

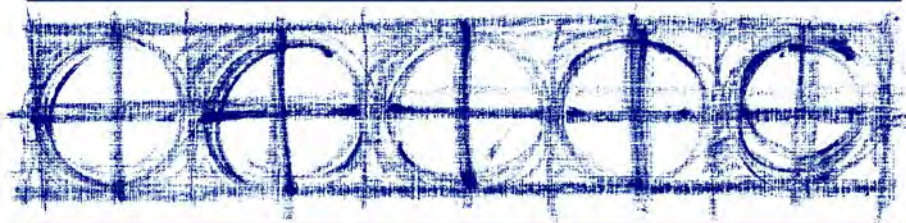
Idaho Law Foundation Law Related Education Program

2013

# Idaho High School Mock Trial Program

Case Materials

IDAHO LAW FOUNDATION



*Helping the profession serve the public*

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## Version Changes

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1. Version 1.0, dated November 15, 2012 does not include any changes.
2. Version 2.0, dated December 7, 2012 includes the following changes:
  - A. Added information to the introduction and acknowledgement page.
  - B. Changed the information in the charging document, Count II, page 4 from on or about September 1... to between September 1...
  - C. Defined SRO and DARE Officer in Dana Mills witness statement.
  - D. Updated Exhibit 3 to replace placeholder photos.
  - E. Added Exhibit 8.
  - F. Fixed some miscellaneous typos throughout the materials.

## Introduction & Acknowledgements

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December, 2012

Welcome to the *2013 Idaho High School Mock Trial* season! We look forward to working with you throughout the season. We are excited to provide you the opportunity to try a criminal case that involves an allegation of battery and bullying against a high school student. Our hope is that this case will give you the chance to explore some legal issues that are current, relevant, and important for young people such as yourself to understand more deeply.

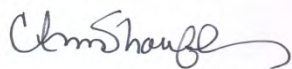
This case includes elements from the 2007 Illinois mock trial case, *Illinois v. Dixon*. Thank you to the Illinois State Bar Association for permission to utilize parts of this case. The vast majority of the material you will use was developed by the 2013 Idaho Mock Trial Subcommittee including Mike Fica and Greg Dickison with photography taken by our Communications Director, Dan Black. The materials were reviewed by Hon. Melissa Moody, Ritchie Eppink, Joan Thompson, Glenda Talbutt, Lisa Nordstrom, and Anna Garner. Thank you to everyone for your hard work, dedication and invaluable assistance.

Mock trial could not operate without the generous underwriting of our donors. The Law Foundation would like to thank the many individuals and organizations who provide ongoing support for mock trial. In particular, the mock trial program would like to acknowledge three funders who have provided grants to support this year's mock trial: The Laura Moor Cunningham Foundation, the U.S. District Court Federal Outreach Grant, and The Whittenberger Foundation.

As you participate in the mock trial season, please remember the nearly 200 staff and volunteers who make this competition possible. Your teacher sponsor and attorney coach will likely spend countless hours helping you prepare for competition. You will also meet judges, coordinators, and staff who gladly give their time to support the mock trial program. Make sure you thank all these people for their commitment to making the mock trial program a wonderful experience for you.

Please feel free to contact me at (208) 334-4500 or [cshoufler@isb.idaho.gov](mailto:cshoufler@isb.idaho.gov) with any questions or concerns at any time throughout the season. Best of luck to you and your team as you prepare for the 2013 mock trial season.

Cheers!



Carey A. Shoufler  
Law Related Education Director

# Complaint

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Jem Trotter  
Boise County Prosecuting Attorney  
126 West Green Street  
Idaho City, ID 83631

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF BOISE

STATE OF IDAHO,	)	Case No. IDMT2013
	)	
Plaintiff	)	
	)	
vs.	)	<b>COMPLAINT</b>
	)	
KELLY DIXON	)	
	)	
Defendant	)	

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COMES NOW the State of Idaho, by and through Boise County prosecuting attorney, Jem Trotter, who being first duly sworn on oath complains and says:

COUNT I


That on or about the 5th day of October, 2012, in the city of Paradise Canyon, State of Idaho, the defendant, Kelly Dixon, did then and there commit the crime of BATTERY, a misdemeanor, in violation of Idaho Code § 18-903, to wit: that said Kelly Dixon did willfully and unlawfully use force or violence on the person of Spencer Lyman.

## COUNT II

That between September 1, 2011 and October 5, 2012 in the City of Paradise Canyon, State of Idaho, the defendant Kelly Dixon, while a student, did commit the crime of BULLYING, a misdemeanor, in violation of § Idaho Code 18-917A by an intentional gesture, intentional written, verbal, or physical act: to wit by “elbowing” Spencer Lyman in the school hallway, resulting in a bloody nose, or by writing insulting language on Spencer Lyman’s locker, or by following Spencer Lyman home from school and threatening to hurt Spencer Lyman, all of which created an intimidating, threatening, or abusive educational environment for Spencer Lyman.

All of which is contrary to the force, form, and effect of the statute in such case made and provided, and is against the peace and dignity of the State of Idaho.

DATED this 9th day of October, 2012.



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Boise County Prosecuting Attorney

SUBSCRIBED AND SWORN TO before me this 10th day of October, 2012.



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Fourth District Magistrate

## Stipulations

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1. While all exhibits included in the case materials are authentic and accurate representations and the proper chain of custody with regard to the exhibits has been maintained, teams must still use the proper procedures for admitting exhibits into evidence.
2. The signatures on the witness statements and all other documents are authentic.
3. The dates of witness statements are not relevant and therefore not included. No challenges based on the dates of the witness statements will be entertained. All statements were taken after the alleged incident but before trial.
4. The jury instructions have been agreed to by all parties.
5. Trial time will not permit the use of all the exhibits provided in the following materials. Each party must select and use only those exhibits that best support and illustrate that party's theory of the case.
6. As a result of the discovery process for this case, any and all completed Harassment Reporting Forms for Students relevant to this case have been disclosed.
7. Any and all studies referenced by any of the witnesses are reliable and may be testified to by a witness who has read the study so long as sufficient foundation has been laid.
8. All parties stipulate that adequate notice has been given of potential defenses and of intent to introduce evidence, including other-acts evidence, so long as such evidence is within the scope of the case materials.



# Witness Statements

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## PROSECUTION WITNESS STATEMENTS

### Spencer Lyman, Alleged Victim

1        My name is Spencer Lyman. I am 16 years old and just started my sophomore  
2 year at Paradise Canyon High School. I know I am here to talk about what happened  
3 on the night of October 5th, but really that night is just the latest installment in what  
4 has been a long nightmare for me.

5        I moved to Paradise Canyon about a year and a half ago from Chicago. When I tell  
6 people I'm from Chicago they always look surprised, like what on earth could a kid  
7 from a place like Chicago be doing in a place like Paradise Canyon. It wasn't my  
8 choice; I can tell you that much.

9        A couple of years ago everything changed for my family. My dad was a policeman  
10 in Chicago and he was killed in the line of duty. After that, it was just too hard for  
11 my family to live in Chicago. Everywhere we went there were memories of my  
12 father and it was just too sad. So, my mom decided we should move in with her  
13 parents here in Paradise Canyon, where she had grown up.

14        Paradise. That's a funny name for this place because it's anything but. To me, this  
15 place is more like Paradise Lost. I mean, there's not even a McDonald's here and if  
16 you want to go shopping it's like an hour to the nearest place – and that's if you are  
17 OK getting your clothes at Wal-Mart, which doesn't seem to be a problem for most  
18 of the kids here. Needless to say, I was not happy with the move, but I have tried to  
19 make the best of it.

20        Back in Chicago, I never had any trouble making friends. I mean, I have like over  
21 300 friends on Facebook. Someone who has trouble making friends is not going to  
22 have over 300 friends on Facebook. The problem isn't me. It's the people in this

23 town. If you weren't born and raised here, you might as well have come from  
24 another planet. Heck at this point, I think they would be more accepting of a Little  
25 Green Man than they would be someone from Chicago. I'm an outsider and it seems  
26 to be the main goal of people like Kelly Dixon to never let me forget it. Once I  
27 became Kelly's target for bullying, it's been real hard for me to make or keep  
28 friends.

29 Kelly Dixon had it out for me since I moved here. You know, s/he's one of those  
30 people who likes to be a big fish in a little pond and I guess there just wasn't room in  
31 his/her pond for any other fish, especially not one from Chicago.

32 Last summer when we moved here, I spent a lot of time with my mom. We were  
33 still really grieving the loss of my dad and it was important to me to spend time with  
34 her. She's really the only person that really understands what I'm going through. I  
35 would see Kelly and his/her friends around town, but I figured I could get to know  
36 them better when school started and I'd had more time to process my dad's death.  
37 Well, I guess by then it was already too late.

38 When I was standing in line at school registration day, I heard Kelly say to his/her  
39 friends, "Look; it's mama's little girl/boy." I mean, I know it's not supposed to be  
40 cool to like spending time with your mom when you are a teenager, but whatever. I  
41 need my mom right now. I tried to just brush it off and turn around and say hello to  
42 Kelly and his/her friends, but they just pretended like I wasn't there.

43 And the list of Kelly's nastiness goes on from there. I had a couple of classes with  
44 Kelly and s/he always seemed to go out of his/her way to be a jerk. S/he laughed at  
45 my last name when I was introduced in class. Wow; now that's real original; like I  
46 haven't heard that one my whole life. But, it's like they teach you when you're little.  
47 Sticks and stones can break your bones, but names can never hurt you. I think I could

48 have lived with it, if it had just been names, but we know, it did come down to  
49 stones. Literally.

50 From there it just escalated. I was pushed in the hallways. I was cornered in the  
51 bathroom and had some kids try to cut off a piece of my hair that I had dyed blue.  
52 Another time I was locked in the bathroom and got detention because I was late to  
53 class. And then there was the time that Kelly walked past me and threw a quick  
54 elbow. It gave me a bloody nose. Whenever anything happened, Kelly just always  
55 seemed to be in the middle of it. It just can't be a coincidence with all that's  
56 happened. Those things in and of themselves might just seem like high school pranks  
57 but it gets worse.

58 I had insulting language about me written on my locker. My locker was  
59 vandalized, books and homework assignments stolen or my books and the photos in  
60 my locker dumped all over the floor. These weren't once or twice occurrences. I  
61 know that Kelly and some other people say that I was also doing something to Kelly  
62 or putting notes in Kelly's locker. I didn't, but even if I did, so what? Me and so  
63 many other kids in this school are the victims here, not Kelly. I think it's fine that  
64 someone told Kelly that what s/he's doing is wrong.

65 Some days I would walk to my mom's work after school and a lot of time Kelly  
66 and some of his/her friends would follow behind me. One time, Kelly was following  
67 me, saying his/her usual obnoxious stuff about me and I turned around to confront  
68 him/her. I asked him/her what s/he said and s/he said, "I've had it with this city kid.  
69 S/he needs to crawl back into the hole s/he crawled out of or I'm going to put  
70 him/her there myself." None of Kelly's friends said anything. None of them would  
71 ever try to stop him/her from harassing me. They all seemed a bit afraid of Kelly and  
72 didn't want to cross him/her.

73 With everything that's happened to my mom, I didn't want her to worry about  
74 me, so at first I just kept everything to myself. But my grandmother/grandfather  
75 Jean started asking me if everything was going OK at school. It's like s/he could tell  
76 without me saying anything that something wasn't right. So, I told him/her what was  
77 going on. S/he told me if it got out of hand that I should flatten Kelly, but I really  
78 don't want to solve things through violence. It did feel good to tell someone what  
79 was going on, especially since this situation with Kelly was started to make me get  
80 sick.

81 I began to develop some awful stomach problems. I had trouble sleeping.  
82 Grandma/Grandpa Jean took me to doctor and I was diagnosed as having anxiety  
83 issues. My self-esteem has suffered and I questioned whatever I was doing. I became  
84 timid and afraid to go anywhere without someone I trust with me. I know in my  
85 heart that I have a right to an education and the right to feel safe at school, but I don't  
86 ever feel safe. I'm pretty much always afraid. Kelly has done that to me.

87 Still, when Grandpa/Grandma Jean offered to intervene and let the school know  
88 what was going on, I made him/her promise not to say anything. That's also why  
89 when Rory Andrews was doing a story on bullying for our school newspaper, I  
90 would only talk to him/her anonymously. Sometimes the worst part about bullying  
91 is that if you try to do anything about it, it might only get worse.

92 Last spring, Officer Mills did a presentation on bullying to our school. After the  
93 session, I made an appointment to speak with Officer Mills privately. It was nice to  
94 have someone other than Grandpa/Grandma Jean to talk to about this. I felt like I  
95 could trust him/her and that s/he believed what I was saying.

96 After that I would go in to see him/her once a week or so. S/he is great to talk  
97 with about a lot of things. I have really been thinking about studying criminal justice

98 and becoming a police officer like my father. Officer Mills had some great school and  
99 career advice for me.

100 But we also talked about Kelly and the bullying situation. Officer Mills had some  
101 good advice for me. I remember s/he told me to try to find people I could trust to  
102 talk to. And more importantly, s/he told me that I should never let Kelly know s/he  
103 was getting to me and that I should never retaliate. Mills tried to get me to fill out  
104 some paperwork to report Kelly's bullying, but I didn't. I was afraid that drawing  
105 too much attention to the situation would only make matters worse. I just kept  
106 hoping it would all go away.

107 When school ended I decided to spend the summer in Chicago with my other  
108 grandparents so I could be around all my cousins and friends. But I might as well have  
109 been right there in Paradise Canyon. It was like I was obsessed with Kelly and his/her  
110 bullying. I would talk about it all the time and did a lot of research on the Internet to  
111 see if I could figure out a way to deal with this situation. Finally, my cousins told me  
112 to shut up about it and I just tried to forget about it and enjoy the summer.

113 I was hoping that when I got back to Paradise Canyon that everything that had  
114 happened between Kelly and me could be put in the past and that maybe Kelly had  
115 grown up over the summer and outgrown the need to pick on me. But as soon as  
116 school started, the bullying started with it. The last straw happened just the other  
117 day, on Friday, October 5th. I had stayed late at the library to try to get my  
118 homework done before the weekend. I know the library closes at 5:30 PM, so it had  
119 to be about that time when I left to go to my car.

120 When I got to my car, the tires were slashed and a window was broken. I called  
121 Grandpa/Grandma Jean and s/he came to get me. Boy was s/he steamed. At just  
122 about the time my grandpa/grandma got there, Officer Mills was out on Friday night

123 patrol and drove by. S/he stopped and got out of his/her car to talk with us. It must  
124 have been about 6:00 or so.

125 My grandpa/grandma just went off. S/he said something about how I had told  
126 Officer Mills about the situation and that s/he had done nothing to protect me.  
127 Grandpa/Grandma Jean said that if the authorities were not going to do anything to  
128 protect me, then s/he would. Officer Mills told her that s/he was not to take matter  
129 into his/her own hands. S/he assured us that there would be an investigation into the  
130 matter and that if Kelly was responsible, s/he would be held accountable.  
131 Grandpa/Grandma Jean and Officer Mills talked for another few minutes and then I  
132 got in his/her car to head towards home.

133 Grandpa/Grandma Jean was really quiet, but not that peaceful quiet, more in  
134 that angry, about to explode quiet. All of the sudden, s/he took a turn that was not  
135 towards our house and I realized s/he was headed towards Kelly's. S/he told me that  
136 this situation was never going to get any better unless I addressed it head on. I  
137 remember him/her saying that if the school or the police won't put an end to it, then  
138 we would. S/he told me that the only way to get a bully to back down is to stand up  
139 to them and give them a taste of their own medicine.

140 I really didn't want to confront Kelly, but I also didn't want to disappoint my  
141 grandpa/grandma and make him/her think I couldn't take care of my own problems.  
142 So, I went up to Kelly's house and rang the front doorbell. S/he answered the door  
143 and there s/he was standing in his/her basketball clothes and a hoody. I asked if we  
144 could talk. S/he just started yelling at me and wouldn't be reasonable.

145 Kelly violently swung open the screen door to knock me down. I put my hands  
146 up to my face because I was afraid Kelly was going to punch me. And then s/he did. I  
147 was trying to get up and I could see Kelly starting to lunge for me. I put my hands up  
148 again and I could feel Kelly strike me on the head with a brick. None of this was an

149 accident. I know Kelly did this on purpose. The next thing I know, Officer Mills and  
150 my grandpa/grandma are standing over me and asking me a lot of questions.

151 I heard Kelly tell Officer Mills that I started the fight and that I was the one trying  
152 to hit him/her. That I was screaming and threatening him/her when I came to the  
153 door, but that's simply not true. I never raised my voice and the only time I made  
154 any movement was to protect myself from being hit by the screen door or hit by  
155 Kelly. I was just trying to protect myself and was in no way going after Kelly.

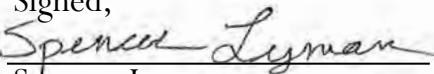
156 I know there are some people who think me and my grandpa/grandma are  
157 making too big a deal out of harmless teenage pranks, but I'm not stupid. I know the  
158 difference between kidding around and bullying. With all the research I've done on  
159 the Internet, it's clear that Kelly Dixon is the text book example of a bully. There's  
160 no doubt about it. What I have experienced in the last year goes way beyond  
161 anything that could be considered friendly hazing or good natured name calling.  
162 Kelly Dixon has gone out of his/her way to make me feel insecure, intimidated,  
163 excluded, and victimized.

164 At this point, I am just biding my time until I finish high school and can get the  
165 heck out of this Podunk town. But in the meantime, I'm just not going to put up with  
166 this anymore. I've tried to ignore Kelly. I've tried to deal with the situation myself.  
167 Now, it's time for the law to step in and make sure Kelly is held accountable for  
168 his/her actions. Bullying and hitting me are against the law.

#### 169 WITNESS ADDENDUM

170 I have reviewed this statement, and I have nothing of significance to add at this  
171 time. The material facts are true and correct.

172 Signed,

  
173 Spencer Lyman

## Dana Mills, Police Officer and Student Resource Officer

1 My name is Dana Mills, and I'm a police officer. I'm 26 years old, and I've been an  
2 officer in Paradise Canyon for six years. I'm not married, and I don't have any kids.  
3 It's tough to have a family when you wear a badge. People tend to treat you different,  
4 so it can be a lonely life. Maybe that's why I'm so devoted to my job.

5 I graduated from Paradise Canyon High School in 2004. In fact, I played  
6 basketball for Coach Robinson. I was pretty good, even if I do say so myself. I still  
7 think if Coach Robinson had put me in the game that time, we would have won and  
8 gone on to State. It might even have changed my career path. I'll bet I could still  
9 make a full-court shot. Anyway, in the long run it turned out for the better. I got my  
10 AA in Criminal Justice from the University of Phoenix. I took the on-line courses  
11 while I worked at the local youth center. I loved the juvenile justice course. I got a  
12 job as a patrol officer with the Paradise Canyon Police Department in June 2006, as  
13 soon as I graduated from Phoenix. I got my P.O.S.T. certification in December  
14 2006.

15 I am a part time SRO/DARE officer and part time beat cop. For people who  
16 might not be familiar with what an SRO or a DARE officer is, an SRO is a Student  
17 Resource Officer. A Student Resource Officer is a police officer stationed at a school  
18 campus. Our job is to provide visible police patrol in and around the school and  
19 advises school officials on security and crime prevention. We also advise students and  
20 meet with school staff and parents to advise them on law enforcement matters and  
21 student welfare. DARE stands for Drug Abuse Resistance Education. DARE  
22 Officers, like me, lead a series of classroom lessons that teach students how to resist  
23 peer pressure and live productive drug and violence-free lives.

24 I've been the SRO for five years and I really prefer my SRO duties. In fact, I  
25 worked my schedule so that my beat includes the school, just so I can make it part of



26 my regular patrol and keep in touch with the kids as much as possible. To get the  
27 assignment I had to graduate from the DARE Officer Training program, which I did  
28 in July 2007. It's an 80-hour two-week course just to get certified, and then I attend  
29 required annual training to keep current. I've also taken the 40-hour BASIC SRO  
30 training course from the National Association of School Resource Officers. I haven't  
31 had time to take the 24-hour Advanced School Resource Officer Course, but I'd  
32 really like to. Of course, with the training and experience I've had, I could probably  
33 teach it.

34 I consider myself to be the fighting young cop who can talk to other young  
35 people. It's really a big advantage that I'm only 26, since the kids can relate to  
36 someone closer to their own age. The guy before me was old. I mean, really old, like  
37 45, and he was "old school," too. He just didn't get it. You really couldn't teach him  
38 anything new, not that he was interested, anyway. He figured there was no problem  
39 that couldn't be solved by just teaching kids to be tough, or being tough on them. He  
40 used to brag that "in the old days" we didn't have the kinds of problems we have  
41 now. He finally got tired of what he called "PC namby pamby crapola" and went  
42 back to full time patrol. That was my opportunity! I see too much heartache as a beat  
43 cop. I see kids with lots of trouble at home. I can't do anything about that, but I can  
44 do my best to make sure they don't have trouble at school. I can't save the world, but  
45 maybe just my little corner of it.

46 Things really are different from when I was in high school. I suppose some people  
47 would call it "touchy feely," but it really is a better way. You have to talk to kids,  
48 relate to them, know what they're thinking and how they're feeling. I just like to be  
49 around and available to talk to the kids. It's good to have relationships with them. It  
50 sure makes law enforcement easier if the kids are used to having an officer around

51 and being able to talk them like regular people. I mean, we are people. I need that,  
52 too.

