

CLASSROOM LAW PROJECT proudly presents

2019 High School Mini-Mock



State of Oregon, Prosecution
v.
Taylor Durden, Defendant

2019 Mini-Mock Trial
State of Oregon v. Taylor Durden

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CLASSROOM LAW PROJECT

2019 MINI MOCK TRIAL

I. Program Objectives

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

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

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

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

II. Code of Ethical Conduct

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

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

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

Team members, coaches, parents and any other persons directly associated with the Mock Trial team's preparation are **not allowed to view other teams** in competition so long as they remain in the competition themselves. Except, the public is invited to attend the final round of the last two teams on **the last day of the state finals competition – approximately 2:00 p.m., March 13th, 2020, in the Hatfield Federal Courthouse, Portland.**

Students promise to compete with the highest standards of deportment, showing respect for their fellow students, opponents, judges, coaches, Competition Coordinators, and volunteers. All

competitors will focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly and with the utmost civility. Students will avoid all tactics they know are wrong or in violation of the rules. Students will not willfully violate the rules of the competition **in spirit or in practice**.

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

Charges of ethical violations involving persons other than the student team members must be made promptly to the Competition Coordinator who will ask the complaining party to complete a dispute form. The form will be taken to the competition's headquarters, where a ruling will be made. Violations occurring during a trial involving students competing in a round will be subject to the dispute process described in the Rules of the Competition.

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

III. The Case

A. Case Summary

The Case Summary below provides a general background to the reader. It is the kind of information people would know if they lived in the community. But, as in any community, some information will be perceived differently by different individuals. Thus, the summary below should not be regarded as stipulated facts.

The Greek and honors societies at Thomas McCall University draw large numbers of students each year through their bid process. As a college predominantly in a rural area, these societies offer social opportunities that cannot be found in the outside community. Though the honors societies choose their members differently than the traditional Greek organizations, there still remains an honored ritual of bid, acceptance, and initiation. Epsilon Sigma Epsilon (ESE) is no different in that regard. As a university-accredited honors society, ESE is by nature co-ed. ESE engages primarily in service-related activities, although there is an optional pledge process, as well as social events. Though not a traditional Greek organization, ESE has its own house through the generous philanthropy of an alumni member. ESE has all of the same traditional roles as Greek societies, such as chapter president, vice president, treasurer, social chair, education chair, and pledge master.

Saturday, August 25, 2018, was the last day in the pledge week for the ESE pledges. Throughout the week pledges participated in various activities commonly referred to as the Pledge Olympics. This included activities each day such as wiffle ball in the back yard, quiz sessions on University and ESE history, and team-building activities. What loomed before the pledges on that Saturday afternoon was made out by other members to be the most dreaded event – Water Jeopardy. This was a variant of Jeopardy™ which was the culmination of all their studies about ESE and McCall University. Much like Jeopardy™, pledges provided questions to the answers that were on the board. Only instead of earning points it was to avoid chugging water. Years ago ESE developed this game as an alternative to forcing pledges to chug beer which was clearly against University rules.

Against the wall in the basement of the ESE house was a row of standard office water coolers, all with five-gallon water jugs. The penalty for a wrong answer was to drink for a time period that increased with the value of the question. Failure to put the answer in the form of a question necessitated an even longer drinking period. Pledges were told that they could not go to the bathroom while playing the game. Nursing student Carmen Cordova (who convinced Jessica Bateson to pledge with her) got fed up with the treatment during Water Jeopardy and quit. Additionally, Carmen said she learned in nursing classes that this was probably dangerous to all the participants.

Jessica consumed an excessive amount of water during Water Jeopardy, collapsed and appeared to have passed out. This scared the pledge master, pledges, and other members of ESE who were present. 911 was called. EMS and University Police responded. EMS found Jessica in an unresponsive state and transported her to the local hospital. Jessica Bateson died within two hours of collapsing without ever regaining consciousness.

