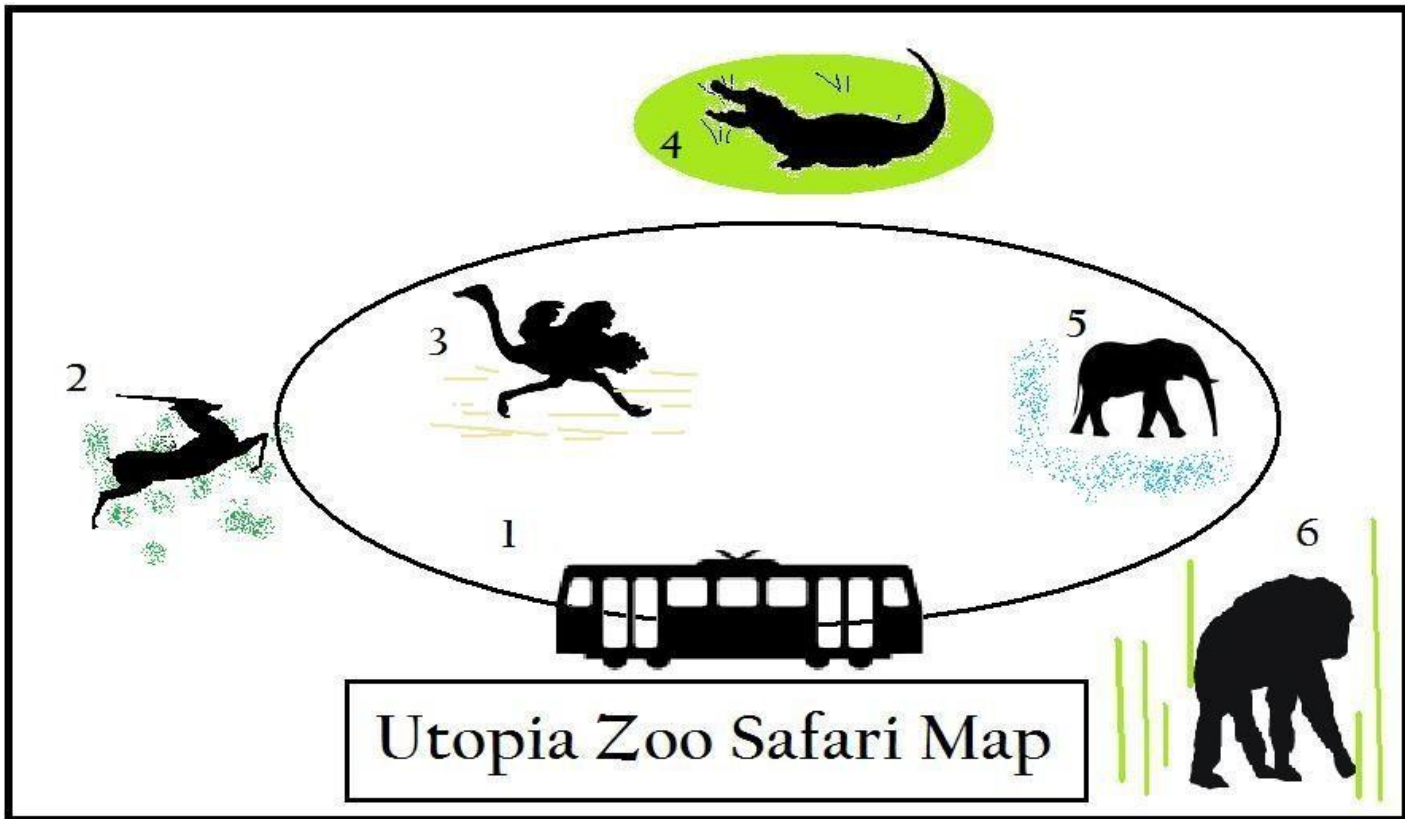
- 1) Automatic Track: Prevents tour guide from controlling the tram
- 2) Small tram railing: Potential for the track to become locked
- 3) Tram length too long: The tour guide has 25% blind spot
- 4) Thin & short tram walls: Insufficient protection from safari animals