53 We haven't really had a lot of problems at Paradise Canyon, but ever since  
54 Virginia Tech doing something about bullying has been high on the legislative priority  
55 list. As part of the new anti-bullying law the school had to have an updated anti-  
56 bullying policy. So, I helped update our school's policy and then did a presentation  
57 on it last spring. I relied on the information in my SRO certification training to put it  
58 together. I've also done a lot of my own research. It's amazing how much research  
59 has been done and how much evidence has been gathered about bullying sensitivity,  
60 and tolerance. I really rely on this stuff to do my job effectively.

61 I found this great study from the Department of Justice and a lot of other stuff.  
62 Did you know that the average attack by a bully lasts only 37 seconds, and teachers  
63 only see 1 in 25 acts of bullying? I personally trained the teachers in how to detect  
64 and respond to bullying. I did a mandatory presentation to the kids during school  
65 hours. We had a No Place For Hate / Diversity Day where one of the activities was  
66 No Name Calling. Unfortunately some of the kids like Kelly Dixon were not as  
67 focused on diversity like they should have been. Kelly and others don't realize that  
68 name calling is really a form of verbal abuse and bullying. I did a follow up  
69 presentation in the evening for parents, but it was very poorly attended. Did you  
70 know that even though 9 out of 10 elementary school kids have been subjected to  
71 physical or psychological bullying, and 75% of children will be victims of bullying  
72 during their school career, half the parents don't see bullying as a problem for their  
73 children? Well, you can see what I'm up against. I don't want a Virginia Tech or  
74 Columbine on my watch.

75 If you're vigilant you can see potential incidents before they happen and try to  
76 head them off. For example, the profile of a kid who gets bullied is someone who

77 doesn't fit in. S/he's probably physically weak, s/he might be emotional and  
78 insecure, or have a physical appearance or wear clothing that attracts attention. S/he  
79 is usually a loner and doesn't have a lot of friends, and lacks confidence and the ability  
80 to stand up for him/herself.

81 The profile of a likely bully is a kid who enjoys power and control, or who enjoys  
82 causing pain. The bully might even get excited by the bullying behavior. Grades or  
83 physical size really have nothing to do with it. They just generally lack compassion  
84 and empathy for their targets. The bully might have been bullied before and is getting  
85 revenge on other people. Really, the bully is just seeking attention and wants to feel  
86 important. The bully is looking for a reaction. In my experience with Kelly Dixon,  
87 s/he fits that bill to a tee.

88 I believe the school's bullying policy that I helped to update is one of the exhibits.  
89 The policy is posted everywhere in the school, so there's no way a kid would not  
90 know what you can and can't do. I know the school paper has tried to do some  
91 reporting on bullying, but the school administration stopped it. Principal Skinner  
92 told me the she thought Rory Andrews, the school newspaper editor, was trying to  
93 embarrass the school and make it seem like we were making all this bullying stuff up.

94 I did talk to Rory Andrews several times to try to help him/her with some  
95 objective research on the topic. It did seem like s/he had an agenda with the story  
96 S/he specifically asked me if I thought Kelly Dixon was a bully. Except Rory said it  
97 like s/he already knew what s/he wanted the answer to be. How did s/he put it?  
98 "Kelly Dixon's not really a bully at all, is s/he Officer Mills?" I thought reporters  
99 were supposed to try to get to the truth, not make up a story to fit what they already  
100 think.

101 It really wouldn't have been professional of me to say anything to a student, but I  
102 do think Kelly Dixon is a bully. Personally, I have seen him/her bullying students on

103 several occasions. One example is Alex McGraw. I know Kelly bullied Alex a couple  
104 of years ago and after talking with me and Coach Robinson about the situation, Alex  
105 filed a report. Once a bully, always a bully I say.

106       Spencer Lyman did come to meet with me after my presentation. We hit it off  
107 pretty well. Spencer wants to be a police officer when s/he gets out of school.  
108 Spencer told me s/he was having trouble with Kelly Dixon. That doesn't surprise  
109 me. Kelly's family has been in Paradise Canyon forever. Kelly's family owns the local  
110 store, and when you own the local store you hear a lot of local scuttlebutt. In my  
111 opinion the Dixons used that information to gain a lot of power in Paradise Canyon.  
112 Kelly really thinks s/he's something special because of his/her family. S/he fits the  
113 power/control profile of a bully.

114       I tried to assure Spencer that as a police officer I was all over it, but Spencer was  
115 afraid that overt action against Kelly would just make things worse. I know that it's  
116 protocol for a student who is bullied to fill out a harassment report. I spent a lot of  
117 time trying to get Spencer to fill out a report, but s/he just wouldn't do it. Some  
118 kids take a little longer for the trust thing.

119       Besides, even though I had seen Kelly bully other students, I didn't have any  
120 concrete evidence that Kelly had done any of the things Spencer accused him/her of.  
121 I just gave Spencer advice about how not to look like a target, and how not to fit the  
122 profile of a bullying victim. I basically told him/her, "here's what a victim looks like,  
123 so don't look like that." I told Spencer to make some friends (s/he told me he had a  
124 lot; "hundreds" is I think what s/he said). I told Spencer not to act scared of the  
125 bully, and to avoid places where the bullying happens. I told Spencer that since the  
126 bully is looking for a reaction, it's best to just laugh it off or not pay any attention to  
127 comments. I told Spencer to report any bullying that happens. Frankly, I also told

128 Spencer to be a little tougher. I mean, if you want to be a police officer you have to  
129 be able to handle yourself and to deal with difficult and even dangerous situations.

130 On Friday October 5, 2011 I was out on patrol. When I drove by the school I saw  
131 Spencer and his/her grandma/pa Jean standing by Spencer's car. Jean flagged me  
132 down, and I could tell s/he was really upset. Spencer's tires were flat and there was a  
133 hole in the rear window. Jean was furious. I specifically remember him/her saying  
134 that if I would not do anything to protect Spencer then s/he would. Jean said, "I  
135 didn't raise four children on the mean streets of Chicago without learning a thing or  
136 two."

137 Boy, that Jean could sure curse up a blue streak. S/he was really mad and it took  
138 me a while to calm him/her down. I knew Jean would eventually calm down,  
139 though. After that incident in the Dixon's store last summer when Jean got upset  
140 about being overcharged for groceries, my experience with Jean taught me that  
141 s/he's all bark and no bite. I told both Spencer and Jean I would launch a full  
142 investigation. Jean was certain Kelly Dixon did it, but since at that time no one saw  
143 what happened there was no way to prove it. They finally left.

144 A short time later, I was dispatched to the Dixon residence for a "fight in  
145 progress" call. A neighbor had called into the station to say she saw two kids fighting  
146 at the Dixon residence. When I arrived all I first saw was chaos. Spencer was lying on  
147 the ground and looked like s/he was trying to get up. His/her head was bleeding.  
148 Jean was running from his/her car toward the front porch of the Dixon residence  
149 yelling something about that wasn't the right way to get this taken care of. Kelly was  
150 standing on the porch looking scared, like s/he'd been caught and didn't know what  
151 to do next. Kelly kept saying, "I didn't do anything," and "Spencer is crazy. I only  
152 shoved him/her away." It sounded almost like Kelly was trying to convince

153 him/herself. After that Kelly said something about his/her right to remain silent and  
154 wouldn't say anything else. I guess I didn't do my SRO job too well with him/her.

155 And then a weird thing happened. After I arrived a car parked just across the  
156 street drove slowly away with its lights off. Of course, that's illegal, but I had more  
157 important things to deal with.

158 Spencer was pretty incoherent when I arrived. There was a brick near where  
159 Spencer was sitting with fresh blood on it. Spencer kept saying over and over again,  
160 "Kelly shoved me down and hit me with a brick." I took a photograph of the brick.  
161 Jean wouldn't tell me much, just that s/he had brought Spencer there to "deal with it  
162 once and for all" and "this wasn't supposed to happen."

163 I really hope this unfortunate situation brings more awareness of the problem of  
164 bullying to the school. I want the kids to understand how something that seems  
165 innocent, like name-calling, is really the gateway to physical violence. It's too bad  
166 that Kelly's verbal abuse had to turn into a violent assault on Spencer. I'm just glad it  
167 wasn't worse.

#### 168 **WITNESS ADDENDUM**

169 I have reviewed this statement, and I have nothing of significance to add at this  
170 time. The material facts are true and correct.

171 Signed,   
172 Officer Dana Mills

## Jean Winters, Spencer Lyman's Grandparent

1 My name is Jean Winters. I am 64 years old. Spencer Lyman is my grandchild. I  
2 was born and raised in Chicago. I grew up in a big, Irish Catholic family. My mom,  
3 like most moms in her era, stayed home and took care of all of us six kids. My dad  
4 spent his whole career driving a bus route. His route stayed the same; it was the city  
5 that changed over the years.

6 All those changes in my city; that's really how I ended up here. Chicago is really  
7 more of a Barack Obama kind of town now, and I'm not a Barack Obama kind of  
8 person, if you know what I mean. I decided to move here to Paradise Canyon when I  
9 took early retirement five years ago. I had seen enough in my life and I wanted to  
10 spend the rest of my days some place quiet; some place where the people I see are  
11 just like me.

12 So, really, I'm more of a Paradise Canyon kind of person now, except it's taken  
13 the people here a while to get used to me and my family. The people here in Paradise  
14 treat me like I'm loud and confrontational, but really what I am is a typical city  
15 person adjusting to small town life. I mean, you get that way growing up where I  
16 grew up, in the family I grew up in.

17 Yelling is just how we said hello. A fight was just a discussion over dinner. I'm  
18 known for having a mouth, but you have to say what you think otherwise you'll get  
19 stomach problems like Spencer. Just because I can be kind of loud and express what I  
20 think don't mean I'm going to do anyone harm. You don't like what I say? Yell back  
21 for goodness sake! Of course, in this town if you yell back, you might get charged  
22 with disturbing the peace like I did. So silly. Must be an Idaho thing. Are the folks  
23 here too sensitive to handle some loud voices?

24 Like I said, I grew up in Chicago. The people in my family are just solid folk;  
25 nothing special, but we worked hard and made a comfortable life for ourselves. It

26 was a small American dream, but it was our American dream, none the less. After I  
27 graduated from high school, I joined the Army. I saw so many of my classmates  
28 getting sent to Vietnam and I decided it was my duty to serve too, so I joined up. I  
29 was a med tech in Vietnam and after I finished my tour I came back to Chicago. I  
30 started working as an EMT and ambulance driver. You see the same dirty streets and  
31 the same broke down people day after day, year after year. It just gets to be too  
32 much.

33 Having served in Vietnam, I know bullying when I see it. I mean when you have  
34 someone screaming at you that you're a baby killer just for walking down the street  
35 in your military uniform, you get to know what it's like to be bullied. I know that  
36 you have to stand up to people who are bullying you. That doesn't mean you go  
37 picking fights with everyone that looks at you sideways, but if it keeps happening  
38 again and again and again you just reach a point when you have to stand your ground.  
39 That's what I tried to teach Spencer.

40 I love Spencer, but I'm not sure how s/he survived living in a place like Chicago.  
41 S/he is just so sensitive about everything so someone bullying him/her, s/he's just  
42 going to take it harder than some people might. Other people might have been able  
43 to let what Kelly Dixon did slide off their backs, but that don't make what Kelly did  
44 right. People like Kelly; they look for the people they think are the weakest and then  
45 get their kicks outta terrorizing them. When I think of Kelly, I think of that story  
46 someone once told me about the rooster who goes after the chicken who he thinks is  
47 the weakest and pecks it until it bleeds. Well, Kelly sure made Spencer bleed, now,  
48 didn't s/he?

49 I knew something was wrong with Spencer pretty soon after school started. And I  
50 don't mean losing his/her dad. That will take you down for sure, but by the end of  
51 that first summer, I could see glimmers of the happiness start to return. Well, Kelly



52 and his/her buddies sure did put an end to that. At any new school, there's going to  
53 be a period of adjustment while the kids get to know you, but even after a semester,  
54 Spencer just didn't seem to enjoy his/her new school and all the friends s/he seemed  
55 to talk to on that Facebook thing were from his/her old school.

56 During the Christmas holidays last year, Spencer just seemed to be more relaxed  
57 but you could tell as school was about to start up, s/he got all fidgety all over again.  
58 Then last spring s/he started to get these awful stomach problems. S/he just seemed  
59 sick all the time and the stomach issues just kept getting worse and worse.

60 Finally, I took Spencer to see a doctor. It's just awful to watch someone you love  
61 suffer so much, especially after all s/he'd been through. At first s/he was afraid to go  
62 because s/he didn't want to upset his/her mom, but when I said we could keep it  
63 just between us, Spencer agreed to go.

64 And, I'm glad we went. It turns out Spencer had something called Anxiety. I  
65 didn't really know that was a disease, but you learn something new every day. We  
66 got him/her some medicine to help him/her with the Anxiety and finally Spencer  
67 started opening up about what was going on at school. S/he would talk with me and I  
68 know s/he also talked to that Officer Mills at school. But, let's face it. No pill in the  
69 world is going to stop Kelly Dixon from acting like a spoiled brat.

70 I do think Officer Mills meant well. But sometimes there's just a difference from  
71 what they teach you in theory and how it works in real life. What did s/he think?  
72 That Spencer could just wish the bullying away by ignoring it? I appreciate all that  
73 Mills tried to do, but you reach a time when all this new-agey stuff just ain't gonna  
74 cut it. You can't hug it out all the time. Sometimes you just gotta take matters into  
75 you own hands and take care of it yourself. That's not being confrontational; it's  
76 being part of the real world.

77 I know I promised Spencer that I wouldn't take this bullying issue to the school,  
78 but I admit I talked to someone from the school anyway. I ran into that Coach  
79 Robinson at the grocery store and mentioned the situation to him/her. The  
80 conversation was not promising. Sometimes I think teachers can just stay too long at  
81 a place.

82 Coach Robinson just seems like one of those burned out teachers who are just  
83 biding his/her time until retirement and a pension. I get it. Teaching kids must not  
84 always be a picnic, but when you're done, you're done. S/he seemed like s/he  
85 couldn't be bothered except to talk about how bullying is overplayed and what a  
86 great kid and ball player Kelly is on his/her basketball team. Whoopy do. Being a  
87 good ball player does not make you a good person. Just look at all the thugs in the  
88 NBA, except of course for Michael Jordan.

89 I do admit that I told Spencer to flatten Kelly, but only after Kelly's bullying had  
90 gone on for a long time. Spencer didn't seem to want to stand up for him/herself.  
91 For me the last straw was having the car vandalized. I had kept quiet for long enough  
92 and I was steaming mad. You just don't do that to people or their stuff. I realize the  
93 Dixons are big muckity mucks in this little town, but for Pete sakes. I'd had enough  
94 and we were going to get this solved by hook or by crook.

95 When Officer Mills came to take our report it was just more of the same. Keep  
96 your cool. Don't fight back. I'll handle this. What a nitwit. I just didn't trust  
97 him/her to get the job done. That's why I knew it was time for me to step in and get  
98 this taken care of.

99 I don't really know exactly what I said to Officer Mills at that point. I was seeing  
100 red, thinking about how much it was going to cost us to fix the car, and how upset  
101 Spencer's mom would be to find out what had been going on. Whatever I said, I'm

102 pretty sure they were not words you would hear in church, at least not any church  
103 I've been to.

104 So, when Spencer and me got into my car, I said, "Are you going to make an old  
105 man/lady get into a fight or are you going to take care of this yourself?" Then, I  
106 drove over as fast as I could to see that Dixon kid. I just kept saying that Spencer had  
107 to stand up for him/herself. I told him/her that I've lived a long life and I know the  
108 only way to get a bully to back off is to make it clear you're not going to put up with  
109 any nonsense from them.

110 I assure you, when I told Spencer to stand up for him/herself; I did not mean that  
111 it needed to come to fisticuffs. I've always maintained that the only reason to get into  
112 a physical fight is if someone else starts it first. And low and behold, Kelly did start a  
113 fist fight, or should I say a brick fight, and not even then did Spencer hit him/her.

114 I could tell from the get go that Spencer didn't want to confront Kelly Dixon, but  
115 I insisted. You just can't go through life running away from every problem you meet.  
116 What kind of person will you be if you're not willing to fight for something?

117 I sat in the car but I could see everything and I turned down the radio so I could  
118 hear quite a bit of what was going on. I was wearing my glasses and I had my hearing  
119 aid turned up. I know the glasses and hearing aid are both pretty old, but they still do  
120 the trick for the most part.

121 I could see Kelly swing the front door open in a very angry and aggressive way  
122 and it looked like Spencer put up his/her fists like s/he expected to get hit and have  
123 to protect him/herself. Spencer fell backwards when Kelly hit him/her with the  
124 door and then I saw it.

125 Kelly picked up something off the ground and struck Spencer with it when s/he  
126 was trying to get up. It looked like a brick to me. I'm sure I heard Kelly say that  
127 s/he's not going to put up with it anymore. That's rich, coming from Kelly.

128 As soon as I saw that Spencer was hurt, I got out of the car as fast as these old legs  
129 would take me and ran over to stop the fight and help Spencer, yelling, "That's not  
130 right. That's not how this is supposed to happen." As I was running to Spencer, I saw  
131 Officer Mills pull up in his/her squad car; a day late and a dollar short.

132 As I was helping Spencer up I could hear Kelly tell Officer Mills that Spencer  
133 started the fight by coming to the house. I can tell you that the only person I heard  
134 yelling was Kelly. The only person who was acting erratically was Kelly.

135 You simply do not get a gash on your head like Spencer has unless someone hits  
136 you really hard. Spencer was bleeding all over the place. I was in Vietnam. I was an  
137 EMT in one of the most violent cities in America. I know violence when I see it and  
138 Kelly was violent.

139 I don't care if Kelly's family has been here since the dawn of man. It's Paradise  
140 Canyon, not Windsor Fricken' Palace. I'm pretty sure there was no ring I was  
141 required to kiss when I moved here. The laws are here for everyone to follow. Just  
142 because Kelly comes from privilege does not mean s/he should be allowed to get  
143 away with this behavior. It just burns my buns the way Kelly and his/her friends have  
144 treated Spencer since s/he moved here. Small town charm, my patooty!

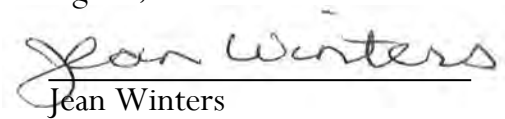
145 There just comes a point when harmless pranks cross the line and I can tell you  
146 the line was finally crossed when Kelly vandalized Spencer's car. Who else would it  
147 be other than Kelly? S/he's the one who started this whole mess and when we called  
148 him/her on his/her behavior, s/he went over the line.

149 We have no choice but to make him/her follow the law and the law says you  
150 can't bully people and you can't hit them. If it was just a harmless prank by Kelly, we  
151 wouldn't be in this situation.

152 **WITNESS ADDENDUM**

153 I have reviewed this statement, and I have nothing of significance to add at this  
154 time. The material facts are true and correct.

155 Signed,

156   
Jean Winters

## DEFENSE WITNESS STATEMENTS

### Rory Andrews, High School Reporter

1 My name is Rory Andrews. I'm a senior at PCHS; I'm 17 now but I'll turn 18 on  
2 November 23rd. I'm obsessed with exactly two things right now: being a journalist  
3 and getting into college. I like to fancy myself as this town's Lois Lane/Jimmy Olson,  
4 the intrepid kid reporter. But trust me; there's no need for Superman around here;  
5 not much happens, that is until Spencer Lyman started all this drama.

6 When it comes to me, I always shoot for the best. I want to be a reporter like my  
7 mom and her dad before her. My family has owned and run the Paradise Canyon  
8 Citizen for generations. It's your typical small town weekly; circulation about 500.  
9 Like most small town newspapers we report on what my mom calls the trinity of  
10 small town life: high school sports, birth and death announcements, and stuff you can  
11 pick up on the police blotter. But like I said, not much goes on around here, so what  
12 we consider high crimes and misdemeanors here in Paradise would like make real  
13 city people roll their eyes.

14 But, the newspaper business is in my blood. Right now I am the editor of my high  
15 school newspaper; have been since I was a sophomore. I plan to follow in the family  
16 footsteps and become a real reporter. I have a little bit bigger dream than a small  
17 town newspaper, though. One day soon, you will be reading my stories in the New  
18 York Times. That's why I'm planning on going to Columbia University next year.  
19 They have the best J school in the country as far as I'm concerned.

20 I have always lived here in Paradise Canyon, but you can probably tell, I'm ready  
21 for a change. When you run a newspaper in a place that's as small as Paradise, you  
22 end up having a real love/hate relationship with the town. You print stuff they like,  
23 you're the hero. You print stuff they hate; you're the goat. At least in New York  
24 when people don't like something a reporter writes, it's not likely you will run into

25 those same people in at the checkout line in the grocery store or in church on  
26 Sunday.

27 Running a newspaper in a small town like this is just a little too claustrophobic for  
28 my tastes. It's probably why Kelly Dixon wouldn't talk with me when I was writing  
29 my story on school bullying. A few months back, my mom did a piece that exposed  
30 the price gouging that was going on at Kelly's family's store. The Dixons don't like it  
31 when you point out their flaws; they're used to being treated like town royalty.

32 My family is not really like the Dixons; we're more like common people. But I've  
33 got no problem with Kelly Dixon, even though I know Kelly can rub people the  
34 wrong way. S/he's a nice enough person and a lot of people really like him/her, I  
35 think. For that matter, I have no problem with Spencer either. But I can tell you that  
36 I trust Kelly a lot more than Spencer. Kelly is one of us; s/he's not some outsider  
37 trying to stir up trouble in my town.

38 When it comes right down to it, I don't really have time for friends. My job is to  
39 see what's going on around me and tell the truth of what I see, like any good  
40 reporter. In a place like this that makes it hard to have a lot of friends. You could be  
41 friends with someone and then you end up having to write a story that puts them in a  
42 bad light.