From the initial investigation, Sgt. Chris Knight found no wrongdoing and concluded that Jessica simply collapsed while playing an ESE game. Further investigation prompted by the results of the autopsy indicated that Jessica died due to a swollen brain stem brought on by acute hyponatremia from over-consumption of water. Pledge Master Taylor Durden was charged with involuntary manslaughter and the lesser included offense of hazing. ESE

Chapter President Alex Richards was granted criminal immunity and agreed to testify for the state, though civil suits are pending.

B. Witness List

For the prosecution:

Chris Knight – police sergeant

Jaden Chessler – medical examiner

Alex Richards – ESE chapter president

For the defense:

Taylor Durden – defendant, ESE pledge master

Ahsan Jackson – pathologist

Shawn Boyd – ESE member

C. List of Exhibits

The parties have stipulated to the authenticity of the exhibits listed below, therefore, they cannot object to their authenticity at trial. The parties have, however, reserved any objections to the admissibility of any of these exhibits until the trial. The exhibits may be introduced by either party, subject to the Rules of Evidence and the stipulations of the parties contained in the materials.

- 1) 911 Phone Transcript
- 2) Initial Police Incident Report
- 3) Investigative Report
- 4) Emergency Room Record
- 5) Record of Medical Examiner
- 6) Photograph of ESE House
- 7) Photograph of Red Plastic “Solo” Brand Cup Used by Victim
- 8) Photograph of Water Coolers used by ESE in the Basement
- 9) News Report of Hyponatremia Fatality
- 10) WebMD.com Medical Report on Hyponatremia
- 11) Medical Release Form
- 12) ESE Pledge Rules
- 13) Death Certificate of Jessica Bateson
- 14) Dr. Jackson’s Report

D. Introduction of Indictment, Stipulations, Jury Instructions

The Indictment, Stipulations and Jury Instructions appear on the following pages.

The **Indictment** is the formal accusation against the defendant. It is submitted by the prosecution to the court and the defendant is made aware of the charges against him or her.

Stipulations are the facts that both sides agree upon. They are not issues for the trial.

Jury Instructions are issued from the judge to the jury after both sides have completed their case. Jury instructions frame the law for jurors so they can focus on whether the evidence supports – or fails to support – the allegations. Jury Instructions are included for purposes of understanding the prosecution’s burden of proof as well as the elements that need to be proved or disproved during the trial and, therefore, should be helpful to students’ understanding of the case.

The Jury Instructions are immediately followed by the Witness Statements.

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

STATE OF OREGON,

Prosecution,

vs.

TAYLOR DURDEN,

Defendant.

No. 12CR3456

INDICTMENT - Secret

The above-named defendant is accused by Grand Jury of the County of Chinook, State of Oregon, as follows:

Count 1: Manslaughter in the Second Degree (ORS 163.125), a Class B Felony

committed as follows:

The defendant, on or about August 25, 2018, in Chinook County, Oregon, did commit the crime of Second Degree Manslaughter in that Defendant did recklessly cause the death of Jessica Bateson, during the commission of a Class B violation. To-wit: the death occurred during hazing, contrary to the laws of the State of Oregon.

Count 2: Hazing (ORS 163.197), a Class B violation

committed as follows:

The defendant, on or about August 25, 2018, in Chinook County, Oregon, did commit the crime of Hazing in that Defendant did intentionally compel the victim to engage in acts with an unreasonable risk of harm as a condition or precondition of attaining membership to a fraternal organization. To-wit: the Hazing occurred against Jessica Bateson, during an organized Epsilon Sigma Epsilon activity with death resulting, contrary to the laws of the State of Oregon.

It is hereby affirmatively declared for the record, upon appearance of the defendant for arraignment, and before the Court asks how the defendant pleads to the charges, that the State intends that any misdemeanor offenses charged herein each proceed as a misdemeanor.

Defendant Taylor Durden pleaded not guilty to all charges.

Class B felonies in the State of Oregon are punishable by 10 years in prison and \$250,000. For Class B violations, a maximum fine is \$1000 and no jail time.