Recommendations:

- 1) Change to a gas propelled tram
- 2) Redesign head car of tram for increased visibility
- 3) Landscape route so tram will be elevated

Estimated costs: \$500,000

EXHIBIT 3: Utopia Zoo Safari Map (Page 1 of 1)



- 1. Main Station
- 2. Antelopes
- 3. Ostriches
- 4. Alligators
- 5. Elephants
- 6. Gorillas

EXHIBIT 4: Utopia Zoo Welcome Letter

Dear Guest,

Welcome to Utopia Zoo! Our company motto is Caution, Care, and Credibility. Through our actions, we hope to demonstrate caution for our visitors, care for the animals, and credibility as knowledgeable animal caretakers.

In order to help you get the most out of your visit, Utopia Zoo has placed a number of signs and learning stations throughout the park. Our animals are fascinating! By visiting our exhibits, you can learn more about our animal friends.

Remember that our zoo animals are not pets. During your visit, please use caution and heed all warnings and instructions provided at the entrance to each exhibit. Doing so will help to keep you safe. If an emergency should occur, please approach any of the blue safety boxes located throughout the park, or find one of our highly trained employees to handle the situation.

We hope that you enjoy your day at Utopia Zoo!

Sincerely,

Jordan Hammond
Jordan Hammond and the Utopia Zoo Staff

EXHIBIT 5: Curriculum Vitae for Dr. Morgan Goodall

MORGAN GOODALL

(530) 133-5655 ♦ mgoodall@ucd.edu

EDUCATION

Princeton University, Princeton, New Jersey
Bachelor of Science, Biology, 1978 Graduated
magna cum laude

Cornell University, Ithaca, New York
Ph.D., Zoology, 1982

EXPERIENCE

University of Florida
Assistant Professor of Zoology 1982-1987

National University of Singapore
Visiting Professor, Research on Orangutans 1988

Miami University
Associate Professor, Developmental Ecology and Primate Physiology 1989-1996

University of California, Davis
Professor, Department of Evolution and Ecology, 1997-present
Department Chair, 2015-present

HONORS

Charles Darwin Award, Original Research in Evolutionary Genetics, 2001
Diane Fossey Award, Contributions to Mountain Gorilla Rescue Efforts, 2012

PUBLICATIONS

From King Kong to Congo: Perceptions of Violent Gorillas in Film, 2015
Primates: A Comprehensive Guide, 2013
Monkey See, Monkey Do: Cultural Learning in Chimpanzee Groups, 1999
A Practical Guide for Handling Apes in Zoos, 1997
Gentle Giants: Dispelling Myths About Gorillas, 1994
Disappearance of the Forest Man: Deforestation and Orangutans, 1990

WARNING!!!

FOR YOUR SAFETY,
PLEASE FOLLOW THESE RULES!!!

STAY INSIDE THE TRAM CAR AT ALL TIMES

**DO NOT EXTEND ARMS OR HANDS OUTSIDE
THE TRAM**

DO NOT PROVOKE THE ANIMALS

DO NOT ATTEMPT TO FEED THE ANIMALS

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 it is more likely than not that Perez's injuries occurred as a result of 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 the 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 to 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

1. 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. Civics Learning 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 Civics Learning 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 Civics Learning Project for accommodation, and such reasonable accommodation shall be granted. Civics Learning 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 Civics Learning Project programming (i.e., Mock Trial). These accommodations may include adjustments of the Rules of Competition and program policies and practices, where appropriate. Civics Learning 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. Civics Learning 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 Civics Learning 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 Civics Learning 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."

Rule 25. Redirect, Recross

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

B. 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;
- reiterate your claim for relief (what you're asking the court to do).