43 That's pretty much why the school quashed my bullying story. The school made it  
44 abundantly clear that they did not want to run a story that concluded that bullying  
45 isn't as big a problem as they have made it out to be; especially after all the money  
46 they have spent on their anti-bullying initiatives. I'm pretty sure Principal Skinner  
47 just didn't want the School Board to find out he'd been wasting their money, but  
48 used his power to suppress my First Amendment rights. Yeah, I know; Hazelwood,  
49 Hazelwood, Hazelwood. I cannot wait to go to be a real reporter where petty  
50 bureaucrats like Skinner can't stomp on the freedom of the press. But, I know I must

51 be doing something right when I'm ticking people off. And the good news is the  
52 Supreme Court never said anything about me putting my story on my blog. You can  
53 find it there. Trust me; it's a good read. And, it proves what I knew all along. The  
54 whole idea of bullying is just something that's made up to give school people  
55 something to do. It's not a real problem. It just makes me so mad that the school  
56 wouldn't let me run my story and put this non-issue to rest once and for all.

57 For my story, I talked to pretty much everyone involved in this case. I'd use my  
58 reporter's privilege to protect my sources, but since Skinner made it clear I have no  
59 reporter's privilege as a high school kid, I've got no problem sharing any of this  
60 information with you. Let's start with Officer Mills.

61 I think s/he means well, but to me s/he comes across as a bit of a zealot. You  
62 know those people who are a cause in search of a problem. S/he has decided that  
63 bullying will be the end of public school as we know it; I've never met anyone who's  
64 more excited to talk about bullying. When I met with Officer Mills, s/he kept  
65 talking about this OJPBJ or some such government study that s/he thought would  
66 prove once and for all that bullying was the problem s/he thought it was. I also asked  
67 Officer Mills if s/he knew anything about Kelly Dixon bullying Spencer Lyman.  
68 Officer Mills said that s/he had witnessed what s/he called "a disturbing pattern of  
69 behavior" but said s/he could not get into the details of an ongoing investigation  
70 involving students.

71 Coach Robinson on the other hand, clearly thinks, like I do, that all this bullying  
72 stuff is the cause de jour among the hip educator crowd; anything to make kids into  
73 victims, right? I asked Coach Robinson if s/he thought Kelly Dixon is a bully and  
74 s/he was pretty adamant that, other than the situation with Alex McGraw, which  
75 was, in his/her words, an isolated incident, Kelly was a good kid, who was confident



76 and maybe even a little arrogant, but not a bully. I have to say, having known Kelly  
77 all my life, I would have to agree with that sentiment.

78 I had heard through the grapevine that Coach Robinson was keeping some  
79 evidence of threatening notes put into Kelly Dixon's locker and I admit that after our  
80 interview, I broke back into the coach's office and took the notes from his drawer;  
81 I've photographed them and included them in my article. I know it's probably not a  
82 good idea to admit to B&E in an official witness statement, but I have to say, I don't  
83 think of what I did to be a crime; it's just a reporter doing what s/he needs to do to  
84 get a good story. Sometimes the story is worth putting a toe over the line now and  
85 then.

86 Like I said, Kelly wouldn't talk with me, but I did shadow him/her for a few days  
87 to see if s/he was bullying anyone. In the time I was watching Kelly, I never saw any  
88 bullying going on. I saw Kelly being Kelly; sometimes teasing other kids, but nothing  
89 that I thought ever went over the line. I have to say, if Kelly was bullying anyone;  
90 everyone would probably notice. S/he's pretty well known around here because of  
91 his/her family so s/he has to know people are paying attention to what s/he does.

92 I also got Spencer's side of the story. We e-mailed back and forth for a while.  
93 Spencer didn't want to go on the record, so the e-mails were anonymous. One of the  
94 first rules of reporting is that that you can't really trust someone who's not willing to  
95 go on the record; it's easy to say whatever you want to anonymously. If you really  
96 think what you have to say is important, you will go on the record unless you think  
97 your life is in danger. Come on now. This is Paradise Canyon. There's no real danger  
98 here.

99 But, I eventually figured out that it was Spencer e-mailing me and I have to say I  
100 was surprised. The Spencer in the e-mails sounded so even keel and reasonable and  
101 believable, but that's not the Spencer I observe in person. Spencer in person is one of

those people who seems like s/he's going to crawl out of his/her skin. Here's the sense I get of Spencer: Spencer doesn't fit in here because s/he doesn't want to fit in here. If you give signals that you don't want to belong, people will be more than happy to make sure you don't. It has nothing to do with bullying.

Just like I did with Kelly, I followed Spencer around a bit to see if I could witness first hand anyone bullying him/her and also to see if it was him/her writing those creepy notes to Kelly. In one of my stalking sessions I could see Spencer standing near Kelly's locker, and it looked like s/he was putting a note in the locker. Later when I found the notes in Coach Robinson's office, I noticed that one of the quotes was from Demi Lovato and I happened to notice that Spencer also has a picture of Demi Lovato in his/her locker. It could just be a coincidence. Who knows?

On the night of the incident I was home listening to the police scanner when I heard Officer Mills call in to report the allegation of vandalism on Spencer Lyman's vehicle. It occurred to me that I had seen someone standing by Spencer's car with a tire iron at about 4:30 or so when I left the school newspaper office. I thought maybe the person was having car trouble or something. Really, it could have been anyone. The person was built like Kelly but was wearing a baggy sweatshirt with the hoody up and shorts and some basketball shoes so it was hard to tell. Could it have been Kelly? Maybe. But then again, maybe not.

Anyway, I heard Officer Mills say s/he had told Spencer and his/her grandpa/ma to stay away from Kelly's house and that s/he would file his/her official report in the morning. Still, something told me I should go check it out, so I went all stealth mode and headed over to Kelly's house to check it out.

When I got there, Spencer and his/her grandpa/ma were already there. Wow did I get a scoop. I drove past Kelly's house, parked down the street and came back. I walked past Spencer's grandpa/ma and I could see him/her adjusting his/her glasses.

128 You know, the way old people do when they're not sure if they can see very well.  
129 S/he had the window down and the radio on. It was loud enough that I could hear  
130 s/he was listening to one of those oldies stations with all those songs from way back  
131 in the '60's.

132 I went right past Spencer's grandpa/ma; it didn't seem like s/he even saw me. I  
133 hid behind the row of hedges next to Kelly's house and watched the whole thing  
134 happen. Spencer pounded on Kelly's door. Kelly answered and I heard one of them  
135 get really loud. I couldn't really see their faces but to me it sounded like Spencer  
136 doing the yelling. Kelly went to open the door and Spencer just stood there and  
137 wouldn't move even when Kelly tried to open the door. If Spencer had just stepped  
138 back, the door would not have hit him/her and s/he would not have fallen.

139 Then I heard someone say, "I'm not going to put up with this anymore." I think it  
140 was Kelly. I could tell that Kelly was mad, but can you blame him/her? Someone  
141 comes to his/her house and starts all this trouble. I could be wrong, but I'm pretty  
142 sure the law says you can protect yourself from a crazy person on your property.

143 Still in spite of the fact that Spencer was acting like a loon, Kelly still leaned down  
144 to help Spencer up. Spencer was definitely bleeding pretty badly; it looked like s/he  
145 had cut his/her head or his/her face. Kelly's back was to me, but I did not see  
146 him/her hit Spencer ever. There were loose bricks in the front yard, but I never saw  
147 Kelly with a brick in his/her hand.

148 I really don't think Kelly is a bully. Spencer is a kid who has let everyone around  
149 him/her talk him/her into playing the victim card and convince him/her Kelly was  
150 behaving in a way s/he wasn't. Spencer is the one who instigated this whole mess,  
151 with Officer Mills behind him/her whispering the bully nonsense in his/her ear. I  
152 know this town better than either Spencer or his/her grandpa/ma and I know that

153 Kelly would not bully anyone. S/he doesn't need to. This is our town, not theirs.  
154 You come here starting trouble, you get what you deserve.

155 **WITNESS ADDENDUM**

156 I have reviewed this statement, and I have nothing of significance to add at this  
157 time. The material facts are true and correct.

158 Signed,

159   
Rory Andrews

## Kelly Dixon, Defendant

1 My name is Kelly Dixon. I'm 16 now, but I will be 17 in December. I'm a junior  
2 at Paradise Canyon High School. I really can't believe you dragged me in here to talk  
3 about what happened with that crazy Spencer Lyman. I mean, that kid is off.

4 About me? Me and my family have been in Paradise since forever. I mean, my  
5 great great grandparents settled this town and someone from my family has run the  
6 Paradise Canyon Mercantile Store for over 100 years; since like 1885 or something.  
7 We kinda own this town if you really think about it. Most of the families who have  
8 been here are like us; they've been here a long time. It's not that we care if new  
9 people move here. But, if you are going to move here, at least don't stick your nose  
10 down at us like Spencer does.

11 I love Paradise Canyon. It's my home. It will always be my home. When I  
12 graduate from high school, I will go to the University of Idaho like my parents did;  
13 probably pledge the same house my mom/dad did, get a business degree, and move  
14 back home to run the Merc. It's just what we do in my family. Small town life is  
15 good. You know all the people and they know you. You can count on things staying  
16 the same. From the get go, Spencer has acted like there's something wrong with this  
17 place. Why would I waste my time trying to get to know someone who thinks that  
18 everything I stand for is beneath him/her?

19 From the time s/he moved here, s/he showed no interest in trying to get to  
20 know any of us. For the first three months, all s/he did was spend time with his/her  
21 mom. S/he didn't even say hello. I remember standing in line behind him/her at  
22 registration and said to my friends that it was the kid who moved here with his  
23 mama. S/he turned around and gave us this icy glare, so we just ignored him/her.

24 I really don't like being accused of being a bully by someone who hasn't even  
25 tried to get to know me. I'm not the kind of kid who gets in trouble. Go ahead. Take

26 a look at my record. The only thing you will find is that incident that happened  
27 freshman year with Alex McGraw. That kid knows I love the Celtics and s/he kept  
28 goading me with Kobe Bryant this and Kobe Bryant that. I hate that Kobe guy and  
29 one day I just couldn't take the teasing anymore and shoved Alex. I didn't mean to  
30 push him/her so hard, but s/he fell into the locker and dislocated his/her shoulder. I  
31 got written up for that, but I have not done anything since.

32 Since then I have tried to focus on all my energy on school and basketball. My  
33 coach, Coach Robinson, has really been great for me. S/he made me realize that I  
34 need to think before I act and that I can't just lose my mind every time someone says  
35 something I don't like. Anyway, thank goodness for Coach Robinson. S/he's really  
36 helped me know how to handle this whole Spencer situation, which is basically to  
37 just keep my head down and avoid him/her.

38 It's been clear since s/he's been here that Spencer is weirded out by me and  
39 thinks I'm bullying him/her. At first it was funny. Spencer would see me and run the  
40 other way. It made me laugh to see someone act so strangely, when I did nothing to  
41 cause him/her to react that way. My friends would laugh too. It was like Spencer had  
42 this big neon sign that was flashing "Hey look at me. I'm a freak from Chicago who's  
43 drawing attention to myself with my freaky freakishness." It's like s/he made it too  
44 easy to make fun of him/her. And what high school kid do you know who's not  
45 going to take advantage of that with some harmless teasing? Oh, and let's make it  
46 worse by dying part of your hair blue in a place like Paradise Canyon.

47 I admit that Spencer's last name made me laugh and that my friends would make  
48 up names. Here comes the Lying (Wo)Man. Lying (Wo)Man Walking, and stuff like  
49 that. Who am I to stop my friends? It was no big deal, really; just some good natured  
50 ribbing.

51       You just have to take it. You think there are not people who have gone to town  
52 teasing me with the last name of Dixon? I learned a long time ago; you ignore the  
53 teasing and it goes away; you play into it and it will continue till the day you die. But,  
54 I didn't start this. All I did was join in the fun with my friends; it's not my fault some  
55 of the names have stuck.

56       I remember once last year, I was walking by Spencer. I'm not really sure what  
57 happened, but all of the sudden Spencer was bleeding all over the place. I have no  
58 idea how it happened. I didn't touch the kid, but the look on his/her face was crazy  
59 funny. S/he was totally skeezed out. Blood was gushing down his/her face and  
60 Spencer was staring at me like I was the one who caused it. Me? I never even touched  
61 him/her and I'm pretty sure I'm not one of those people who can cause things with  
62 my mind. I'm not some Professor X or anything.

63       Because of the way s/he acted, Spencer got a reputation for being a wimp;  
64 someone who was afraid of their own shadow. It seemed like s/he was pretty much  
65 scared of everything and everyone. This is high school. Acting like that is a sure way  
66 to make yourself the butt of everyone's jokes and a target to get made fun of.  
67 Spencer set him/herself up to get an immediate reaction to anything s/he did and  
68 sometimes those reactions could be pretty funny. Spencer needs to learn to roll with  
69 it and just have fun like everyone else.

70       If I did anything to tease Spencer, it was no different than what anyone else was  
71 doing. It was all in good fun; just some innocent teasing. I know Spencer has been  
72 through a lot – losing his/her father, moving to a place very different than Chicago,  
73 having to live with your grandparents. But, if Spencer wants to be here and not be  
74 miserable, it's up to him/her to change; not everyone else. PCHS is a pretty small  
75 school and with only 100 or so kids, people are going to notice how you act and take  
76 their cues from that behavior. It's really that simple.

77 As for the allegations Spencer has made against me, I tell you flat out, they are  
78 complete bull. Everyone gets shuffled around in the hallways. It's an old school, with  
79 narrow hallways. Between classes, everyone is hurrying to get their lockers to get  
80 their books and get to their next class before the late bell rings. It's like being in a  
81 cattle chute. It's a wonder more people don't get hurt. My guess is that everyone  
82 feels like they are getting shoved or even tripped.

83 I heard about the bathroom incident, but I had nothing to do with it. Spencer had  
84 blue in his/her hair and we were playing our rival Lowman Rams that night in  
85 basketball. Their colors are blue and gold, so for Spencer to have blue hair was  
86 almost like s/he was saying s/he was rooting against our school. I can see why people  
87 would be mad, but there's just no proof that I was even in on that harmless prank.

88 And then the whole locker thing? Not me. I don't know about the writing, but as  
89 for the books; I can tell you that some of the lockers don't work very well. Old  
90 school. Old lockers. I've come to school a few times and found my stuff all over the  
91 floor, but guess who I blamed? Myself. I know I didn't close the door properly and  
92 boom! We have ourselves a locker explosion. Spencer on the other hand always has  
93 to find someone else to blame. Here's a thought: how about you take responsibility  
94 for yourself. High school is about preparing you to be an adult. How on earth is  
95 Spencer going to handle the real world when s/he can't even handle an issue with  
96 his/her locker? Grow up, dude.

97 And if you really want to talk about a locker violation, let's talk about what was  
98 done to me. For a while last spring, I kept getting these creepy messages shoved into  
99 my locker. They looked kind of like those fortunes you get in those Chinese cookies,  
100 but they had these corny quotes on them and then these warnings on them. Oooh!  
101 Like, I'm so scared by the nerdy famous people quotes. But, after a while, it started



102 to seem like someone was trying to tell me something, so I gave the papers to Coach  
103 R to hang onto them for me in case something like this happened. Good thing I did.

104 I remember talking to my friends about the papers one day after school. I told  
105 them I had had it with the petty little papers in my locker and that whoever was  
106 doing it needed to crawl back under their pathetic little rock. I don't know if Spencer  
107 heard me say it or not, but it wasn't directed at him/her. Maybe it's just his/her  
108 guilt that made him/her think it was.

109 I thought things were getting better. Officer Mills did a presentation on bullying  
110 and I could tell that Spencer was hanging on his/her every word. It made me think  
111 that, even if it's not my fault, maybe I should be more careful. It's like Coach  
112 Robinson keeps telling me. I'm a leader and it's up to me to use my powers for good  
113 and not evil.

114 Even when that nosy Rory Andrews was trying to get my supposed side to the  
115 bullying story s/he was writing, I stayed as calm as I could and told him/her that I  
116 wasn't the one causing the problems. Besides, I don't trust that kid after the hit job  
117 his/her mom did on my family in that rag they call a newspaper. Like my dad says,  
118 Rory and his/her family are not ethical. They will do anything to get a story, even  
119 listen to Spencer's crazy grandma/grandpa who, by the way, was arrested for making  
120 a scene in my family's store last summer. I guess crazy runs in the family.

121 I have to say, this summer was nice. No creepy Spencer lurking around every  
122 corner trying to listen to everything I was saying. I just had fun helping my uncle with  
123 the whitewater tours on the river and forgot all about the stupid stuff that had  
124 happened sophomore year. I did my best to avoid Spencer, but s/he still acted kind  
125 of nervous around me. Not as bad as last year though. So, you can imagine how  
126 surprised I was when s/he showed up at my doorstep ranting on about his/her car.

127 I have to tell you, I was afraid for my life. I thought to myself that Spooky  
128 Spencer had finally blown a gasket and was going to hurt me. S/he was pounding on  
129 my door and when I answered s/he started screaming at me that I had damaged her  
130 car and that s/he wasn't going to put up with it anymore. S/he said it like three or  
131 four times. I'm not going to put up with it anymore, over and over again.

132 Even though I was scared, I went to open the screen door to see if I could get  
133 him/her to calm down. S/he was practically hysterical. S/he put his/her fists up like  
134 s/he was going to start a fight with me right there in front of my house; on my  
135 property.

136 S/he lost her balance when I opened the door and fell backwards. When I saw  
137 him/her fall, I was worried that s/he was hurt and I went to make sure s/he was  
138 OK. S/he got up and started hitting and slapping at me. I shoved him/her to get  
139 him/her away from me.

140 I did not have a brick in my hand so how could I have hit anyone with a brick? I  
141 did not have anything in my hand. The only thing I can think of is that we have an old  
142 porch and some of the bricks may have come loose. Maybe Spencer hit his/her face  
143 on a brick when s/he fell.

144 As for the whole car thing, I did not hurt Spencer's car. Let me say it again. I did  
145 not touch Spencer's car. After school I went straight to my pre-season basketball  
146 workout and then I went straight home. I was hanging out watching TV when  
147 Spencer came onto my property and started this whole ruckus.

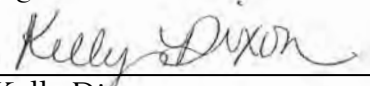
148 I know we made fun of Spencer's last name. How ironic it is now because  
149 Spencer really is a liar. Because of his/her paranoid delusions I'm sitting here wasting  
150 my time with you when I didn't do anything wrong.

151 I did not bully Spencer Lyman. I did not vandalize Spencer's car. I did not hit  
152 Spencer. All I did at my house was protect myself from the attack of a lunatic. I have  
153 a right to defend myself on my own property.

154 **WITNESS ADDENDUM**

155 I have reviewed this statement, and I have nothing of significance to add at this  
156 time. The material facts are true and correct.

157 Signed,

158   
Kelly Dixon

## Brice Robinson, High School Teacher and Coach

1 My name is Brice Robinson. I'm a lit teacher and the basketball coach at Paradise  
2 Canyon High School. I'm 55 years old and I've been doing what I do right here my  
3 whole career. I love it. I love everything about it. I love the kids, I love what I teach,  
4 I love coaching, I love the school, and I love the town. I've been here long enough to  
5 take an early retirement, but why would I? I'm one of those people who can honestly  
6 say I've never gone to "work" a day in my life. I admit that there's some days when  
7 the kids exhaust me, but that's just the nature of the job. Show me a teacher who says  
8 he's not ready for summer break come May and I'll show you a liar. But the good  
9 teachers are always just as excited to see the kids return in September.

10 I grew up in the Boyle Heights neighborhood in Los Angeles. It was a pretty  
11 diverse neighborhood; a regular U.N. But, by the '70s it was pretty gang infested and  
12 most people who could leave did. By the time I was in school, I was one of the only  
13 kids left in the neighborhood who came from a two-parent family, and my parents  
14 really valued education.

15 My dad hung sheetrock for 30 years until his back gave out. He didn't know  
16 anything else, and he couldn't work after that. It was hard on him financially and hard  
17 on his pride to have to live on disability. He always told me and my siblings that we  
18 had to study hard and work hard if we didn't want to end up like him. He sure taught  
19 me how to work hard, but the studying part I had to figure out on my own.

20 Like I said, growing up in my neighborhood was not easy. I was really in the  
21 minority in many ways. I came from a two-parent family, I did well in school (I  
22 especially liked literature), and I never got in trouble with the law. Talk about three  
23 strikes! I sure got my share of grief. It wasn't cool to care about school more than  
24 you cared about the streets. Now we slap a label on it and call it "bullying." Back  
25 then, it was just part of what you had to deal with, like the weather. I was pretty

26 much a loner, other than my siblings. There were a couple of kids that had similar  
27 interests, and it probably would have been good to have some friends, but that would  
28 have been another target on my back. The only thing I had in my favor was that I was  
29 a decent athlete, so I learned to get what little respect I could on the court.  
30 Basketball kept me safe and basketball got me out of Boyle Heights.

31 I made it through, graduated from high school, and hit the road. I was tired of the  
32 big city. What had it done for me? So I went rural. I got a basketball scholarship to  
33 the University of Idaho in Moscow. Wow! Talk about a foreign country! What a  
34 difference in lifestyle that was! I decided the small town life was just what I needed. I  
35 graduated from the U of I in 1979 with degrees in English literature and education -  
36 summa cum laude! My dad was sure proud of that.

37 Right after college I married my husband/wife Pat and got busy looking for  
38 work. I applied at every rural or small town school I could find and landed the job at  
39 Paradise Canyon. Since then I must admit I've lived a pretty idyllic life. We've raised  
40 three kids, we have four grandkids, and they're all doing great. Pat runs a local coffee  
41 shop. And I teach. Really, we have absolutely nothing to complain about.