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

STATE OF OREGON,

Prosecution,

No. 12CR3456

vs.

TAYLOR DURDEN,

Defendant.

STIPULATIONS

The parties have entered into the following stipulations, which shall not be contradicted or challenged:

1. The death of Jessica Bateson occurred on August 25, 2018.
2. Defendant was over the age of 21 as of August 25, 2018.
3. Carmen Cordova is deceased.
4. Colt Bateson is not available for trial due to armed services deployment.
5. The family medical history is not in dispute.
6. All exhibits listed are authentic and accurate in all respects.
7. The chain of custody for evidence is not in dispute.
8. The signatures on the witness statements and all other documents are authentic.
9. All witnesses who were questioned by law enforcement were properly advised of their Miranda rights. The search of the Epsilon Sigma Epsilon house was conducted with consent of the chapter president and therefore was proper and in accordance with the law.
10. The transcript of the 911-phone call is admissible as a substitute for the actual recording and accurately reflects the contents of the recording. The caller's voice on the recording is identified as Alex Richards.
11. Exhibits 6 and 8 fairly and accurately reflect the scene, view, or geography they purport to depict.
12. Exhibit 7 is a true and accurate photograph of evidence recovered from 313 Salmon Street, Green Valley, Chinook County, Oregon by Sgt. Knight.
13. Exhibits 1, 2, 3, 4, 5, 11, and 13 are kept in the ordinary course of business or as part of the ordinary conduct of an organization or enterprise where it was part of the ordinary business of that organization, business or enterprise, to compile the data or information. The information was 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, entry in the record or the compiling of the data was made at or near the time when the event took place, and the recording of the event was made by someone who has personal knowledge of it.
14. Recommended pronunciations of the following words are indicated below:

| | |
|-----------------|-----------------------|
| Chi | kī |
| Epsilon | ěp-sə-lŏn |
| Hyperthyroidism | hī-pəɹ-thī-roi-dīz-əɱ |
| Hyponatremia | hī-pŏ-nə-trē-mē-ə |
| Si | sī |
| Sigma | sĭg-mə |
| Thyroid | thī-roid |

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

STATE OF OREGON,

Prosecution,

vs.

TAYLOR DURDEN,

Defendant.

No. 12CR3456

FINAL JURY INSTRUCTIONS

The Court will now submit the case to the jury; you need to decide, based on the law and the evidence presented to you at trial, whether the prosecution has prevailed in proving the prosecution's charges against the defendant.

EVALUATING WITNESS TESTIMONY

The term *witness* includes every person who has testified under oath in this case. Every witness has taken an oath to tell the truth. In evaluating each witness's testimony, however, you may consider such things as:

- (1) The manner in which the witness testifies.
- (2) The nature or quality of the witness's testimony.
- (3) Evidence that contradicts the testimony of the witness.
- (4) Evidence concerning the bias, motives, or interest of the witness.
- (5) Evidence concerning the character of the witness for truthfulness.

INFERENCES

In deciding this case you may draw inferences and reach conclusions from the evidence, if your inferences and conclusions are reasonable and are based on your common sense and experience.

INNOCENCE OF DEFENDANT— PROOF BEYOND A REASONABLE DOUBT

The defendant is innocent unless and until the defendant is proven guilty beyond a reasonable doubt. The burden is on the prosecution to prove the guilt of the defendant beyond a reasonable doubt. Reasonable doubt is doubt based on common sense and reason. Reasonable doubt means an honest uncertainty as to the guilt of the defendant. Reasonable doubt exists when, after careful and impartial consideration of all the evidence in the case, you are not convinced to a moral certainty that the defendant is guilty.

VERDICT—FELONY CASE

When you return to the jury room, select one of your members to act as presiding juror. The presiding juror has no greater voting weight but is to preside over your deliberations and be the spokesperson for the jury. You should then deliberate and find your verdict. If it becomes necessary during your deliberations to communicate with me, do so in writing. I will consult with the parties before responding.