C. 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.

D. 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 offering 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 the 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:

Introduce the witness's affidavit for identification (See [Rule 39](#));

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."

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."

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.

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?"

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 affecting 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,**

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.**

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.

- 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..."

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:
- is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;
 - was made or adopted by the witness when the matter was fresh in the witness's memory; and
 - 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:
- the record was made at or near the time by – or from information transmitted by – someone with knowledge;
 - the record was kept in the course of regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;
 - making the record was a regular practice of the activity;
 - all these conditions are shown by the testimony of the custodian or another qualified witness; and
 - 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:
- the evidence is admitted to prove that the matter did not occur or exist;
 - a record was regularly kept for a matter of that kind; and
 - 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 the 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: Medical Record for Taylor Malcolm

Exhibit 2: Utopia Zoo Safety Evaluation Memorandum

Exhibit 3: Utopia Zoo Safari Map

Exhibit 4: Utopia Zoo Welcome Letter

Exhibit 5: Curriculum Vitae for Dr. Morgan Goodall

Exhibit 6: Warning sign posted in all tram cars

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:** Medical Record for Taylor Malcolm
- Exhibit 2:** Utopia Zoo Safety Evaluation Memorandum
- Exhibit 3:** Utopia Zoo Safari Map
- Exhibit 4:** Utopia Zoo Welcome Letter
- Exhibit 5:** Curriculum Vitae for Dr. Morgan Goodall
- Exhibit 6:** Warning sign posted in all tram cars

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 a 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:
 2. **Exhibit 1:** Medical Record for Taylor Malcolm
 3. **Exhibit 2:** Utopia Zoo Safety Evaluation Memorandum
 4. **Exhibit 3:** Utopia Zoo Safari Map
 5. **Exhibit 4:** Utopia Zoo Welcome Letter
 6. **Exhibit 5:** Curriculum Vitae for Dr. Morgan Goodall
 7. **Exhibit 6:** Warning sign posted in all tram cars

APPENDICES

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: _____			
W1	Direct* + Redirect* = Used** 20:00 _____ + _____ = _____ > - _____ = _____	W1	Cross* + Recross* = Used** 15:00 _____ + _____ = _____ > - _____ = _____		
	W2		_____ + _____ = _____ > - _____ = _____	W2	_____ + _____ = _____ > - _____ = _____
			W3		_____ + _____ = _____ > - _____ = _____
W4	Cross* + Recross* = Used** 15:00 _____ + _____ = _____ > - _____ = _____	W4		Direct* + Redirect* = Used** 20:00 _____ + _____ = _____ > - _____ = _____	
	W5		_____ + _____ = _____ > - _____ = _____	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.

A. Team Roster

Team Code: _____

**OREGON HIGH SCHOOL MOCK TRIAL
TEAM ROSTER**

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	

Round (circle one): 1 2 3 4
Ballot



Prosecution Letter Code: _____
Defendant Letter Code: _____

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

E. Scoring Rubric

	OPENING STATEMENT	DIRECT EXAMINATION	CROSS EXAMINATION	CLOSING ARGUMENT
ATTORNEY SCORING CRITERIA	<ul style="list-style-type: none"> <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 	<ul style="list-style-type: none"> <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 	<ul style="list-style-type: none"> <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 	<ul style="list-style-type: none"> <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		<ul style="list-style-type: none"> <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 	<ul style="list-style-type: none"> <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 	<p style="text-align: center;">Scoring Guide</p> <p>9-10: Excellent, Amazing: mastery or near mastery of the criteria at all times</p> <p>7-8: Good, Very Good: proficiency with the criteria nearly all of the time</p> <p>5-6: Fair, Average: meets the criteria much of the time</p> <p>3-4: Weak, Needs Practice: developing the criteria, but inconsistent/poorly executed</p> <p>1-2: Poor, Unprepared: unpracticed; does not meet criteria</p>

DIAGRAM OF A TYPICAL U.S. COURTROOM