42 I should also say that I've been the student-teacher liaison for the last five years.  
43 The job is really more of a mentor position. I watch out for the kids and make myself  
44 available to talk to them about, well, anything that's on their minds, really. It's a  
45 natural fit, given the time I've been at the school and my coaching duties. As part of  
46 the job requirement I have to have an 8-hour course in student behavior management  
47 every year as part of my continuing education. A lot of the course material the last  
48 couple of years has focused on bullying. It's actually been very useful, and I've found I  
49 can rely on it in my job.

50 Of course, I know both Spencer Lyman and Kelly Dixon. Spencer is a sophomore  
51 this year, and Kelly is a junior. Kelly's lived in Paradise Canyon all his/her life, but

52 Spencer moved here right before his/her freshman year. From Chicago, I think. I  
53 taught both of Kelly's parents, and I've known the family since I moved here. The  
54 Dixon's are solid people from way back. I just don't see them raising a bully.

55 Kelly's played basketball for me since his/her freshman year. S/he's really a good  
56 player. This year s/he's really taken on a key leadership role. I've seen a lot of  
57 maturity in Kelly, especially through this whole thing with Spencer.

58 Sure, I've seen Kelly josh around with some of the other kids in school, but it's  
59 not what I would call bullying. Kelly admitted to me that s/he and his/her friends  
60 were giving Spencer some good-natured ribbing and apparently Spencer didn't take it  
61 well. I guess I can understand that. What with being the new kid, coming from a big  
62 city to a small town, and losing your dad, there's probably some adjustments to  
63 make. I encouraged Kelly to leave Spencer alone and ignore him/her. I told Kelly to  
64 just avoid Spencer and let him/her get acclimated. I think I warned Kelly that in this  
65 day and age even teasing can be taken wrong. As far as I know Kelly took my advice.

66 Kelly did give me a couple of notes s/he said s/he found in his/her locker. I  
67 didn't think they were that big a deal, just some more goofy high school kid stuff.  
68 Kelly asked me to hang on to them, so I did.

69 Spencer is someone I'd describe as a loner, maybe a little aloof. A nice enough  
70 kid, but there's a little "edge" to him/her. If you asked me who his/her friends are I  
71 don't think I could name any. Spencer did stand out, and I don't mean that in a good  
72 way. S/he probably looked just like everyone else at his/her school in Chicago, but  
73 in Paradise Canyon s/he just looked odd. I personally didn't have a problem with it,  
74 but I think Spencer could have done more to fit in. When in Rome, you know?

75 I didn't see the "blue hair" incident, but it doesn't surprise me. In small towns,  
76 high school sports are a really big deal and sometimes the school spirit can get a little

77 out of hand. Any other kid would have taken it in stride, but Spencer was probably  
78 not the best choice of targets.

79 A while back I ran into Spencer's grandma/pa in the grocery store. Jean cornered  
80 me and tried to chew my ear off about Spencer being bullied in school. Just because I  
81 love my job doesn't mean I want to work 24 hours a day. I deserve some privacy too.  
82 I tried to listen politely to Jean, but still make it clear that I was on my day off and  
83 just really didn't want to deal with school stuff right then and there. I don't know;  
84 maybe I was a little standoffish, but I was just looking to get out of the situation as  
85 gracefully as possible.

86 Honestly, I think this whole "bullying" thing has gotten a little out of hand. I  
87 mean, just consider all this training. I've had to sit through several hours of, well, to  
88 be honest, claptrap about how to relate to kids in this brave new world. Really? I  
89 might not have three weeks of police officer training, but I've been teaching and  
90 coaching kids longer than Dana Mills has been on this earth. I've raised three of my  
91 own. I think that gives me a little wisdom on the subject and the right to say a thing  
92 or two. I guess you could say I'm a little "old school" when it comes to bullying.  
93 Remember, I was bullied plenty, all the way through school.

94 Dana says nine out of ten elementary school students were bullied? Well, I got  
95 enough grief to count as two or three of the ten! I got good advice and learned how  
96 to deal with it without having hours of training, mounds of forms, a platoon of  
97 counselors and who-knows-how-many dollars in resources thrown my way. Just the  
98 time I've had to spend on it has taken away from my coaching time. I'm pretty sure  
99 we lost at least one game last season because I had to be at an anti-bullying seminar  
100 instead of practice.

101 People talk as if bullying is a brand new crisis. But when you look at the statistics,  
102 the problem is no worse than it's ever been. It's gotten to be the latest legislative fad.

103 Politicians fall all over themselves to pass anti-bullying laws so they can say they are  
104 "doing something." Of course, I don't approve at all of bullying and I have no  
105 sympathy for bullies. I'm all for the obvious common sense solutions: talk to your  
106 teachers and parents, realize that you are not the cause of the bullying if you're the  
107 victim, and don't be a silent witness to it. It's one thing to discipline a kid for  
108 committing an act of physical violence.

109 I've never allowed students to fight or shove other kids around. It wasn't okay  
110 when I was a kid and it's not okay now. I had to learn how to deal with that. My dad  
111 was great for giving good advice and teaching me how to handle myself. It's sad that  
112 more kids these days don't have dads, but I also had a couple of teachers I could talk  
113 to. They all taught me how to deal with mean kids, and I'm better for it today. It  
114 never would have occurred to any of us to call the cops.

115 But these new laws throw everything into the same stew. Now it's to the point  
116 where we criminalize just being a jerk, or even expressing your stupid opinion.  
117 That's not how the world works, and we should be preparing kids for the real world,  
118 not a perpetually protected life. If you expect to be able to call the cops every time  
119 someone does something you think is mean, what will you do when you get a job?  
120 Mean people are part of life, and learning how to deal with them yourself is an  
121 important part of growing up. We can't treat every offense as an occasion for law  
122 enforcement and therapy. Did it ever occur to the Dana Mills of the world that  
123 overprotective and thin-skinned adults are part of the problem?

124 No one can watch what kids can do to each other and not feel grieved. Kids can  
125 be incredibly insensitive and mean. But Dana isn't the only one who's had training  
126 and been shown the data. I've done a little research on this myself. According to the  
127 National Center for Education Statistics, between 1995 and 2009, the percentage of  
128 students who reported "being afraid of attack or harm at school" declined to 4%



129 from 12%. Over the same period, the victimization rate per 1,000 students declined  
130 fivefold. That sounds like improvement to me. Dana says that 75% of kids will be  
131 bullied, but even that statistic is a guess. I've seen estimates as low as 20%, or one in  
132 seven. That's a lot lower than what Dana would have you believe. I read this great  
133 piece somewhere recently; maybe it was the Wall Street Journal, that talked about  
134 how bullying is just an exaggerated problem. I do agree with Dana that statistics  
135 show parents and teachers don't see it as that big of a problem. Maybe they know  
136 something Dana doesn't.

137 We can quote statistics all day long, but at the end of the day we have two real  
138 kids with real problems. It's just sad it came to a fight. Obviously, I wasn't there, but  
139 I can tell you that I don't believe Kelly was the aggressor. I can assure you that Kelly  
140 was at practice when Spencer's car was vandalized. We were in the gym the whole  
141 time, except for a quick bathroom break at about 4:30 or so, but only for ten  
142 minutes, fifteen tops. I didn't see Kelly during the break, but s/he couldn't have  
143 gone too far in fifteen minutes.

144 I also know Kelly had that problem with Alex McGraw his/her freshman year,  
145 but I think Kelly learned from that. Alex was the one who came to me and Dana  
146 Mills to tell us what was going on and it was me who encouraged Alex to turn in a  
147 the bullying incident report in that case.

148 After that, I counseled Kelly through the situation and encouraged him/her to  
149 focus his/her energy on positive and productive things. I've seen a huge  
150 improvement over the last couple of years. And remember, Kelly didn't go looking  
151 for Spencer.

152 Spencer went to Kelly and was apparently looking for a fight. In my opinion Kelly  
153 is innocent and Spencer needs to grow up. And if you really think about it; if Spencer  
154 really felt like s/he was being bullied, why didn't s/he turn in a report like Alex did?

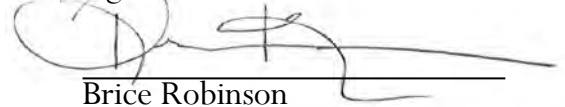
155 We have all these ridiculous procedures in place to give people like Spencer an outlet  
156 to address what they perceive as being wrong. It makes me think that Spencer would  
157 rather be the town victim than to actually fix what s/he thinks is the problem.

158 Dana Mills is another story. I don't ever like to speak bad about any student, but I  
159 guess Dana's not a student anymore. Let me put it to you this way: Dana makes  
160 Barney Fife look like a genius. Dana was a mediocre student and just as mediocre of  
161 an athlete. S/he's nice enough; don't get me wrong. It's not personal. But anyone  
162 who thinks you can get a few hours of training and somehow trump decades of  
163 experience needs an adjustment of perspective. Maybe Dana just never learned to  
164 deal with the bullying s/he thinks s/he was the brunt of.

165 **WITNESS ADDENDUM**

166 I have reviewed this statement, and I have nothing of significance to add at this  
167 time. The material facts are true and correct.

168 Signed,

169   
Brice Robinson

## Exhibits

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The subsequent pages of this section include the following exhibits:

Exhibit 1: Police Incident Report

Exhibit 2: Map of Incident Scene

Exhibit 3: Photos of Alleged Weapon

Exhibit 4: Paradise Canyon School District Anti-Bullying Policy

Exhibit 5: Sample PCSD Harassment Reporting Form

Exhibit 6: Alex McGraw Harassment Report

Exhibit 7: Photo and Text of Locker Notes

Exhibit 8: Rory Andrews Blog Post

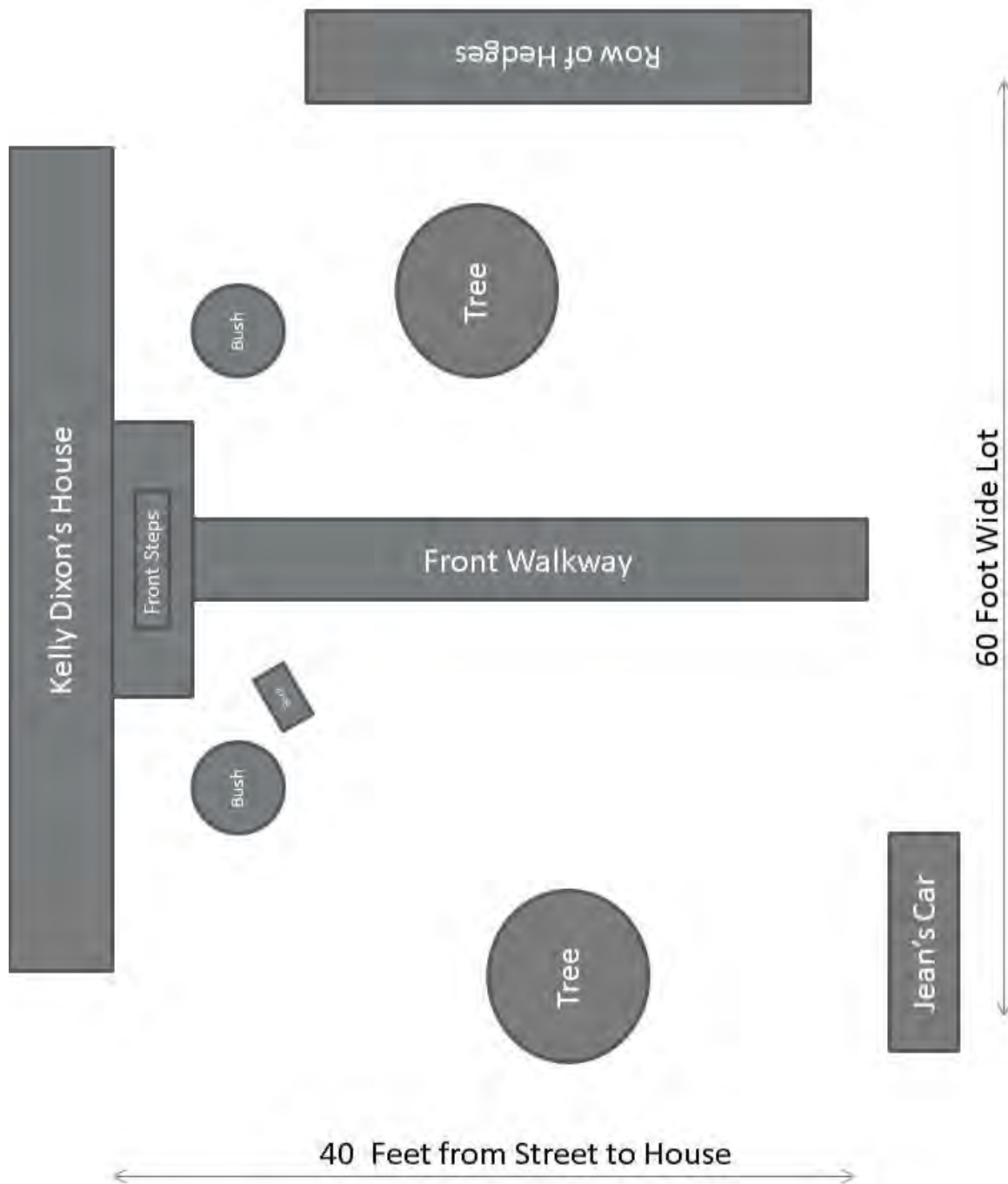
# EXHIBIT 1: POLICE INCIDENT REPORT

PARADISE CANYON POLICE DEPARTMENT INCIDENT REPORT													
Report Number 1294978				Code / Section 18-903				Definition and Classification Battery					
Use of Force Yes		Juv(s) Involved Yes		Specific Circumstances See narrative		Date Occurred From: 10/5/12 To: 10/5/12		Time Occurred From: 1845 To: 1900		Date Reported 10/5/12		Report Date 10/5/12 Report Time 2035	
Location of Occurrence: 1104 Canyon Valley Road								Area PC		Report to be sent to: Prosecutor Trotter		Report for: Charging Decision	
<b>1. Victim/Witness Section</b>				Codes: VIC-Victim		W-Witness		RP-Reporting Party		O-Other			
Code	Last Name		First	MI	SSN	Race	Sex	Date of Birth		Age			
VIC	Lyman		Spencer		xxx-xx-9732			7/23/97		15			
Residence Address				City		Zip		Phone		Location of Residence			
774 Madison Street				PC		83838				<input type="checkbox"/> City <input type="checkbox"/> Out of County			
Business Address (School/Grade if Student)				City		Zip		Phone		<input type="checkbox"/> County <input type="checkbox"/> Out of State			
Paradise Canyon High School 10				PC		83838							
Code	Last Name		First	MI	SSN	Race	Sex	Date of Birth		Age			
WIT	Winters		Jean		xxx-xx-1040			4/17/48		64			
Residence Address				City		Zip		Phone		Location of Residence			
774 Madison Street				PC		83838				<input type="checkbox"/> City <input type="checkbox"/> Out of County			
Business Address (School/Grade if Student)				City		Zip		Phone		<input type="checkbox"/> County <input type="checkbox"/> Out of State			
Retired													
Code	Last Name		First	MI	SSN	Race	Sex	Date of Birth		Age			
Residence Address				City		Zip		Phone		Location of Residence			
774 Madison Street				PC		83838				<input type="checkbox"/> City <input type="checkbox"/> Out of County			
Business Address (School/Grade if Student)				City		Zip		Phone		<input type="checkbox"/> County <input type="checkbox"/> Out of State			
<b>2. Suspect Section</b>				Codes: SUS-Suspect		PSS-Possible Suspect		IP-Involved Parties					
Code	Last Name		First	MI	SSN	Race	Sex	Date of Birth		Age			
SUS	Dixon		Kelly		xxx-xx-0733			12/26/95		16			
Hgt	Wgt	Eyes	Hair	Facial Hair	Build	SSN	DLN		DL State				
Miscellaneous Descriptors (AKA's, Tattoos, Clothing, Etc)						Charges							
						Battery and Bullying							
Address				City		Zip		Phone		Arrest		Rights	
1104 Canyon Valley Road				PC		83838							
Code	Last Name		First	MI	SSN	Race	Sex	Date of Birth		Age			
Hgt	Wgt	Eyes	Hair	Facial Hair	Build	SSN	DLN		DL State				
Miscellaneous Descriptors (AKA's, Tattoos, Clothing, Etc)						Charges							
Address				City		Zip		Phone		Arrest		Rights	
Reporting Officer D. Mills		Badge No. 681		Date 10/5/12		Time 2035		Approved / Badge No		Date		Time	
												Page 1 of 2	

#### NARRATIVE

Page 2 of 2: I, Officer Dana Mills, was on regular patrol on Friday, October 5, 2011 when I received a dispatch regarding a fight in progress. I proceeded to the location at 1104 Canyon Valley Road in my marked patrol vehicle. The residence is that of Kelly Dixon (map of scene included; drawn by me; not to scale). Kelly is personally known to me to be a student at Paradise Canyon High School. I observed the victim, Spencer Lyman, also personally known to me, on the ground bleeding profusely from the head and face. Dixon did not appear to be injured so after glancing around the area to assess the security of the situation and the on-going threat level I immediately turned my attention to Lyman. Lyman was clearly incoherent and was trying to get up. Due to Lyman's injury I kept Lyman sitting on the ground. Near the area where Lyman's head would have been positioned had Lyman been prone was a brick with what appeared based on my training and experience to be fresh blood (photograph included). As I attended to Lyman, Dixon stood behind me on the front stairs of the residence. Dixon appeared scared and agitated. Dixon said that he did not do anything except shove the victim. Also on the scene was Jean Winters, personally known to me to be Lyman's grandmother/father. It appeared that Winters had transported Lyman to the Dixon residence, as I had encountered both Winters and Lyman together about a half an hour before this incident. As Winters approached my position s/he said, "that was not the right way to take care of this." As Dixon was clearly the aggressor, by shoving Spencer with the door, which s/he admitted, I charged him/her with battery.

## EXHIBIT 2: MAP OF INCIDENT SCENE





### EXHIBIT 3: PHOTOGRAPHS OF ALLEGED WEAPON









## EXHIBIT 4: PARADISE CANYON SCHOOL DISTRICT ANTI-BULLYING POLICY

### PARADISE CANYON SCHOOL DISTRICT ANTI-BULLYING POLICY

#### Bullying, Hazing and Harassment

The Paradise Canyon School Board is committed to maintaining an educational environment that protects and promotes dignity, worth, and respect for each individual, and is free from harassment. Every student deserves the opportunity to learn in a safe, supportive atmosphere that promotes equal opportunities, free from all forms of discrimination and conduct that can be considered harassing, coercive or disruptive.

It shall be a violation of this policy for any student to bully, haze, or harass another through any means, including technology, while on school premises or at any school sponsored activity (including actions which impact a school sponsored activity), regardless of location. Violation of this policy may be subject to school disciplinary action even if the threat is not substantial, direct, or specific enough to constitute a violation of state or federal law.

#### Reporting

It is everyone's responsibility to eliminate behavior prohibited by this policy. Anyone who believes he/she has knowledge of a person or persons affected by a violation of this policy should immediately report it to a teacher or the principal.

Teachers receiving a report of a violation of this policy shall submit a written report to the principal immediately. Teachers witnessing a violation of this policy shall take immediate action to stop the inappropriate behavior and submit a written report to the principal. Teachers who fail to report or fail to take action to stop violations of this policy may face disciplinary action up to and including dismissal.

All reports of violations of this policy must be made on the Harassment Reporting Form.

#### Investigation

The principal shall conduct a thorough investigation of any allegation of bullying, hazing or harassment within ten (10) working days of receipt of the written report.

All investigations with sufficient evidence to support the allegations require a written report containing the findings and the action taken.

#### Confidentiality

Because of the possible sensitive nature of the allegations, any investigation for violations of this policy shall be conducted, to the extent possible and within legal constraints, to protect the privacy of the complainant, the victim and the accused.

#### Discipline for Violations of This Policy

Discipline of students found to have violated this policy may involve actions up to and including suspension or expulsion. Discipline shall be appropriate to the offense, age and status of the student.

The principal shall submit the case to the appropriate law enforcement agency when the charges warrant such action.

#### Insufficient Evidence

If there is insufficient evidence to support the allegations, no report of the allegation shall be placed in an accused or complaining student's permanent record.

#### False Accusation

If the investigation discloses that the complaining student knowingly or in a malicious manner falsely accused another of bullying, hazing, or harassment, the complaining student may be subject to disciplinary action.

#### Retaliation

Students accused of violating this policy may not retaliate against an individual who in good faith reports, associates with the individual reporting, participates in the investigation, or investigates a violation of this policy. Any student engaged in retaliatory actions may be subject to disciplinary action.

#### Prevention

The principal shall develop procedures to implement or review actions taken to prevent bullying, hazing or harassment; and shall follow up with victims of violations of this policy to ensure preventive actions were effective.

#### Definitions

**Bullying:** Bullying is the repeated aggressive behavior or frightening of others with an apparent intent to dominate. Bullying may include, but not be limited to physical (hitting, pushing, or attacks on property); verbal (name-calling, obscene gestures, malicious teasing, or electronic threats); or indirect attacks (intentional exclusion from groups, anonymous hurtful notes, or spreading false rumors). Bullying often occurs without apparent provocation. Bullying is not playful teasing between relatively equal individuals.

**Hazing:** Hazing means to require a person to perform any prank or task that would subject a person to bodily danger, physical harm, severe emotional harm, extreme embarrassment or personal degradation as a condition of being a part of any school group or participating in any school activity. It is not a defense that the hazed individual consented to the activity.