Remember that you are not to tell anyone, including me, how the jury stands numerically until you have reached a lawful verdict or have been discharged. When you have arrived at a verdict, the presiding juror will sign the appropriate verdict form. After you have reached your verdict, signal the bailiff. The court will receive your verdict.

DIRECT OR CIRCUMSTANTIAL EVIDENCE

There are two types of evidence. One is direct evidence—such as the testimony of an eyewitness. The other is circumstantial evidence—the proof of a chain of circumstances pointing to the existence or nonexistence of a certain fact. You may base your verdict on direct evidence or on circumstantial evidence, or on both.

WITNESS FALSE IN PART

A witness who lies under oath in some part of his or her testimony is likely to lie in other parts of his or her testimony. Therefore, if you find that a witness has lied in some part of his or her testimony, then you may distrust the rest of that witness's testimony.

Sometimes witnesses who are not lying may give incorrect testimony. They may forget matters or may contradict themselves. Also different witnesses may observe or remember an event differently. You have the sole responsibility to determine what testimony, or portions of testimony, you will or will not rely on in reaching your verdict.

CRIMINAL CHARGES

In this case the defendant is charged with the crimes of Manslaughter in the Second Degree and Hazing.

ORS 163.005: Criminal homicide

- (1) A person commits criminal homicide if, without justification or excuse, the person intentionally, knowingly, recklessly or with criminal negligence causes the death of another human being.
- (2) “Criminal homicide” is murder, manslaughter, criminally negligent homicide or aggravated vehicular homicide.
- (3) “Human being” means a person who has been born and was alive at the time of the criminal act.

ORS 163.125: Second degree manslaughter

- (1) Criminal homicide constitutes manslaughter in the second degree when:
 - (a) It is committed recklessly;
 - (b) A person intentionally causes or aids another person to commit suicide; or
 - (c) A person, with criminal negligence, causes the death of a child under 14 years of age or a dependent person, as defined in ORS 163.205, and:
 - (A) The person has previously engaged in a pattern or practice of assault or torture of the victim or another child under 14 years of age or a dependent person; or
 - (B) The person causes the death by neglect or maltreatment, as defined in ORS 163.115.
- (2) Manslaughter in the second degree is a Class B felony.

ORS 161.085: Definitions

As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

- (1) “Act” means a bodily movement.
- (2) “Voluntary act” means a bodily movement performed consciously and includes the conscious possession or control of property.
- (3) “Omission” means a failure to perform an act the performance of which is required by law.
- (4) “Conduct” means an act or omission and its accompanying mental state.
- (5) “To act” means either to perform an act or to omit to perform an act.

(6) “Culpable mental state” means intentionally, knowingly, recklessly or with criminal negligence as these terms are defined in subsections (7), (8), (9) and (10) of this section.

(7) “Intentionally” or “with intent,” when used with respect to a result or to conduct described by a statute defining an offense, means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.

(8) “Knowingly” or “with knowledge,” when used with respect to conduct or to a circumstance described by a statute defining an offense, means that a person acts with an awareness that the conduct of the person is of a nature so described or that a circumstance so described exists.

(9) “Recklessly,” when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(10) “Criminal negligence” or “criminally negligent,” when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

ORS 163.197: Hazing

(1) A student organization or a member of a student organization commits the offense of hazing if, as a condition or precondition of attaining membership in the organization or of attaining any office or status in the organization, the organization or member intentionally hazes any member, potential member or person pledged to be a member of the organization.

(2)

- (a) A student organization that violates subsection (1) of this section commits a Class A violation.
- (b) A member of a student organization who personally violates subsection (1) of this section commits a Class B violation.

(3) Consent of the person who is hazed is not a defense in a prosecution under this section.