**Harassment:** Harassment means any verbal, written, graphic, or physical conduct by an individual or group which is sufficiently severe, persistent, pervasive and offensive to create an intimidating, hostile, threatening or abusive educational environment, or to disrupt the ability of an individual to participate in or benefit from school programs or activities.

Adopted: 7/14/03

Reviewed: Review Annually

Revised: 8/9/10

## EXHIBIT 5: SAMPLE PCSD HARASSMENT REPORTING FORM

Paradise Canyon School District No. 716 Harassment Reporting Form for Students	
School: _____	Date: _____
Student's Name: _____ (If you feel uncomfortable leaving your name, you may submit an anonymous report, but please understand that an anonymous report will be much more difficult to investigate. We assure you that we'll use our best efforts to keep your report confidential.)	
Who was responsible for the harassment or incident(s)? _____ _____	
Describe the incident(s). _____ _____ _____	
Date(s), time(s), and place(s) the incident(s) occurred. _____ _____ _____	
Were other individuals involved in the incident(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No If so, name the individual(s) and explain their roles. _____ _____ _____	
Did anyone witness the incident(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No If so, name the witnesses. _____ _____ _____	
Did you take any action in response to the incident? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what action did you take? _____ _____ _____	
Were there any prior incidents? <input type="checkbox"/> Yes <input type="checkbox"/> No If so, describe any prior incidents? _____ _____ _____	
Signature of complainant _____	
Signatures of parents/legal guardian _____	

## EXHIBIT 6: ALEX MCGRAW HARASSMENT REPORT

Paradise Canyon School District No. 716  
Harassment Reporting Form for Students

School: PLHS Date: March 9, 2011

Student's Name: Alex McGraw

(If you feel uncomfortable leaving your name, you may submit an anonymous report, but please understand that an anonymous report will be much more difficult to investigate. We assure you that we'll use our best efforts to keep your report confidential.)

Who was responsible for the harassment or incident(s)? Kelly Dixon

Describe the incident(s). Kelly kept making fun of me for liking Kobe Bryant so finally I told Kelly that Kobe is better than Paul Pierce and Kelly shoved me into a locker and damaged my shoulder.  
Date(s), time(s), and place(s) the incident(s) occurred. March 3rd was when it happened (the shoulder) but Kelly has been making fun of me & harassing me almost all school year

Were other individuals involved in the incident(s)? ☒ Yes ☐ No

If so, name the individual(s) and explain their roles. Kelly is the one who talks but all Kelly's little friend encourage H. Kelly's friend Chris said Kelly should kick my you know what and Kelly did it.

Did anyone witness the incident(s)? ☒ Yes ☐ No

If so, name the witnesses. The bullying happened in the main hallway between classes so pretty much the whole school saw it. Kelly was surrounded by all of the friends as usual

Did you take any action in response to the incident? ☐ Yes ☒ No

If yes, what action did you take? How could I take actions? My shoulder was destroyed. I was in so much pain I couldn't fight back. That's how Kelly likes it.

Were there any prior incidents? ☒ Yes ☐ No

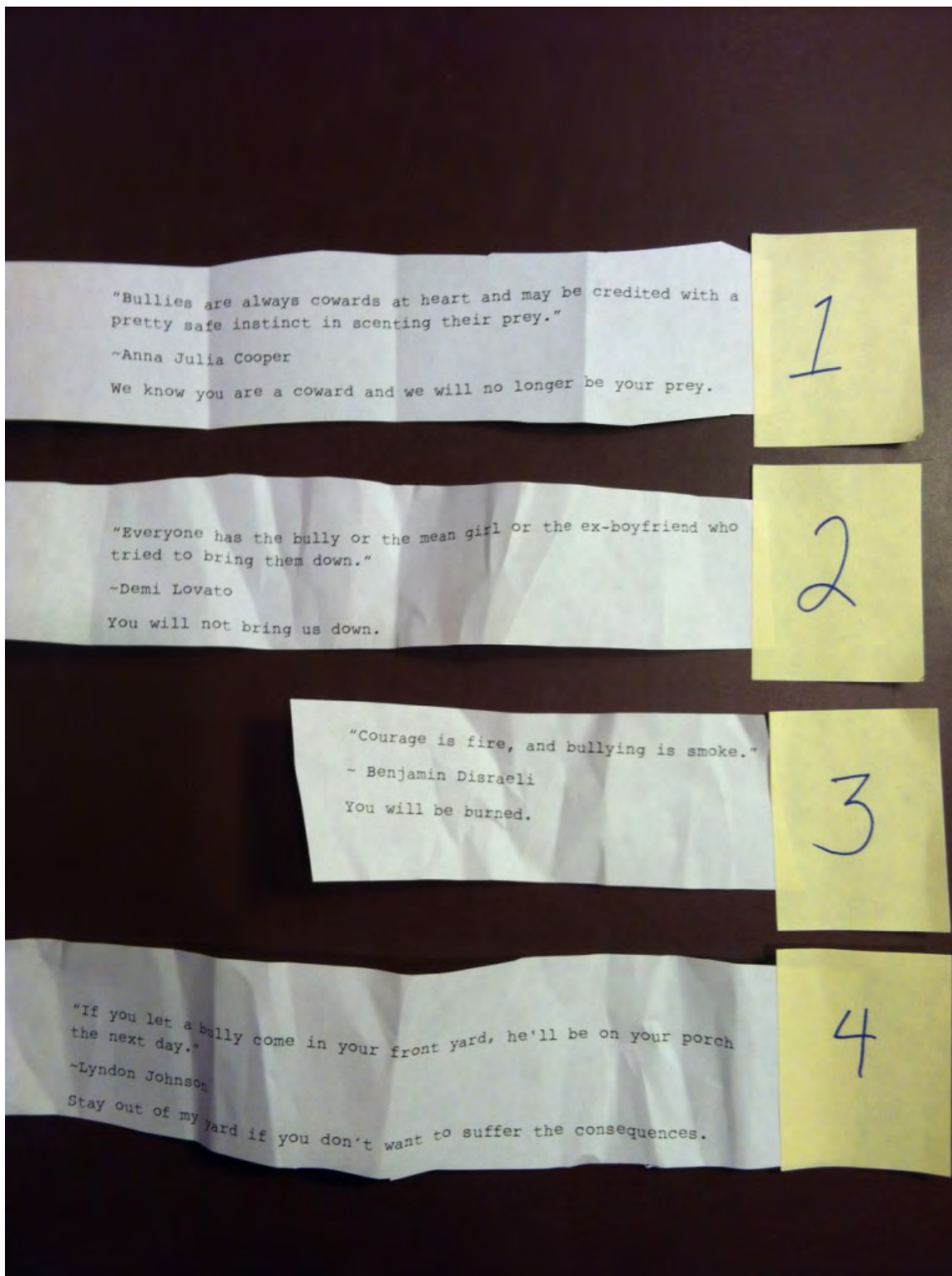
If so, describe any prior incidents. Kelly has been teasing me about basketball and Kobe Bryant since middle school.

Signature of complainant Alex McGraw

Signatures of parents/legal guardian Kelly McGraw



## EXHIBIT 7: PHOTO AND TEXT OF LOCKER NOTES



The photo on the previous page is of the notes found by Kelly Dixon in his/her locker and given to Brice Robinson for safe keeping. The photo was taken by Rory Andrews in Brice Robinson's office. The text of the notes reads:

- “Bullies are always cowards at heart and may be credited with a pretty safe instinct in scenting their prey.”  
~Anna Julie Cooper  
We know you are a coward and we will no longer be your prey.
- “Everyone has a bully or the mean girl or the ex-boyfriend who tried to bring them down.”  
~Demi Lovato  
You will not bring us down.
- “Courage is fire, and bullying is smoke.”  
~Benjamin Disraeli  
You will be burned.
- “If you let a bully come in your front yard, he'll be on your porch the next day.”  
~Lyndon Johnson  
Stay out of my yard if you don't want to suffer the consequences.

## EXHIBIT 8: RORY ANDREWS BLOG POST

### Dispatches from Paradise: A Rory Andrews Blog

9/13/2012 10:23 PM

*As many of my loyal followers may already know, my high school newspaper, **The PCHS Bugle**, refused to publish my most recent story exploring bullying (or I might say lack thereof) at my high school. This has been a good lesson for me in the lengths some people in authority will go to in order to repress points of view with which they don't agree. Well two can play at that game. Principal Skinner may be able to stop me from printing my story in the school newspaper, but she does not control the Internet.*

*I have to follow their rules at school, but following the rules is for suckers. I am determined to get my side of this story and my point of view out there no matter what and I won't be stopped. The following is my original piece that the school refused to print.*

#### ***Is School Bullying Really an Issue?***

**By: Rory Andrews**

Brice Robinson, longtime Paradise Canyon High School English teacher, believes that people might be overplaying the significance of the current so-called bullying epidemic. "Young people must wonder how their parents survived their younger years. People my age, and really even younger than me, rode our bikes without wearing helmets. We rode in cars that didn't even have seatbelts. We played outside unsupervised for hours on end. And when someone made fun of us, we figured out how to deal with it, most of the time without needing adults to step in and fix it for us."

Robinson is one of many teachers at PCHS who worries that the Paradise Canyon School District and others like it across the state may be making bullying into a bigger issue than it actually is. Some worry that what is called bullying is actually harmless teasing among peers, the same teasing our parents survived not so many years in the past.

Said another PCHS teacher, who asked not to be identified by name, "Kids have to be willing to share jabs and more importantly know when to laugh at themselves." The teacher continued, "It's important to be able to joke with our fellow students and even poke a little fun. It is natural behavior and can even enhance a relationship with a sense of bonding and camaraderie. And if you don't like it the best thing to do is to ignore it and it will almost always go away eventually."

According to Karen Bishop, an adolescent psychologist in Boise, in her testimony last spring to the Idaho Legislature, teasing is often confused with bullying. According to Dr. Bishop, the way to distinguish between the two is by the intent. The goal of teasing is to create closer relationships and make connections. The goal of bullying is to harm. If a young person overreacts or withdraws in response to teasing, she may lose out on important social experiences.

Says Bishop: “Kids poke fun at one another. It’s just what they do. Our instinct as parents or educators may be to step in and stop the behavior or try to protect our children from experiencing it in the first place. But this kind of teasing is important to our children’s social development. It helps them learn to develop relationships and handle uncomfortable situations with humor and grace.”

But not everyone agrees. Officer Dana Mills, PCHS Student Resource Officer, who leads the school’s anti-bullying initiative, thinks that bullying is a growing and serious problem that should not be overlooked. Mills points to a new study by the Office of Juvenile Justice that includes what Mills describes as some alarming statistics. These include:

- 56% of students have witnessed a bullying incident at school
- 15% of students who don’t show up for school attribute it to fear of being bullied while at school.
- 71% of students report bullying as an on-going problem
- An estimated 282,000 students are reportedly attacked in high schools throughout the nation each month.

But when asked if the average student can tell the difference between bullying and teasing, Mills was not as sure. Said Mills, “Bullies may try to down-play their bullying by saying they are only joking or having fun. But if joking or having fun is not being enjoyed by everyone involved or starts to become frequent or nasty at the expense of someone else, then it is not just having a bit of fun. It is bullying.”

But how pervasive is bullying in our local schools? When asked about the number of reported bullying incidents at PCHS, Principal Skinner indicated that there were less than 5 reports filed over the last school year. Even with a population of approximately 200 or so students, that means that only 3% of PCHS students report to being bullied. Principal Skinner could not ever recall the details of one of those incidents, except the incident between Alex McGraw and Kelly Dixon several years ago.

Skinner said, “I fully admit that kids will be kids,” he said. “But, we can lose federal funds that help support this school if we don’t follow the rules given to us by the



Idaho Department of Education.” To meet the federal and state guidelines, PCHS and other Idaho schools must:

- Develop and publicize an anti-bullying policy
- Educate students to the content and expectations of the policy and incorporate corrective measures for students determined to exhibit bullying behavior
- Train staff on anti-bullying policies and procedures for addressing bullying
- Incorporate anti-bullying education into the curriculum at all grade levels
- Develop a complaint reporting process

It’s worth emphasizing that all of these additional activities are for a reported 3% of students who report feeling bullied at school.

For purposes of this story, we were unable to get any students willing to go on the record to discuss bullying. Several students indicated that one of the biggest bullying issues at our school was an ongoing issue between Kelly Dixon and Spencer Lyman. While Dixon declined to go on the record for this story, what people said and what was witnessed of Kelly’s behavior were two different things. After days of tracking Dixon, this reporter did not witness a single incident that could be described as bullying behavior. Spencer is another story.

While Lyman also declined to comment, one student who wished to remain anonymous did report that Dixon had a long history of harassing Spencer. After tracking Spencer for several days, it seems to me that Spencer is the one exhibiting skittish behavior. Says the source: “Spencer is just sad. After two years of being mentally beaten down by Kelly Dixon, Spencer is just depressed and unable to cope with the situation anymore.”

For most of us, like Spencer, childhood will leave some minor scarring and some of those scars will come from being teased. It’s how young people learn and grow. It seems in this day and age that many adults and the children they coddle don’t understand that teasing is not bullying and they want to turn every simple slight or joke into a major incident to be addressed through the schools.

Last I checked, schools were supposed to be about providing an education for children and not there to address the social welfare needs of every malcontent. When parents or schools intervene, young people are denied the opportunity to learn valuable life lessons. The young person learns to look to someone else to protect him. Later in life, instead of standing up for himself like he should, he will not have the coping skills to address the issue for himself. Ultimately, this results in a poor self-image and an inability to take care of oneself. When we try to turn a rite of passage into something that it’s not, we do a disservice to all our young people.

# Jury Instructions

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## INSTRUCTION NO. 1

You have now heard all the evidence in the case. My duty is to instruct you as to the law. You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

## INSTRUCTION NO. 2

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection was made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I was being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustained an objection to a question or to an

exhibit, the witness was not allowed to answer and the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I told you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

Some of you have probably heard the terms "circumstantial evidence," "direct evidence" and "hearsay evidence." Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

### **INSTRUCTION NO. 3**

This criminal case has been brought by the state of Idaho. The defendant is charged by the state of Idaho with violation of law. The charge against the defendant is contained in the Complaint. The defendant is charged with Bullying and with

Battery and pleaded not guilty. The Complaint is simply a description of the charge; it is not evidence.

## **INSTRUCTION NO. 4**

A defendant in a criminal action is presumed to be innocent. This presumption places upon the state the burden of proving the defendant guilty beyond a reasonable doubt. Thus, a defendant, although accused, begins the trial with a clean slate with no evidence against the defendant. If, after considering all the evidence and my instructions on the law, you have a reasonable doubt as to the defendant's guilt, you must return a verdict of not guilty.

Reasonable doubt is not mere possible doubt, because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is the state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.

## **INSTRUCTION NO. 5**

The defendant has been charged with Bullying. In order to find the defendant guilty of Bullying the State must prove each of the following beyond a reasonable doubt:

- (1) That on or about a day or days between September 1, 2011 and October 5, 2012
- (2) In the State of Idaho
- (3) The defendant, Kelly Dixon, was a student, and
- (4) The defendant, Kelly Dixon, willfully and unlawfully

- (5) Committed an act of harassment, intimidation or bullying against another, Spencer Lyman.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

## INSTRUCTION NO. 6

“Harassment, intimidation or bullying” means any intentional gesture, or any intentional written, verbal or physical act or threat by a student that:

- (1) A reasonable person under the circumstances should know will have the effect of:
  - a) Harming a student; or
  - b) Damaging a student's property; or
  - c) Placing a student in reasonable fear of harm to his or her person; or
  - d) Placing a student in reasonable fear of damage to his or her property; and
- (2) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student.

An act of harassment, intimidation or bullying may also be committed through the use of a land line, car phone or wireless telephone or through the use of data or computer software that is accessed through a computer, computer system, or computer network.

## INSTRUCTION NO. 7

The defendant has been charged with Battery. In order for the defendant to be guilty of Battery, the state must prove each of the following beyond a reasonable doubt:

- (1) On or about October 5, 2012,
- (2) In the State of Idaho,
- (3) The defendant, Kelly Dixon, willfully and unlawfully,
- (4) Used force or violence upon Spencer Lyman.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

## INSTRUCTION NO. 8

A "battery" is committed when a person:

- (1) Willfully and unlawfully uses force or violence upon the person of another;  
or
- (2) Actually, intentionally and unlawfully touches or strikes another person  
against the will of the other; or
- (3) Unlawfully and intentionally causes bodily harm to an individual.

## INSTRUCTION NO. 9

A battery is justifiable if the defendant was acting in self-defense. In order to find that the defendant acted in self-defense, all of the following conditions must be found to have been in existence at the time of the striking:

- (1) The defendant must have believed that the defendant was in imminent danger of bodily harm;
- (2) In addition to that belief, the defendant must have believed that the action the defendant took was necessary to save the defendant from the danger presented;
- (3) The circumstances must have been such that a reasonable person, under similar circumstances, would have believed that the defendant was in imminent danger of bodily injury and believed that the action taken was necessary; and
- (4) The defendant must have acted only in response to that danger and not for some other motivation.

In deciding upon the reasonableness of the defendant's beliefs, you should determine what an ordinary and reasonable person might have concluded from all the facts and circumstances which the evidence shows existed at that time, and not with the benefit of hindsight.

The danger must have been present and imminent, or must have so appeared to a reasonable person under the circumstances. A bare fear of bodily injury is not sufficient to justify a battery. The defendant must have acted under the influence of fears that only a reasonable person would have had in a similar position.

The burden is on the prosecution to prove beyond a reasonable doubt that the battery was not justifiable. If there is a reasonable doubt whether the battery was justifiable, you must find the defendant not guilty.

## **INSTRUCTION NO. 10**

The kind and degree of force which a person may lawfully use in self-defense are limited by what a reasonable person in the same situation as such person, seeing what

that person sees and knowing what the person knows, then would believe to be necessary. Any use of force beyond that is regarded by the law as excessive. Although a person may believe that the person is acting, and may act, in self-defense, the person is not justified in using a degree of force clearly in excess of that apparently and reasonably necessary under the existing facts and circumstances.

### **INSTRUCTION NO. 11**

In the exercise of the right of self-defense, one need not retreat. One may stand one's ground and defend oneself by the use of all force and means which would appear to be necessary to a reasonable person in a similar situation and with similar knowledge; and a person may pursue the attacker until the person has been secured from danger if that course likewise appears reasonably necessary. This law applies even though the person being attacked might more easily have gained safety by flight or by withdrawing from the scene.

### **INSTRUCTION NO. 12**

An act is "willful" or done "willfully" when done on purpose. One can act willfully without intending to violate the law, to injure another, or to acquire any advantage.

### **INSTRUCTION NO. 13**

Certain evidence may have been admitted for a limited purpose. At the time any such evidence was admitted you were admonished that it could not be considered by you for any purpose other than the limited purpose for which it was admitted. Do not consider such evidence for any purpose except the limited purpose for which it was admitted.



## INSTRUCTION NO. 14

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case. The evidence you are to consider consists of:

- (1) Sworn testimony of witnesses;
- (2) Exhibits which have been admitted into evidence; and
- (3) Any facts to which the parties have stipulated.

Certain things you have heard or seen are not evidence, including:

- (1) Arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is included to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
- (2) Testimony that has been excluded or stricken, or which you have been instructed to disregard; and
- (3) Anything you may have seen or heard when the court was not in session.

## INSTRUCTION NO. 15

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

## INSTRUCTION NO. 16

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

## INSTRUCTION NO. 17

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your

individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

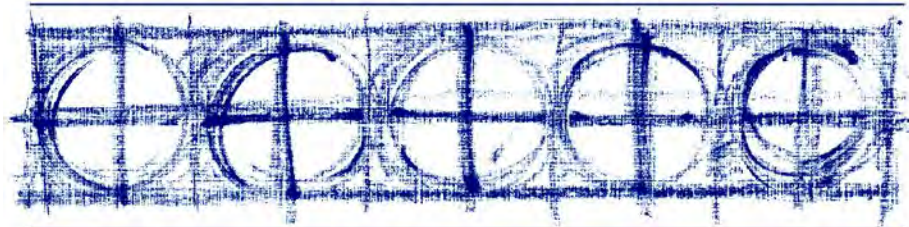
The Law Related Education Program

2013

# Idaho High School Mock Trial Program

Rules of Competition & Procedures

IDAHO LAW FOUNDATION



*Helping the profession serve the public*

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# Rules of Competition & Procedures

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## RULE 1: ADMINISTRATION

### Rule 1.1: Purpose of the Competition

Though designed as a competition, the primary purpose of the Idaho High School Mock Trial Competition is to educate students about the law and the legal system. The case materials are designed to be balanced, with neither side being clearly stronger or having the winning argument. Students, teachers, and coaches are urged to place greater emphasis on the experience of learning rather than winning.

It is important to remember that our judicial system, just as this competition, is run by people and, therefore, subject to individual interpretations. Unexpected obstacles in the course of a trial, including different rulings from different presiding judges, are the rule, rather than the exception. Being prepared to deal with the unexpected obstacles that will inevitably arise is an important part of being prepared for the competition.

### Rule 1.2: Rules

The Idaho Mock Trial Competition is governed by the rules set forth below. These rules are designed to ensure excellence in presentation and fairness in judging all competition trials.

Questions or interpretations of these rules are within the discretion of the Dispute Resolution Panel, whose decision is final.

The trial proceedings are governed by the *Idaho Mock Trial Rules of Evidence*. Other more complex rules may not be raised in the trial.

### Rule 1.3: Code of Conduct and Rules of Ethics

The rules of competition, as well as proper rules of courthouse and courtroom decorum and security, must be followed. The Law Related Education Program and its representatives possess discretion to impose sanctions, up to and including forfeiture or disqualification, for any misconduct, flagrant rule violation, and/or breach of decorum occurring before, during, and/or after the competition, which affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge, or the mock trial program.

Just as real attorneys are held to codes of ethical conduct, mock trial participants are also expected to demonstrate ethical behavior. This includes but is not limited to:

- Making false statements to the judge or not correcting false information that has been presented; offering evidence the participant knows to be false;
- Counseling or assisting a witness to testify untruthfully;

- Knowingly disobeying an obligation under the rules of the competition;
- Asserting personal knowledge of facts in issue except when testifying as a witness;
- Stating a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused;
- Seeking to influence a judge by means prohibited by the competition rules;
- Engaging in conduct that disrupts the competition;
- Making a statement that the participant knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge; or
- In trial, knowingly alluding to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence.

All participants (including Teachers Sponsors and Attorney Coaches) will sign a code of conduct agreement prior to their participation in the competition.

### **Rule 1.4: Master Scorekeeper/Procedures Official**

An Idaho Law Foundation staff person, or an attorney, judge, or other volunteer designated by Law Foundation staff will be designated at each regional and the state mock trial competition to be the Master Scorekeeper/Procedures Official. This person will:

- Act as a member of the Dispute Resolution Panel;
- Be available to consult with Presiding Judges on questions of rules upon request;
- Be responsible, in coordination with the Regional Coordinator, for all score keeping computations; and
- Be responsible for monitoring and enforcing all mock trial procedures in accordance with any and all rules and/or documentation that govern the *Idaho High School Mock Trial Competition*.

### **Rule 1.5: Emergencies**

Within reasonable consideration of weather, road conditions, etc., the starting time of any trial will not be delayed for longer than ten minutes. Incomplete teams will have to begin without their other members, or with alternates. At least one attorney and any witness are needed to begin the trial. After ten minutes, teams without a sufficient number of participants to start the trial will forfeit the match.



## **RULE 2: THE PROBLEM**

### **Rule 2.1: Gender of Witnesses**

*Unless otherwise stated*, all witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any student may portray the role of any witness of either gender.

### **Rule 2.2: Witnesses Bound by Statements**

The Witness Statements included in the case materials comprise the sole source of information for testimony. Witnesses may testify to any matter directly stated in or reasonably implied by the case materials.

Each witness is bound to give testimony that is consistent with his/her individual witness statement. These witness statements, or affidavits, should be viewed as signed and sworn statements made to law enforcement or attorneys by the witnesses as identified at a time close to the event when the witness' memory should be more reliable. Witnesses can be impeached if they contradict the material contained in their witness statements or testify to matters not contained in their witness statements.

A witness is not bound by facts contained in other witness affidavits or the pleadings and may testify contrary to other witness affidavits or the pleadings provided the testimony remains consistent with the witness' own statement and the case materials.

### **Rule 2.3: Contradiction of Prior Statement**

If an attorney believes that a witness has contradicted a prior statement (or affidavit), that testimony may be impeached during cross-examination of the witness through correct use of the statement.

The witness statements or affidavits may be introduced into evidence during the trial as a prior inconsistent or prior consistent statement pursuant to the applicable rules of evidence.

### **Rule 2.4: Fair/Unfair Extrapolations**

Witness affidavits are subject to all of the human errors of judgment people may make in similar situations, including distortion and varying perceptions.

It is virtually impossible to provide witnesses with detailed answers to every conceivable question that lawyers may ask. The witness statements are not intended as a complete life history and, for the most part, information not in the statements will be irrelevant and should be subject to objection. If an attorney's question solicits information not contained in the case materials, the witness may supply an answer of his/her choice; so long as it does not contradict other information contained in the case materials and does not materially affect the witness' testimony or the outcome of the trial.

Fair extrapolations, which are consistent with facts contained in the case materials and do not materially affect the witness' testimony or the outcome of the trial are permitted. It is important for the witnesses to exercise caution in such extrapolations in order to avoid

- Initiation of a dispute over a rules violation which could be brought to the attention of the judges; and
- Impeachment of the witness' credibility by the use of his or her prior written statement which was, presumably, all the witness could recall, under oath, at a time much closer to the events in controversy. Just as in our judicial system, lawyers and witnesses must deal with the facts that exist, and not the facts they would prefer.

If a witness invents an answer that is likely to affect the outcome of the trial, it is best to impeach the witness through cross examination. However, the opposition may object on the grounds that the answer is an unfair extrapolation or is beyond the scope of the materials. The judge will decide whether to allow or exclude the testimony in accordance with the *Idaho Mock Trial Rules of Evidence*. Judges will be instructed that testimony not reflecting information in the case materials, which bolsters a witness, and is generally immune from impeachment, should be ruled inadmissible.

Possible rulings by a judge include:

- No extrapolation has occurred;
- An unfair extrapolation has occurred;
- The extrapolation was fair; or
- Ruling is taken under advisement.

The decision of the presiding judge regarding extrapolations is final.

## **RULE 3: TEAMS**

### **Rule 3.1: Team Eligibility**

Any public or private school or a home school cooperative in Idaho may sponsor up to two teams. Students in grades 9-12 may participate. This includes 9th grade students who attend junior high instead of high school.

Schools with interested students but not enough students to make a full team may combine with other schools or may accept home-schooled students as team members.

Each team in the competition must have its own sponsoring teacher. However, this does not preclude one teacher from training both teams so long as both teachers are present during competitions.

Each school must submit a complete official registration form and pay the entry fee for each team before being considered a competition participant.

## Rule 3.2: Team Composition

A team will consist of a maximum of nine and a minimum of six students, a Teacher Sponsor and an Attorney Coach. For schools that have more than one team, each team must have separate core members.

There must be two or three attorneys, three witnesses, and a Timekeeper. Teams may also optionally have two alternates. Each team will indicate which members of the team will be actively participating in each round by listing student names on their *Daily Sheet*. Only students who are attorneys, witnesses, or Timekeepers will be considered active participants in each round. Alternates will be considered inactive participants and will be treated as spectators for the purposes of mock trial rules and procedures.

Alternates may substitute for other students during a competition in an emergency. The Competition Coordinator or LRE Director must be informed prior to the beginning of the round that an alternate will take the place of an active participant and provide an explanation as to why the alternate is filling in.

Teams competing at semi-finals and finals must compete with the same team members in the same roles as from the regional competition.

## Rule 3.3: Team Presentation and Participation

Teams must prepare both a Plaintiff/Prosecution and Defense case and should be ready to present both sides. During each of the competitions, teams will have an opportunity to present both Plaintiff/Prosecution and Defense at least one time. Competition staff will determine which team represents which side in the championship round.

Team members are to evenly divide their speaking duties. Each of the attorneys will have at least two speaking parts.

The attorney who examines a particular witness on direct examination is the only person who may make the objections to the opposing attorney's questions of that witness' cross-examination, and the attorney who cross-examines a witness will be the only one permitted to make objections during the direct examination of that witness.

A team may use its members to play different roles in the Plaintiff/Prosecution and the Defense rounds. For example, an attorney for the Plaintiff/Prosecution may become a witness for the Defense; a Timekeeper may become an attorney; or an alternate may become a witness or attorney. It is not permissible to have two entirely different teams - one for Plaintiff/Prosecution and one for Defense.

## Rule 3.4: Team Duties

- Each team must ensure that the LRE Director or designated staff has received a completed and accurate registration form and appropriate payment for each team registered.
- Each team must submit a participant list to the LRE Director two weeks before the regional and state competitions.
- Each team must submit a completed *Daily Sheet* when checking in at both the regional and state competitions for each team registered. For regional competitions each team must also bring six copies of their *Daily Sheet*. At the beginning of each of the three rounds, a team must provide one copy of its *Daily Sheet* to the Judging Panel and one copy to the opposing team. For the state competition each team must also bring four copies of their *Daily Sheet*. At the beginning of each of the two quarter-final rounds, a team must provide one copy of its *Daily Sheet* to the Judging Panel and one copy to the opposing team.
- Each team must fill out competition-provided nametags for all team members—including alternates, teacher sponsors, and attorney coaches.
- Each team is required to provide one student who will serve as the official Timekeeper for that team. See *Timekeeping Procedures* for more information concerning Timekeeper duties.
- Each team is responsible for educating their spectators (including parents and friends) about the rules of the competition, including rules regarding spectator contact during the round.

## RULE 4: THE TRIAL

### Rule 4.1: Courtroom Setting

The Plaintiff/Prosecution shall be seated at the table closest to the jury box. The Defense team will sit at the table on the opposite side of the room. Where possible, all participating (active) members of the team will sit in front of the bar (the wall) that divides the spectators from the active participants. If there is not adequate space/seating in front of the bar, the first row of the spectator section will be reserved for witnesses. No inactive participants (alternates) may sit with the witnesses during the competition. No team shall rearrange the courtroom without prior permission from the competition staff.

### Rule 4.2: Trial Sequence

The following trial sequence will be followed:

- 1) Plaintiff/Prosecution's Timekeeper calls the court to order.

- 2) Judges enter and the Presiding Judge asks everyone to be seated.
- 3) Presiding Judge announces the case, swears in all witnesses, and makes any introductory remarks.
- 4) Plaintiff/Prosecution's Opening Statement
- 5) Defense's Opening Statement (the Defense's Opening may not be reserved)
- 6) Plaintiff/Prosecution's Direct Examination
- 7) Defense's Cross Examination
- 8) Plaintiff/Prosecution's Redirect Examination (optional)
- 9) Defense's Recross Examination (optional)
- 10) Defense's Direct Examination
- 11) Plaintiff/Prosecution's Cross Examination
- 12) Defense's Redirect Examination (optional)
- 13) Plaintiff/Prosecution's Recross Examination (optional)
- 14) Plaintiff/Prosecution's Closing Argument
- 15) Defense's Closing Argument
- 16) Plaintiff/Prosecution's Rebuttal (optional)

No motions, except motions to strike following a sustained objection, are allowed before, during or after the trial. If any motions are important to the presentation of the case they will be explicitly addressed in the case materials.

### **Rule 4.3: Witness Participation**

All witnesses (three for each side) must take the stand. Neither team may call witnesses from the other side.

### **Rule 4.4: Time Limits**

Each team will be allowed a total of 50 minutes for their case. Time in each category may be divided among team attorneys and witnesses as they choose, but overall the overall time limit of 50 minutes is mandatory and must be observed. Timing will halt during objections and judges' responses to objections. The following time categories are recommended but not mandatory:

- Opening Statement (5 minutes per side)
- Direct and Redirect Examination (21 minutes total)
- Cross and Recross Examination (18 minutes total)

- Closing Arguments (5 minutes per side)
- Plaintiff/Prosecution's Rebuttal (optional) (1 minute)

Overtime penalties of one point per minute will be assessed **ONLY** for each full minute a team exceeds its 50 minute allotment. The Presiding Judge may, in an emergency, grant time extensions in the interest of fairness, however, this will be a rare occurrence and shall not be expected or requested.

### Rule 4.5: Supplemental Material/Costuming

No witness costumes or props are allowed. This includes changing clothes between rounds to appear more professional or casual than in a previous round. Accents and dialects are not prohibited.

### Rule 4.6: Trial Communication

For reasons of safety, fairness, and educational integrity, at least one Teacher Sponsor, Attorney Coach, or other adult (designated by the school to be responsible for the students) must remain in the seating area in the courtroom throughout the trial. There must be no spectator contact with student team members, including student Timekeepers during the trial, including during interim recesses when the judges are out of the courtroom. Teacher Sponsors, Attorney Coaches and other spectators may not talk to, signal, and/or otherwise communicate with or coach the participating students. Communication may occur after closing arguments when the judges have left the courtroom to fill out their score sheets.

### Rule 4.7: Viewing a Trial

Teachers, coaches, and members of competing teams not yet eliminated from the competition may not observe trials in which they are not participating. Family or friends with students on more than one team may observe any trial in which they have a student participating, provided they do not move from trial to trial during a round.

Other than mock trial staff or media representative authorized by the Idaho Law Foundation, anyone who wants to view a trial must arrive in the courtroom prior to the beginning of the round. If a person viewing a trial needs to leave before the end of the trial, he or she must do so quietly and may not re-enter the courtroom until either (A) the judge recesses the court for a break or (B) the judges leave the courtroom to fill out their score sheets at the end of the trial.

### Rule 4.8: Videotaping/Photography

Unless participation is agreed to by both teams in a courtroom, tape recording, videotaping, and still photography are prohibited during a trial except by competition staff and/or the media. Any team has the option to refuse participation in videotaping, tape recording, and/or still photography by opposing teams.

Media representatives authorized by the Idaho Law Foundation will wear identification badges.

The final round of the state competition may be videotaped by competition staff or its media representatives for educational purposes. Teams may take photos of their students in the courtroom before and/or after the trial has occurred so long as the court agrees that taking such photos is appropriate.

### **Rule 4.9: Jury Trial**

The case will be tried to a panel of three judges (where possible): a Presiding Judge and two judges who represent the Jury. Arguments should be made to all the judges. Teams may address the Presiding Judge as “Your Honor,” and the other two judges as “Ladies and Gentlemen of the Jury” or “Members of the Jury.”

### **Rule 4.10: Standing During Trial**

Unless excused by the judge, attorneys will stand while giving opening statements and closing arguments, while conducting direct and cross examinations and while making or responding to objections.

### **Rule 4.11: Objections during Opening Statement/Closing Argument**

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

If a team believes an objection would have been proper during the opposing team’s opening or closing statement, one of its attorneys may, following the opening statement or closing argument, stand to be recognized by the judge and may say, “If I had been permitted to object, I would have objected to the opposing team’s statement that \_\_\_\_\_. ” The Presiding Judge will not rule on this objection.

Judges shall weigh the objection individually. No rebuttal by opposing team will be heard.

### **Rule 4.12: Argumentative Questions**

An attorney shall not ask argumentative questions. However, the Court may, in its discretion, allow limited use of argumentative questions on cross-examination.

### **Rule 4.13: Lack of Proper Predicate/Foundation**

Attorneys shall lay proper foundation prior to moving for the admission of evidence or exhibits. After a motion has been made, evidence or exhibits may still be objected to on other grounds.

Idaho does not require that an attorney tend a witness as an expert or obtain a formal ruling from the presiding judge that a witness is an expert before that witness may offer an expert opinion (see Article VII of the *Idaho Mock Trial Rules of Evidence*). However, the attorney

offering an opinion of an expert witness must be sure to lay the proper foundation for the opinion (see *Rule 702*), and the opinion is subject to objection if the proper foundation is not laid, or for any other reason.

## **Rule 4.14: Procedure for Introduction of Exhibits**

Attorneys may introduce any of the physical exhibits provided with the case materials. Exhibits must be introduced into evidence if attorneys wish the court to consider the items themselves as evidence, not just the testimony about the exhibits. At the end of the witness examination, attorneys may ask to move the item into evidence in this manner:

- 1) Present the item(s) to an attorney for the opposing side prior to trial. If that attorney objects to use of the item, the judge will rule whether it fits the official description.
- 2) Request permission from the judge when you wish to introduce the item during trial. For example, say: "Your Honor, I ask that this item be marked for identification as Exhibit #XX."
- 3) Show the item to the witness on the stand. Ask the witness if s/he recognizes the item. If the witness does, ask the witness to explain how s/he is familiar with it. Make sure you show the item to the witness, don't just point.
- 4) Request permission from the judge when you wish to admit the item during trial. For example, say: "Your Honor, I ask that Exhibit #XX be admitted into evidence."
- 5) At this point opposing counsel may make any objections they have.
- 6) The judge will then rule on whether the item may be admitted into evidence
- 7) When finished using the item, you may return it to the attorney table or request permission to leave it at the witness stand.

Exhibits not specifically provided for in the case materials are not allowed. The Idaho Law Foundation will provide a set of exhibits for each courtroom during the competition that will be used by both sides during the trial. No other copies of the exhibits will be allowed in the courtroom during the mock trial competition.

## **Rule 4.15: Use of Notes**

Witnesses are not permitted to use notes in testifying during the trial. However, attorneys may utilize witness statements to refresh recollection of witnesses in accordance with the applicable rules of evidence. Additionally, attorneys may use notes in the presentation of their material.

## **Rule 4.16: Redirect/Recross Examination**

Only one redirect and only one recross examination per witness will be allowed.



## **Rule 4.17: Scope of Closing Arguments**

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

## **Rule 4.18: The Debrief**

Presiding Judges will NOT announce a verdict or ruling on the legal merits of the trial. Judges will also NOT announce which team won the round or the scores of the teams. The judges will share positive comments and constructive criticism about the teams' presentations.

Presiding Judges shall limit the debriefing sessions to a total of 10 minutes to be shared among all members of the Judging Panel. It is the responsibility of the Timekeepers to use the Time Cards to signal to time the judging panel during the debrief, counting down each minute from 10 to 0. When 10 minutes have passed, Timekeepers MUST hold up the STOP card to politely signal to the judges that the debrief session has ended.

## **Rule 4.19: Team Awards**

At the end of each round, while the judges are filling out their score sheets, each team will collaboratively choose one outstanding witness and one outstanding attorney from the opposing team. These decisions will be made by team members and not by attorney coaches or teacher sponsors. Team members will write the names of their choices on the certificates provided in their registration packets at the beginning of the competition and will present their awards at the conclusion of the debrief session.

## **RULE 5: JUDGING & SCORING**

### **Rule 5.1: Finality of Decisions**

All decisions of the Judging Panel are final.

### **Rule 5.2: Composition of Judging Panels**

Where possible, a three-person panel will judge and score each round: a Presiding Judge and two other judges. In most cases, two of the judges will be Idaho judges and/or attorneys while the third will be a community representative. The Presiding Judge will sit at the judge's bench and the other two panel judges will sit in the jury box.

All members of the Judging Panels will receive all mock trial materials prior to the trial and are expected to read the case, rules, and any other relevant materials.

In case of a shortage of judges, competition staff will make every effort to find a replacement. If this is not possible, panels of two judges may be used. If two judges are used, the competition scorekeeper will average the scores of the two judges present to

compute a third *Score Sheet*. If the third *Score Sheet* is tied, the decision of the Presiding Judge will determine the winner of the third ballot.

### Rule 5.3: Ballots/Score Sheets

The term *ballot* will refer to the decision made by a scoring judge as to which team made the best presentation in the round. The term *Score Sheet* is used in reference to the form on which speaker and team points are recorded.

*Score Sheets* are to be completed individually by the scoring judges. Scoring judges are not bound by the rulings of any other scoring judge. While the Judging Panel may deliberate collectively on any special awards (i.e., Outstanding Attorney or Witness) the Judging Panel will not deliberate collectively on individual scores.

The team that earns the highest points on an individual judge's *Score Sheet* is the winner of that ballot. The team that receives the majority of the three ballots wins the round.

### Rule 5.4: Completion of Score Sheets

Each scoring judge shall record a number of points (1-10) for each of the 12 individual presentations of the trial. At the end of the trial, each judge shall total the sum of each team's individual points and place this sum in the Column Totals box. **No tie is allowed in the Column Totals box.**

### Rule 5.5: Scoring Deductions

There will be a deduction of up to ten points from a team's total score if students, the Teacher Sponsor, or the Attorney Coach is found in violation of a rule by a Presiding Judge or competition staff.

### Rule 5.6: Outstanding Witness and Attorney

Judging Panels may recognize outstanding individual presentations by selecting one outstanding witness and/or one outstanding attorney per round. The decision must be representative of the majority of the panel members and recorded on the forms provided. The judges should not announce these decisions, as students will be recognized at the end of the competition during the awards ceremony.

## RULE 6: PAIRINGS & TEAM ADVANCEMENT

### Rule 6.1: Pairings

Competition staff will make every attempt to ensure that the same teams do not meet one another for more than one round, or that teams from the same school do not meet each other during a competition. However, various factors such as uneven numbers of teams or a small number of teams participating may necessitate that some teams meet more than once

or meet a team from their school. Pairing decisions are at the sole discretion of the competition staff and may not be disputed.

## Rule 6.2: Uneven Numbers of Teams and Bye Rounds

### 6.2.1 Choosing Teams to Receive a Bye

A team that receives a “bye” will have no opponent for a single trial round. Bye teams will be chosen in the following manner:

- Team names are put into a hat and teams receiving a bye round are chosen at random.
- Teams who will have a bye round are picked prior to the beginning of the competition but are not informed of their bye round until the pairings are posted.
- If a school has two teams, only one team from that school can receive a bye.

### 6.2.2: Uneven Number of Teams at a Regional Competition

In the event there are an uneven number of teams competing in a regional competition, competition staff have the following alternatives:

- Give a bye to one randomly-selected team during each round of competition. If a team is given a bye, they will be assigned a score equivalent to an average of all the scores of the teams who competed during the round in which the team is given a bye.
- Recruit a practice team to fill in. The practice team will not have the opportunity to advance to the next level of competition. All teams from the regional competition have to agree to the participation of the practice team prior to the regional competition.

### 6.2.3: Uneven Number of Teams at the State Competition

In the event of a circumstance resulting in an odd number of competing teams, the following procedure will apply:

- 1) A team receiving a bye in round one will be awarded a win, three ballots and the average number of points for all round one winners, which total will be adjusted at the end of each round to reflect the actual average earned by that team.
- 2) The team drawing the in rounds two through four will, by default, receive a win and three ballots for that round. For the purpose of power-matching, the team will temporarily be given points equal to the average of its own points earned in its preceding trials. At the end of the fourth round, the average from all three actual trial rounds participated in by the team will be used for the final points given for that team’s bye round.