(4) As used in this section:

(a) “Haze” means:

(A) To subject an individual to whipping, beating, striking, branding or electronic shocking, to place a harmful substance on an individual's body or to subject an individual to other similar forms of physical brutality;

(B) To subject an individual to sleep deprivation, exposure to the elements, confinement in a small space or other similar activity that subjects the individual to an unreasonable risk of harm or adversely affects the physical health or safety of the individual;

(C) To compel an individual to consume food, liquid, alcohol, controlled substances or other substances that subject the individual to an unreasonable risk of harm or adversely affect the physical health or safety of the individual; or

(D) To induce, cause or require an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(b) “Member” includes volunteers, coaches and faculty advisers of a student organization.

(c) “Student organization” means a fraternity, sorority, athletic team or other organization that is organized or operating on a college, university or elementary or secondary school campus for the

purpose of providing members an opportunity to participate in student activities of the college, university or elementary or secondary school.

EXPERT OPINION EVIDENCE

___An expert witness is a person with special skills or education in a particular field. Even though expert witnesses may testify about their opinions, you are not required to accept those opinions. To determine the value, if any, you will give to an expert's opinion, you should consider such things as the expert's qualifications, the expert's opportunity and ability to form the opinion, the expert's believability, and how the expert reached the opinion or conclusion.

PROSECUTION WITNESS STATEMENTS

1 **AFFIDAVIT OF SERGEANT CHRIS KNIGHT, witness for the prosecution**

2
3 My name is Chris Knight. I am currently a Sergeant with the Thomas McCall University (TMU) Police Department.
4 I attended McCall University for a year before transferring to Portland State University (PSU) for my undergraduate
5 degree in Political Science. I have been in law enforcement for 13 years. I have Basic and Advanced School
6 Resource Officer (SRO) certifications, Active Shooter Crisis Response training, Basic and Advanced Narcotics
7 Interdiction training, Basic Instructor Development (BID), as well as Detective School training from the Oregon
8 Criminal Justice Academy. I was formerly an investigator with the Oregon State University Police Department
9 before coming to work with the McCall University Police Department.

10
11 At approximately 17:08 on August 25, 2018, the Emergency Communications Division dispatched a call of an
12 unconscious person located at 313 Salmon Street, Green Valley. That's in Chinook County. I arrived on the scene
13 at 17:27. The Chinook County Emergency Medical Service was already on scene and inside the location. Upon
14 entry to the residence I spoke briefly with EMS personnel, who were loading an unresponsive female onto the
15 stretcher for transport. There were seven people in the room in addition to the victim, EMS, and myself.

16
17 The first person I spoke with was Alex Richards, president of the honors society. Richards stated that s/he had
18 been in the upstairs portion of the Epsilon Sigma Epsilon (ESE) house when a pledge came upstairs yelling to call
19 911 and that Jessica Bateson had collapsed during one of the pledge activities. Richards called 911 immediately, and
20 then went downstairs to see what happened. While downstairs, Taylor Durden told Richards that Ms. Bateson had
21 simply "fallen out" during the last phase of the Water Jeopardy game. This game served as the final activity of the
22 initiation week for the society. I am somewhat familiar with the pledge activities of ESE, having been a pledge my
23 second semester at TMU, before transferring to PSU. I was not fully accepted into ESE as a member; I was told
24 by the then-president of ESE that another member accused me of cheating on finals. As a result, I transferred to
25 PSU and was accepted into an honors society there.

26
27 Immediately following my interview with Richards, I interviewed Taylor Durden. Durden indicated that s/he was
28 the pledge master for the Epsilon Sigma Epsilon honors society, and that they were completing the last activity in
29 pledge week before full membership was to be granted. Durden then said that Ms. Bateson fell out. I asked what
30 this meant and Durden said that she had to drink some more water after getting a question wrong. After drinking
31 more water, she then fell down and it looked like she passed out. I specifically asked if this was a voluntary activity
32 and Durden responded that it was and most of the pledges participated. My initial thoughts and concerns on scene
33 were that perhaps this was an alcohol overdose related to hazing. I asked if alcohol was involved. Durden
34 responded absolutely not, and that I was free to search the ESE house. Chapter President Richards also confirmed
35 the consent to search. Along with an additional officer, I conducted a search of the ESE house and found a small
36 quantity of tequila (less than 500 ml) in the room of an ESE member who was above 21. There was no other
37 alcohol found on premises and it did not appear that the tequila was involved with the activities in the basement.