*For example, a team receiving a bye in round three would receive three ballots and an average of its points earned in rounds one and two. At the end of the fourth round, however, the points actually*

*awarded to the team for the bye round will be adjusted to take into consideration the fourth round performance of the team.*

## Rule 6.3: Team Advancement

At each regional competition, all teams participate in three rounds, except in the event of an uneven number of teams (see *Rule 6.2.1*). At the state competition, all teams participate in four quarter-final rounds, except in the event of an uneven number of teams (see *Rule 6.2.2*). Four teams will advance to the semi-final rounds, and two teams will advance to the championship round.

The number of teams that advance to the state competition from each regional will be based on a proportional representation of the number of teams that compete in each region compared to the numbers of teams competing overall. A total of twelve to sixteen teams will advance to the state competition.

Team advancement at regional competitions and the quarterfinals of the state competition will be based on the following criteria in the order listed:

- 1) **Win/Loss Record:** In each round the team that wins the round is the team that receives the most ballots. In order to win a round, a team must receive two or three ballots from the scoring judges. A team can win from 0 to 3 rounds at a regional competition and 0 to 4 quarterfinal rounds at the state competition.
- 2) **Total Number of Ballots:** In each round, a team can win a ballot by earning a higher score from a scoring judge. In each round, a team can earn from 0 to 3 ballots. A team can earn a total of 0 to 9 ballots at a regional competition and 0 to 12 ballots during the quarterfinals at the state competition.
- 3) **Total Number of Points Accumulated:** In each round, a team can earn from 36 to 360 points, calculated by adding together the points given to the team by each of the three judges.
- 4) **Point Spread against Opponents:** The point spread is the difference between the total points earned by the team whose tie is being broken less the total points of that team's opponent in each previous round. The greatest sum of these point spreads will break the tie in favor of the team with the largest cumulative point spread.

In the semi-final and final rounds, the teams who advance will be the teams who win the most number of ballots in their rounds.

## Rule 6.4: Power Matching

The state competition will employ a power-matching system to determine team advancement. In a power-matching system, a random method of selection will determine opponents in the first round and a power-match system will determine opponents for all other rounds. The four teams emerging with the strongest record from the four quarterfinal

rounds will advance to the semi-final rounds. The winning teams will be determined by ballots for the semi-final and final rounds only.

Power matching will provide that:

- 1) Pairings for the first round will be pre-determined;
- 2) Every effort will be made to ensure that all teams present each side of the case at least once PLEASE NOTE THAT THIS MEANS THAT THERE IS A POSSIBILITY THAT SOME TEAMS MAY PLAY ONE SIDE THREE TIMES;
- 3) After each round, brackets will be determined by win/loss record. Sorting within brackets will be determined in the following order: (1) win/loss record; (2) ballots; (3) points; then (4) point spread;
- 4) If there is an odd number of teams in a bracket, teams will be matched with a team from another bracket, following the general power matching principles;
- 5) Every effort will be made to ensure that teams do not meet the same opponent twice or see the same judging panel twice.

## **Rule 6.5: Selection of Sides for Semi-Final and Final Rounds**

In determining which team will represent which side in the Semi-Final and Final Rounds, the following procedure will be used:

- 1) The team with the color code that comes first alphabetically will be considered the Designated Team.
- 2) A coin will be tossed by a mock trial staff member or designated volunteer.
- 3) If the coin comes up heads, the Designated Team will represent the Plaintiff in the Semi-Final or Final Round. If the coin comes up tails, the Designated Team will represent the Defense.

## **RULE 7: DISPUTE RESOLUTION**

### **Rule 7.1: Dispute Resolution Panel**

The dispute resolution panel will be made up of the Competition Coordinator, the Master Scorekeeper and a Presiding Judge or other Competition Staff. The dispute resolution panel shall be the appeals board for any disputes.

### **Rule 7.2: Reporting a Rules Violation Inside the Bar**

If, during the trial, any team has reason to believe that a violation of the *Rules of Competition & Procedures* has occurred, the alleged violation shall be presented immediately to the Presiding Judge through one of the team attorneys by objection. This will be presented in accordance with the *Idaho Mock Trial Rules of Evidence* procedure for objections. The Presiding Judge may rule on the matter or take the matter under advisement, and the trial shall continue. The decision of the Presiding Judge is final. While judges will not announce it, they may at their discretion deduct up to ten points from their *Score Sheets* for a rules violation.

Any alleged violation which is known, or through the exercise of reasonable diligence should have been discovered during the trial and which is not brought to the attention of the Presiding Judge, is promptly waived.

### **Rule 7.3: Reporting a Rules Violation Outside the Bar**

Disputes which occur outside the bar during a trial round may be brought by Teacher Sponsors or Attorney Coaches exclusively. Such disputes must be made immediately following a round to a Competition Coordinator or his/her designated staff or the dispute will not be considered.

The Competition Coordinator or his/her designated staff will ask the complaining party to complete a *Dispute Resolution Form*. The form must be completed and returned back to the Competition Coordinator or his/her designated staff.

After the completed form is received, the Competition Coordinator or his/her designated staff will:

- decide whether or not the dispute needs to be referred to the Dispute Resolution Panel;
- notify all pertinent parties;
- allow time for a response, if appropriate;
- evaluate the dispute; and
- rule on the complaint.

At their discretion, the Competition Coordinator, his/her designated staff and/or Dispute Resolution Panel may notify the Judging Panel of the affected courtroom of the ruling on the charge or may assess an appropriate point deduction for the violation.

**ALL DISPUTE RESOLUTION DECISIONS OF THE COMPETITION COORDINATOR, HIS/HER DESIGNATED STAFF AND/OR THE DISPUTE RESOLUTION PANEL ARE FINAL AND NOT SUBJECT TO FURTHER DISPUTE.**

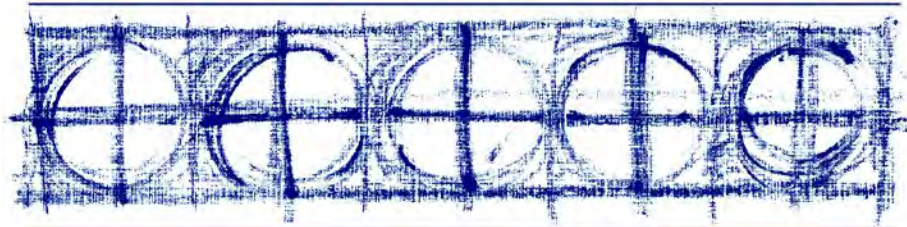
Law Related Education Program

2013

# Idaho High School Mock Trial Program

Rules of Evidence

IDAHO LAW FOUNDATION



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# Idaho Mock Trial Rules of Evidence

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## ARTICLE I: GENERAL PROVISIONS

### Rule 101: Scope

These rules govern proceedings in the *Idaho High School Mock Trial Competition*.

### Rule 102: Purpose and Construction

These rules are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained. For purposes of mock trial and the emphasis on education, evidence issues are designed so that there is a plausible argument for admitting or rejecting the evidence, with the discretion left to the presiding judge.

### Rule 105: Limited Admissibility

When evidence which is admissible as to one party or for one purpose, but is not admissible as to the other party or for another purpose is admitted, the judge, upon request, shall restrict the evidence to its proper scope and instruct the Jury accordingly.

### Rule 106: Remainder of or Related Writings or Recorded Statements

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

## ARTICLE II: JUDICIAL NOTICE

### Rule 201: Judicial Notice of Adjudicative Facts

The court may not take judicial notice of any facts. All facts shall be determined by the jury based upon evidence presented by the parties.

## ARTICLE III: PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS (CIVIL CASE ONLY)

### Rule 301: Presumptions in General in Civil Actions and Proceedings

In all civil actions and proceedings a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of non-persuasion, which remains throughout the trial upon the party on whom it was originally cast.

## ARTICLE IV: RELEVANCY AND ITS LIMITS

### Rule 401: Definition of Relevant Evidence

*Relevant evidence* means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

### Rule 402: Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible

Relevant evidence is admissible, except as otherwise provided by these rules. Evidence which is not relevant is not admissible.

### Rule 403: Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, if it confuses the issues, if it is misleading, or if it causes undue delay, wastes time, or is a needless presentation of cumulative evidence.

### Rule 404: Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes

- (a) Evidence of a person's character or character trait, is not admissible to prove action regarding a particular occasion, except:
  - (1) **Character of accused:** Evidence of a pertinent character trait offered by an accused, or by the prosecution to rebut same;
  - (2) **Character of victim:** Evidence of a pertinent character trait of the victim of the crime offered by an accused, or by the prosecution to rebut same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the aggressor;
  - (3) **Character of witness:** Evidence of the character of a witness as provided in Rules 607, 608 and 609.
- (b) **Other crimes, wrongs, or acts:** Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person in order to show an action conforms to character. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

## Rule 405: Methods of Proving Character

- (a) **Reputation or opinion:** In all cases where evidence of character or a character trait is admissible, proof may be made by testimony as to reputation or in the form of an opinion. On cross examination, questions may be asked regarding relevant, specific conduct.
- (b) **Specific instances of conduct:** In cases where character or a character trait is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

## Rule 406: Habit; Routine Practice

Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eye witnesses, is relevant to prove that the conduct of the person or organization, on a particular occasion, was in conformity with the habit or routine practice.

## Rule 407: Subsequent Remedial Measures

When measures are taken after an event which, if taken before, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

## Rule 408: Compromise and Offers to Compromise (civil case only)

Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible.

This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

## **Rule 409: Payment of Medical and Similar Expenses (civil case rule)**

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

## **Rule 410: Inadmissibility of Pleas, Plea Discussions, and Related Statements**

- (a) Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:
  - (1) a plea of guilty which was later withdrawn;
  - (2) a plea of nolo contendere;
  - (3) any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the forgoing pleas; or
  - (4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which does not result in a plea of guilty or which result in a plea of guilty which is later withdrawn.
- (b) However, such a statement is admissible (1) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (2) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

## **Rule 411: Liability Insurance (civil case only)**

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

## **ARTICLE V: PRIVILEGES**

### **Rule 501: General Rule**

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

- (a) communications between husband and wife;
- (b) communications between attorney and client;
- (c) communications among grand jurors;
- (d) secrets of state; and
- (e) 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 not testify to a matter unless the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses.

### **Rule 603: Oath or Affirmation**

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation, administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

### **Rule 604: Interpreters**

An interpreter is subject to the provisions of these rules relating to the qualification as an expert and the administration of an oath or affirmation to make a true translation.

### **Rule 607: Who May Impeach**

The credibility of a witness may be attacked by any party, including the party calling the witness.

## Rule 608: Evidence of Character and Conduct of Witness

- (a) **Opinion and reputation evidence of character:** The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (A) the evidence may refer only to character for truthfulness or untruthfulness, and (B) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence, or otherwise.
- (b) **Specific instances of conduct:** Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be asked on cross examination of the witness (A) concerning the witness' character for truthfulness or untruthfulness, or (B) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross examined has testified.
- (c) Testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination with respect to matters related only to credibility.

## Rule 609: Impeachment by Evidence of Conviction of Crime (only applies to witnesses with prior convictions)

- (a) **General Rule:** For the purpose of attacking the credibility of a witness, evidence that a witness other than the accused has been convicted of a crime shall be admitted if elicited from the witness or established by public record during cross examination, but only if the crime was punishable by death or imprisonment in excess of one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.
- (b) **Time Limit:** Evidence of a conviction under this Rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the Court determines that the value of the conviction substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

- (c) **Effect of pardon, annulment, or certificate of rehabilitation:** Evidence of a conviction is not admissible if (1) the conviction has been the subject of a pardon or other equivalent procedure based on a finding of the rehabilitation of the person convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, other equivalent procedure based on a finding of innocence.
- (d) **Juvenile adjudications:** Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.
- (e) **Pendency of appeal:** The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

## Rule 610: Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

## Rule 611: Mode and Order of Interrogation and Presentation

- (a) **Control by Court:** The Court shall exercise reasonable control over questioning of witnesses and presenting evidence so as to (1) make the questioning and presentation effective for ascertaining the truth, (2) to avoid needless use of time, and (3) protect witnesses from harassment or undue embarrassment.
- (b) **Scope of cross examination:** The scope of cross examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.
- (c) **Leading questions:** Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness' testimony). Ordinarily, leading questions are permitted on cross examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used.



- (d) **Redirect/Recross Examination:** 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 examination, but such questions must be limited to matters raised on redirect examination and should avoid repetition.

## Rule 612: Writing Used to Refresh Memory

If a witness uses a writing to refresh memory for the purpose of testifying, either (1) while testifying, or (2) before testifying, if the court in its discretion determines it is necessary in the interests of justice, an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness.

## Rule 613: Prior Statements of Witnesses

In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

## ARTICLE VII: OPINIONS AND EXPERT TESTIMONY

### Rule 701: Opinion Testimony by Lay Witness

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

### 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.

### Rule 703: Bases of Opinion Testimony by Experts

The facts or data upon which an expert bases an opinion may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the field in forming opinions or inferences, the facts or data need not be admissible in evidence.

## Rule 704: Opinion on Ultimate Issue

- (a) Opinion or inference testimony otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.
- (b) In a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused.

## Rule 705: Disclosure of Facts or Data Underlying Expert Opinion

The expert may testify in terms of opinion or inference and give reasons therefore without prior disclosure of the underlying facts or data, unless the Court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross examination.

## ARTICLE VIII: HEARSAY

### Rule 801: Definitions

The following definitions apply under this article:

- (a) **Statement:** A statement is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by the person as an assertion.
- (b) **Declarant:** A declarant is a person who makes a statement.
- (c) **Hearsay:** Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.
- (d) **Statements which are not hearsay:** A statement is not hearsay if:
  - (1) *Prior statement by witness.* The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is (A) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or

- (2) *Admission by a party opponent.* The statement is offered against a party and is (A) the party's own statement in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a co-conspirator of a party during the course in furtherance of the conspiracy.

## Rule 802: Hearsay Rule

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

## Rule 803: Hearsay Exceptions, Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

- (1) **Present sense impression statement** describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.
- (2) **Excited utterance statement** relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
- (3) **Then existing mental, emotional, or physical conditions** statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.
- (4) **Statements for purposes of medical diagnosis or treatment** made for the purpose of medical diagnosis or treatment.
- (5) **Recorded recollection memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection** to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly.

- (6) **Records of regularly conducted activity;** these records include any memo, record, report, or other compilation of data in any form, which meets the following requirements:
- (a) It must be kept in the ordinary course of business or as part of the ordinary conduct of an organization or enterprise;
  - (b) It must be part of the ordinary business of that organization, business, or enterprise to compile the data or information;
  - (c) The information must be made for the purpose of recording the occurrence of an event, act, condition, opinion, or diagnosis that takes place in the ordinary course of the business or enterprise;
  - (d) The entry in the record or the compiling of the data must be made at or near the time when the event took place;
  - (e) The recording of the event must be made by someone who has personal knowledge of it. In order for a document or other form of data to be admissible under this rule, a foundation must be laid as to all of the foregoing requirements by the custodian of the records or other witness found by the court to be qualified.
- (7) **Learned treatises;** to the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.
- (8) **Reputation as to character;** reputation of a person's character among associates or in the community.
- (9) **Judgment of previous conviction;** evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

## Rule 804: Hearsay Exceptions; Declarant Unavailable

- (a) **Definition of unavailability:** Unavailability of a witness includes situations in which the declarant (1) is exempted by a ruling of the court of the ground of privilege from testifying concerning the subject matter of the declarant's statement; or (2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or (3) testifies to a lack of memory of the subject matter of the declarant's statement; or (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or (5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance by process or other reasonable means.

A declarant is not unavailable as a witness if exemption, refusal, claim or lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

- (b) **Hearsay exceptions:** The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:
- (1) *Former testimony.* Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.
  - (2) *Statement under belief of impending death.* In a prosecution of a homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be the impending death.
  - (3) *Statement against interest.* A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

- (4) *Statement of personal or family history.* (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter states; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.
- (5) *Other exceptions.* A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party is a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant. For the purposes of the mock trial competition, required notice will be deemed to have been given. The failure to give notice as required by these rules will not be recognized as an appropriate objection.

## **Rule 805: Hearsay within Hearsay**

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statement conforms with an exception to the hearsay rule provided in these rules.

## **Rule 806: Attacking and Supporting Credibility of Declarant**

When a hearsay statement has been admitted, the credibility of the declarant may be attacked and supported by any evidence that would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant, inconsistent with the declarant's hearsay statement, is not subject to any requirement that the declarant may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine the declarant on the statement as if under cross examination.

## ARTICLE IX

Article IX is not applicable under the *Idaho Mock Trial Rules of Evidence*.

## ARTICLE X: CONTENTS OF WRITING, RECORDINGS, AND PHOTOGRAPHS

### Rule 1002: Requirement of Original

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required. Copies of any case materials are considered as originals.

## ARTICLE XI: MISCELLANEOUS RULES

### Rule 1103: Title

These rules may be known and cited as the *Idaho Mock Trial Rules of Evidence*.

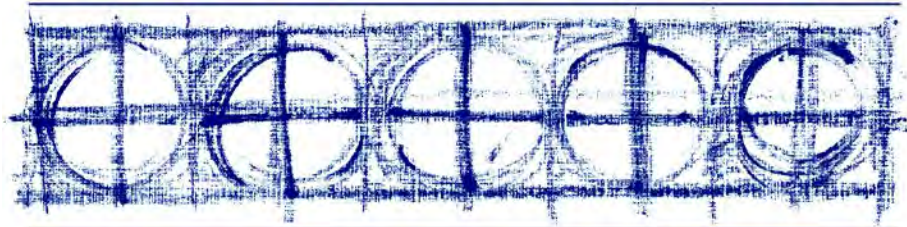
Law Related Education Program

2013

# Idaho High School Mock Trial Program

Time Keeping Procedures

IDAHO LAW FOUNDATION



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# Time Keeping Procedures

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## TIME KEEPER RESPONSIBILITIES

Each team is responsible for training at least one team member to serve as the team's official time keeper. The time keeper from the Plaintiff/Prosecution side and the time keeper from the Defense side will work together as a neutral time keeping team to ensure that accurate and fair time has been kept for both teams.

Teams and their official time keeper(s) are responsible for being proficient in the *Time Keeping Procedures*. The team's time keeper(s) must be familiar with the trial sequence chart and have practiced completing the *Time Keeping Sheet* before the competition begins. The person(s) serving as the time keeper(s) need to be noted on the team's *Daily Sheet*.

**The time keeper for the Plaintiff/Prosecution will also call the court to order at the beginning of the trial, and after any breaks.** The Plaintiff/Prosecution time keeper will stand near the back door in the inside of the courtroom when the judges are not present but should not be in the hallway that leads to the judges' chambers/deliberation area. The judges will let the Plaintiff/Prosecution time keeper know when they are ready to enter/re-enter the courtroom.

The Plaintiff/Prosecution time keeper will say:

- When the judges enter the courtroom for the first time: "All rise. District Court for the Fourth Judicial District of the State of Idaho, County of Boise is now in session. The Honorable (Judge's Name) presiding."
- All subsequent times when the judges enter the courtroom, the Plaintiff/Prosecution time keeper will simply say: "All rise."
- When the judges leave the courtroom the Plaintiff/Prosecution time keeper will say: "All rise." And after the judges have exited, will say, "Court is now in recess."

## TIME KEEPING TOOLS

Teams are responsible for ensuring the following tools are with them at the competition.

- **Stop Watches:** Each team must bring two stop watches with them to the competition. Regardless of what side a team is presenting, both time keepers must keep time for both sides. One stop watch will be for keeping time for the Plaintiff/ Prosecution and one for keeping time for the Defense.

**NOTE:** The Idaho Law Foundation's Law Related Education Program can provide stop watches for teams to borrow during the mock trial season. Contact Carey Shoufler at (208) 334-4500 or [cshoufler@isb.idaho.gov](mailto:cshoufler@isb.idaho.gov) for more information.

- **Time Remaining Cards:** Each time keeper needs to use the *Time Remaining Cards* as indicated on the *Time Card Use Table* shown below. Teams will be provided with a set of *Time Remaining Cards* for use at the competitions, but for use during practice, it's recommended that teams print the cards on cardstock as it makes it easier to hold them up. All teams must use the *Time*

*Remaining Cards* provided in this book and no other. Time intervals may not be altered in any way.

- **Time Keeping Sheet:** Both time keepers are to sign their own *Timekeeping Sheet* and return both *Timekeeping Sheets* to the Presiding Judge at the end of the round.

## TIME KEEPING DUTIES

### Before the Trial

- 1) Include the name of the team's official time keeper(s) on the *Daily Sheet*.
- 2) Gather time keeping materials, including:
  - ✓ 2 stop watches
  - ✓ 1 *Time Keeping Sheet* per round
  - ✓ 1 *Time Card Use Table*
  - ✓ 1 set of *Time Cards*
  - ✓ 2 pencils
- 3) Enter the courtroom and sit at the end of the jury box closest to the audience (or other appropriate place if no jury box is available).
- 4) Enter the round number and team colors in the space provided on the top portion of the *Time Keeping Sheet*.
- 5) Arrange your stop watches, time cards, and *Time Card Use Table*.
- 6) The Plaintiff/Prosecution timekeeper will call the court to order as both time keepers rise when the Presiding Judge and Jury enter the courtroom. Both time keepers will be seated when the judge grants permission for all to be seated.

### During the Trial

- 1) Use one stop watch for each side; Plaintiff/Prosecution on your left and Defense on your right.
- 2) **DO NOT** reset the stopwatch to zero at any time.
- 3) Start timing only when the opening/closing argument or questioning actually begins. Do not start when a witness is taking the stand; only when an attorney starts questioning a witness.
- 4) Stop timing during objections, responses to objections, and questioning by the Presiding Judge.
- 5) Display time cards to the attorneys and witnesses at the intervals set out in *Time Card Use Table*. Display the STOP card to the Presiding Judge, the scoring judges, and the teams.
- 6) At the end of each segment of the trial, each time keeper should record the cumulative time used on the *Time Keeping Sheet*. For example, if the opening statement ends after 5 minutes and 45 seconds, write 5:00:45 in the Opening Statement box of the *Time Keeping Sheet*.
- 7) At the end of each segment of the trial, check to make sure both time keepers' stop watches for that segment are within 15 seconds of each other. If the stop watches show a discrepancy of more than 15 seconds, follow the procedures outlined in the *Time Keeping Discrepancies* section below.

- 8) At the end of the trial, let the judge know whether or not there has been a timing violation by either side. Remember that over time penalties will be assessed **ONLY** for each full minute a team exceeds its fifty minute allotment.

## After the Trial

- 1) Add up the time used for each side and sign the *Time Keeping Sheet*.
- 2) Give the *Time Keeping Sheet* to the Presiding Judge.
- 3) Politely remind the judges that both time keepers will be timing the debrief and that a maximum of 10 minutes is allotted to that portion of the round.
- 4) Reset your stop watches to zero in preparation to time the debriefing.

## After the Recess

Countdown from 10 minutes when the judges begin giving their debrief. Signal the judges following the *Time Card Use Table* from the 5 minute mark. When 10 minutes have passed, time keepers will hold up the STOP card to politely signal to the judges that the debrief session has ended.

## TIME KEEPING DISCREPANCIES

At the end of each segment of the trial (i.e., at the end of both openings, at the end of each direct examination, at the end of each cross examination, and at the end of both closing arguments), if there is a timing discrepancy of more than 15 seconds between the Plaintiff/Prosecution and Defense time keepers, the following rules will apply.

- Any timing discrepancies between time keepers of 15 seconds or less **WILL NOT** be considered a timing discrepancy.
- If a timing discrepancy more than 15 seconds has occurred, time keepers are to notify the Presiding Judge that a timing discrepancy has occurred.
- Time keepers may raise timing discrepancies **ONLY** at the end of each phase of the trial presentation as outlined above.
- The Presiding Judge will rule on any timing discrepancy before the trial continues. Time keepers will synchronize stop watches to match the Presiding Judge's ruling. For example if Plaintiff/Prosecution stop watch indicates 2 minutes left for Plaintiff/Prosecution's case and the Defense stop watch indicates time is expired, the Presiding Judge might decide to split the difference in the timing variation and give Plaintiff/Prosecution 1 minute to conclude. Defense would adjust timing to allow for the 1 minute timing decision.
- No time disputes will be entertained after the trial concludes.
- The decision of the Presiding Judge regarding the resolution of timing disputes is final.

## TIME CARD USE TABLE

The Plaintiff/Prosecution and the Defense sides are each allotted 50 minutes to try their case.

When the stopwatch says:	Hold up the time card that says:
<b>5:00</b>	<b>45:00</b>
<b>10:00</b>	<b>40:00</b>
<b>15:00</b>	<b>35:00</b>
<b>20:00</b>	<b>30:00</b>
<b>25:00</b>	<b>25:00</b>
<b>30:00</b>	<b>20:00</b>
<b>35:00</b>	<b>15:00</b>
<b>40:00</b>	<b>10:00</b>
<b>45:00</b>	<b>5:00</b>
<b>46:00</b>	<b>4:00</b>
<b>47:00</b>	<b>3:00</b>
<b>48:00</b>	<b>2:00</b>
<b>49:00</b>	<b>1:00</b>
<b>49:20</b>	<b>:40</b>
<b>49:40</b>	<b>:20</b>
<b>50:00</b>	<b>STOP</b>

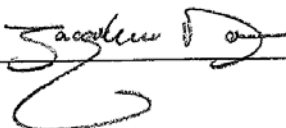
# SAMPLE TIME KEEPING SHEET

## 2011 IDAHO HIGH SCHOOL MOCK TRIAL TIMEKEEPING SHEET

Round #: 2 Prosecution: Cobalt Defense: Ruby

	Prosecution Time	Defense Time
Opening Statements		
	0:59	3:31
Prosecution Witnesses Direct and Cross Examination (cumulative ending times only)		
First Witness	7:45	10:55
Second Witness	12:08	16:57
Third Witness	18:27	21:33
Defense Witnesses Direct and Cross Examination (cumulative ending times only)		
First Witness	20:33	25:48
Second Witness	24:21	33:39
Third Witness	28:23	41:32
Closing Arguments (cumulative ending times only)		
	38:45	48:58
Total Time Used(cumulative ending times only)		
	38:45	48:58
Whole Minutes over 50 Minutes		
	—	—

Timekeeper's Name (Please Print) Jackie Nance

Timekeeper's Signature 

## TIME CARD TEMPLATE

Time intervals **MAY NOT** be modified.

45:00

40:00

35:00

**30:00**

**25:00**

**20:00**



**15:00**

**10:00**

**5:00**

**4:00**

**3:00**

**2:00**

**1:00**

**0:40**

**0:20**

**0:10**

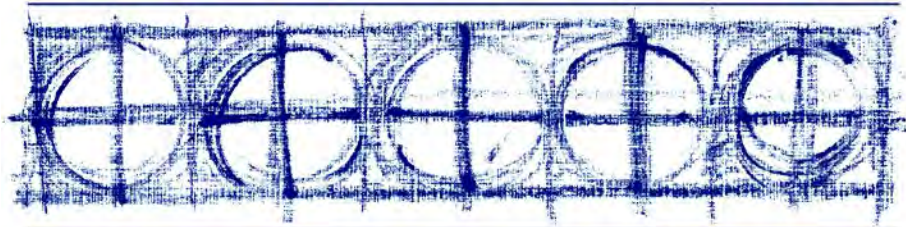
**STOP**

Law Related Education Program

# 2013 Idaho High School Mock Trial Program

Scoring Guide

IDAHO LAW FOUNDATION



*Helping the profession serve the public*

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# Mock Trial Scoring Guide

## SAMPLE SCORE SHEET

IDAHO LAW FOUNDATION		IDAHO HIGH SCHOOL MOCK TRIAL COMPETITION 2011 SCORE SHEET	
P = Plaintiff: <u>Blue</u> (Team Color)		D = Defense: <u>Yellow</u> (Team Color)	
Court Room: <u>3</u>		Round (Circle One): 1 <u>2</u> 3 Semi-Final Final	
On a scale of 1 to 10, as outlined below, rate each team's performance in each of the 12 scoring categories.			
Poor 1-2	Below Average 3-4	Average 5-6	Above Average 7-8
		Superior 9-10	
<b>DO NOT:</b> 1) Give any scores of zero; 2) Leave any categories blank; 3) Award fractional points; 4) Allow for a tied score; 5) Inform teams of their scores.			
SCORING CATEGORIES		P	D
Opening Statements		6	7
<b>PLAINTIFF CASE</b>			
Plaintiff First Witness			
Witness Name: <u>Sydney Cosgrove</u>	Direct Examination	8	
	Cross Examination		7
	Witness Performance	8	
Plaintiff Second Witness			
Witness Name: <u>Devon St. James</u>	Direct Examination	6	
	Cross Examination		8
	Witness Performance	7	
Plaintiff Third Witness			
Witness Name: <u>Jess Paxton</u>	Direct Examination	8	
	Cross Examination		6
	Witness Performance	5	
<b>DEFENSE CASE</b>			
Defense First Witness			
Witness Name: <u>Teri Osgood</u>	Direct Examination		9
	Cross Examination	8	
	Witness Performance		7
Defense Second Witness			
Witness Name: <u>Reilly Jackson</u>	Direct Examination		6
	Cross Examination	7	
	Witness Performance		7
Defense Third Witness			
Witness Name: <u>Teri Osgood</u>	Direct Examination		8
	Cross Examination	6	
	Witness Performance		9
Closing Arguments		7	7
Overall Team Performance		8	8
Sub-Total (Min. 12, Max. 120 Per Team)		+ 84	+ 89
Subtract Any Point Deductions (Explain Below)		- 0	- 2
<b>TOTAL SCORE NO TIED SCORES</b>		<b>= 84</b>	<b>= 87</b>
Explanation of any point deductions: <u>The Yellow team went over their allotted time by 2+ minutes.</u>			
Please double-check your scores and return this score sheet to competition staff before beginning the debrief for the round.		Judge's Name (Print): <u>Jane Smith</u> Date: <u>3/5/11</u>	

## SCORE SHEET WALK THROUGH

IDAHO LAW FOUNDATION  
Helping the profession serve the public

IDAHO HIGH SCHOOL MOCK TRIAL COMPETITION  
2011 SCORE SHEET

P = Plaintiff: Blue (Team Color) D = Defense: Yellow (Team Color)

Court Room: 3 Round (Circle One): 1 2 3 Semi-Final Final

On a scale of 1 to 10, as outlined below, rate each team's performance in each of the 12 scoring categories.

Poor 1-2	Below Average 3-4	Average 5-6	Above Average 7-8	Superior 9-10
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**DO NOT:** 1) Give any scores of zero; 2) Leave any categories blank; 3) Award fractional points; 4) Allow for a tied score; 5) Inform teams of their scores.

SCORING CATEGORIES		P	D
Opening Statements		6	7
<b>PLAINTIFF CASE</b>			
Plaintiff First Witness			
Witness Name: <u>Sydney Cosgrove</u>	Direct Examination	8	
	Cross Examination		7
	Witness Performance	8	
Closing Arguments		7	7
Overall Team Performance		8	8
Sub-Total (Min. 12, Max. 120 Per Team)		+ 84	+ 84
Subtract Any Point Deductions (Explain Below)		- 0	- 2
<b>TOTAL SCORE NO TIED SCORES</b>		<b>= 84</b>	<b>= 82</b>

Explanation of any point deductions: The Yellow team went over their allotted time by 2+ minutes.

Please double-check your scores and return this score sheet to competition staff before beginning the debrief for the round.

Judge's Name (Print): Jane Smith

Date: 3/5/11

- At the beginning of the round, each team will give you a copy of their *Daily Sheet* that lists the color code given to the team for the tournament. Write the color given for the plaintiff and the defense.
- Write the courtroom number to which you are assigned. This number is listed on your judging panel sheet.
- Remember to circle which round of the competition you are judging.
- Following the score guide at the top of the sheet, rate each team's performance in each of the 12 scoring categories. Remember that scores must be whole numbers between 1 and 10. Do not give any scores of 0 and do not give any fractional points (e.g. if you are having a hard time deciding if a particular element should be a 7 or an 8, you cannot give a score of 7.5; you must decide if the score is a 7 or an 8).
- Write the name of each witness at they take the stand.



- ⑥ Add up each of the 12 scoring categories for a scoring sub-total. The minimum possible score is 12 and the maximum is 120.
- ⑦ Any point deductions should be subtracted from the sub-total to arrive at a total score.
- ⑧ If you deduct any points, please briefly explain the point deductions here so teams are aware of why points were deducted.
- ⑨ Make sure to write your name of your score sheet. In the event that competition staff has any questions about the score sheet, they will know who to contact.
- ⑩ Per the note, make sure you give your completed score sheet to competition staff prior to returning to the courtroom for the debrief.

## WHAT TO LOOK FOR

### Attorney Performance

#### Opening Statement

- Short summary of the facts of the case
- Theory for the case (what happened and why it happened)
- Introduction of attorneys
- Overview of witnesses and their testimony
- Overview of the evidence to be presented and how it will prove the side of the case
- Mention of applicable law or statutes to be covered
- Outline of the burden of proof for the case
- Request for relief (what the side is asking the court to decide)

#### Direct Examination

- Asks properly phrased open ended questions that allow the witness to explain or describe the situation
- Avoids asking leading questions
- Doesn't ask opinion questions unless the witness is an expert
- Responds to objections utilizing rules of evidence
- Refers to witness testimony and follows rules for showing the testimony to the witness
- Follows proper protocol for introducing exhibits
- Opposing counsel utilizes objections as a means to forward the case and not just to throw the other side off their game
- Demonstrates an understanding of the rules of competition and evidence

## Cross Examination

- Asks properly phrased questions that weaken the testimony given during direct examination or gets facts favorable to the attorney's own case
- Uses narrow questions that suggest a yes or no answer and doesn't allow the witness to provide a further explanation
- Impeaches the witness without appearing to harass or intimidate him/her
- Responds to objections utilizing rules of evidence
- Refers to witness testimony and follows rules for showing the testimony to the witness
- Follows proper protocol for introducing exhibits
- Opposing counsel utilizes objections as a means to forward the case and not just to throw the other side off their game
- Demonstrates an understanding of the rules of competition and evidence

## Closing Arguments

- Summarizes the case presented and pulls in specifics from the trial
- Summarize the evidence
- Outlines the strengths of his/her side's witnesses and the weakness of the other side's witnesses
- Reviews the exhibits and how they helped the case
- States the applicable law or statutes and how they support the side's theory
- Revisits the theory and shows how the side's theory carried through
- Asks for the verdict, including a request for relief and explains why

## Witness Performance

- Plays up the strengths of his/her statements and adequately explains the weaknesses
- Does not use any notes
- Credible portrayal of witnesses
- Understands the facts
- Sounds spontaneous and not memorized
- Does not wear a costume

## Overall Team Performance

- Works together as a cohesive unit
- Follows the Code of Conduct
- Follows the Rules of Competition
- Follows the Rules of Evidence

## HOW TO SCORE

### Attorneys

Score	Criteria
Superior (9 – 10)	<ul style="list-style-type: none"> <li>• Excellent understanding of the case materials and the legal issues of the case</li> <li>• Persuasive and articulate delivery made without the use of notes</li> <li>• Thinks well on his/her feet and responds to the other team's presentation</li> <li>• Questions and arguments move the case forward</li> <li>• Objects when appropriate and clearly understands how to respond to the other team's objections</li> <li>• Maintains eye contact with judges, jurors, and witnesses</li> <li>• Speaks in a clear and audible voice</li> </ul>
Above Average (7 – 8)	<ul style="list-style-type: none"> <li>• Good understanding of the case materials and the legal issues of the case</li> <li>• Mostly persuasive and articulate delivery made with minimal use of notes</li> <li>• Most questions and arguments move the case forward</li> <li>• Most objections are appropriate and usually understands how to respond to the other team's objections</li> <li>• Mostly maintains eye contact with judges, jurors, and witnesses</li> <li>• Mostly speaks in a clear and audible voice</li> </ul>
Average (5 – 6)	<ul style="list-style-type: none"> <li>• Fair understanding of the case materials and the legal issues of the case</li> <li>• Somewhat persuasive delivery, but sometimes stumbles or relies on notes</li> <li>• Prepared for trial but often relies on preparation and not responding to the other team's presentation</li> <li>• Some questions and arguments move the case forward</li> <li>• Misses some appropriate opportunities to object and may not always understand how to respond to the other team's objections</li> <li>• Sometimes forgets to maintain eye contact with judges, jurors, or witnesses</li> <li>• Sometimes difficult to hear</li> </ul>

Score	Criteria
Below Average (3 – 4)	<ul style="list-style-type: none"> <li>• Struggles to understand the case materials and the legal issues of the case</li> <li>• Generic delivery that relies heavily on notes</li> <li>• Somewhat prepared for trial but does not respond to other team's presentation</li> <li>• Few questions and arguments move the case forward</li> <li>• Struggles to understand when to object or how to respond to the other team's objections or uses objections to interfere with other team's presentation and not to advance the case</li> <li>• Often forgets to maintain eye contact with judges, jurors, or witnesses</li> <li>• Often difficult to hear</li> </ul>
Poor (1 – 2)	<ul style="list-style-type: none"> <li>• Does not understand the case materials or legal issues</li> <li>• Not persuasive or articulate delivery or reads from a script</li> <li>• Not prepared for trial and does not think well on his/her feet</li> <li>• Questions and arguments do not move the case forward</li> <li>• No understanding of when to object or how to respond to other team's objections</li> <li>• Does not maintain eye contact with judges, jurors, or witnesses</li> <li>• Unclear or inaudible voice</li> </ul>

## Witnesses

Score	Criteria
Superior (9 – 10)	<ul style="list-style-type: none"> <li>• Excellent understanding of witness statements and exhibits</li> <li>• Offers a convincing and credible performance</li> <li>• Responses to questions are thorough, accurate, and persuasive and seem natural and not scripted</li> <li>• Does not provide answers that embellish the facts, go outside the scope of the case materials, or offer new facts</li> <li>• Maintains eye contact with judges, jurors, and witnesses</li> <li>• Speaks in a clear and audible voice</li> </ul>

Score	Criteria
Above Average (7 – 8)	<ul style="list-style-type: none"> <li>• Good understanding of witness statements and exhibits</li> <li>• Offers a mostly convincing and credible performance</li> <li>• Most responses to questions are thorough, accurate, and persuasive and seem mostly natural and not memorized</li> <li>• Rarely provides answers that embellish the facts, go outside the scope of the case materials, or offer new facts</li> <li>• Mostly maintains eye contact with judges, jurors, and witnesses</li> <li>• Mostly speaks in a clear and audible voice</li> </ul>
Average (5 – 6)	<ul style="list-style-type: none"> <li>• Fair understanding of witness statements and exhibits</li> <li>• Offers a somewhat credible and convincing performance</li> <li>• Responses to questions are not always thorough, accurate, or persuasive and some sound scripted and not natural</li> <li>• Sometimes provides answers that embellish the facts, go outside the scope of the case materials, or offer new facts</li> <li>• Sometimes forgets to maintains eye contact with judges, jurors, and witnesses</li> <li>• Sometimes difficult to hear</li> </ul>
Below Average (3 – 4)	<ul style="list-style-type: none"> <li>• Struggles to understand witness statements and exhibits</li> <li>• Offers a performance that often seems unrealistic</li> <li>• Responses to questions are generic and often do not seem natural but based on a memorized script</li> <li>• Often provides answers that embellish the facts, go outside the scope of the case materials, or offer new facts</li> <li>• Often forgets to maintains eye contact with judges, jurors, and witnesses</li> <li>• Often difficult to hear</li> </ul>
Poor (1 – 2)	<ul style="list-style-type: none"> <li>• Does not understand witness statements and exhibits</li> <li>• Does not offer a credible or convincing performance</li> <li>• Responses to questions are not thorough, accurate, or persuasive and do not sound natural</li> <li>• Provides answers that are not consistent with the facts, that go outside the scope of the case materials, or offer new facts</li> <li>• Does not maintain eye contact with judges, jurors, or witnesses</li> <li>• Unclear or inaudible voice</li> </ul>

## Teams

Score	Criteria
Superior (9 – 10)	<ul style="list-style-type: none"> <li>Supported each other and worked together as a cohesive unit</li> <li>Fully understood and adhered to the <i>Rules of Competition &amp; Procedures</i> and <i>The Rules of Evidence</i></li> <li>All team members dressed appropriately for a courtroom setting (including no costumes for witnesses)</li> <li>Showed a high degree of respect, fairness, and integrity towards the opposing team</li> </ul>
Above Average (7 – 8)	<ul style="list-style-type: none"> <li>Mostly supported each other and worked together as a cohesive unit</li> <li>Mostly understood and adhered to the <i>Rules of Competition &amp; Procedures</i> and <i>The Rules of Evidence</i></li> <li>One team member did not dress appropriately for a courtroom setting</li> <li>Acted with respect, fairness, and integrity towards the opposing team</li> </ul>
Average (5 – 6)	<ul style="list-style-type: none"> <li>Sometimes supported each other and worked together as a cohesive unit</li> <li>Some lack of understanding of or adherence to the <i>Rules of Competition &amp; Procedures</i> and/or <i>The Rules of Evidence</i></li> <li>More than one team members dressed inappropriately for a courtroom setting</li> <li>Mostly acted with respect, fairness, and integrity toward the other team</li> </ul>
Below Average (3 – 4)	<ul style="list-style-type: none"> <li>Often did not support each other or work together as a cohesive unit</li> <li>Significant lack of understanding of or adherence to the <i>Rules of Competition &amp; Procedures</i> and/or <i>The Rules of Evidence</i></li> <li>Most team members did not dress appropriately for a courtroom setting</li> <li>Showed some lack of respect, fairness, or integrity towards the other team</li> </ul>

Score	Criteria
Poor (1 – 2)	<ul style="list-style-type: none"> <li>• Did not support each other or work together as a cohesive unit</li> <li>• Did not understand or adhere to the <i>Rules of Competition &amp; Procedures</i> or <i>The Rules of Evidence</i></li> <li>• Team members did not dress appropriately for a courtroom setting or one team witness was wearing a costume</li> <li>• Did not act with respect, fairness, or integrity toward the other team</li> </ul>

## POINT DEDUCTIONS

Most points are tied to individual performance. So, most point deductions will be taken in the individual scoring categories. However, there is a section in the score sheet to record point deductions that relate to the team as a whole. These point deductions can occur for three reasons, including:

1. **Timing Violation:** A team is given 50 minutes to try their side of the case. For every full minute they go over the 50 minute time allotment, a team incurs a deduction of one point (e.g. 51 minutes is a loss of one point, 53 minutes is a loss of three points). See Rule 4.6 for more detailed information.
2. **Team Dispute Resolution:** If a team believes that a rules violation has occurred, a coach for the team may fill out a Dispute Resolution Form and turn it in to competition staff (See Rule 6 for more detailed information). If, after speaking with all parties involved in the dispute, competition staff determines a rules violation has occurred, staff may deduct points from the violating team's score sheet.
3. **Non-Disputed Rules Violations:** A judge may deduct points for rules violations not disputed by the other team. For example, if a judge sees a coach or family member speaking with a team member during a competition round, the judge may deduct points from the violating team's score sheet. If a point deduction is taken from a team, the judge deducting the points must indicate in the space provided on the score sheet the reason for the deduction.