38
39 In speaking with Carmen Cordova, another pledge, she stated that they had all been playing a game in which wrong
40 answers meant that one had to consume large amounts of water as punishment. Cordova additionally stated that
41 she quit the game because she recalled from nursing classes that too much water was harmful.

42
43 Correct contact information for all witnesses interviewed was recorded for possible follow up. With no other
44 indications of criminal activity at the time, I cleared the incident location and went to the hospital to ascertain Ms.
45 Bateson's condition. Upon arrival at the hospital, one of the ER physicians stated that Ms. Bateson never regained
46 consciousness and died after her arrival in the ER. I asked if there were any visible signs of foul play. The
47 physician stated that there was no overt trauma indicative of foul play, but pursuant to state law, there would be an
48 autopsy. Not seeing criminal conduct at the time, I contacted the student life coordinator at the University. Along

1 with a representative of the school, we made contact with the sheriff's office in Ms. Bateson's home county, who
2 handled notifying the family of her death.

3
4 At the time, I did not realize that Jessica Bateson was the younger sister of Colt Bateson. I have had numerous law
5 enforcement contacts with Colt Bateson. He was known on campus as a reckless and uncaring individual with
6 concern only for his immediate gratification. He was investigated for several obnoxious campus pranks which, in
7 my opinion, rose to the level of criminal conduct though he was never charged. One of these events was the alleged
8 theft of a University Police golf cart along with a statue of the TMU mascot.

9
10 The autopsy was performed by a medical examiner working under the authority of the Office of the Medical
11 Examiner for Chinook County. At the autopsy, the cause of death was noted as brain stem swelling brought on by
12 a case of acute hyponatremia. The medical examiner noted that this was not a natural cause based upon the volume
13 of water in the victim's system. The medical examiner was of the opinion that ingestion of this much water was not
14 normal. An individual's sense of thirst would not allow for the voluntary consumption of so much water and, thus,
15 it was a deliberate and forced act. The ruling of the Medical Examiner's office was that Jessica Bateson's death was a
16 homicide.

17
18 Upon reviewing the case file following the autopsy report, I spoke by phone with sophomore Carmen Cordova,
19 who had been present and questioned on August 25, 2018. She stated that she and Jessica pledged ESE together
20 and that Jessica was desperate to fit in and be liked. They had been roommates during freshman year, and Carmen
21 stated that Jessica pledged both semesters without receiving an invitation from any of the sororities. Carmen
22 indicated that she thought Jessica would have been heartbroken to have been rejected from ESE and was doing
23 everything that was asked of her, no matter how ridiculous or dangerous. Carmen said she quit the Water Jeopardy
24 activity because she thought it was unsafe and she even told Pledge Master Taylor Durden that she thought it could
25 hurt the other pledges.

26
27 During subsequent investigation, the room in which Ms. Bateson died was reexamined. Photographs of the room
28 were taken, including a photo of eight water coolers lined up against one wall of the basement. There were varying
29 amounts of water in each of the coolers, and signs above the coolers used by pledges. Because the scene was not
30 secured immediately following Ms. Bateson's death, it is not known if the water coolers were used after the incident
31 in question on August 25, 2018. The cooler marked with the name Jessica appeared to have significantly less water
32 than the other coolers.

33
34 Based upon the findings of the Medical Examiner's Office, information from other pledges, and that Durden was
35 responsible for the pledge activity known as Water Jeopardy; Durden was arrested and charged with manslaughter
36 and hazing. Chapter President Alex Richards was also initially arrested and charged. Richards agreed to testify and
37 all criminal charges were dropped in exchange for Richards' testimony.

38
39 After Durden was arrested, I scheduled an appointment to meet with Carmen Cordova on September 19, 2018.
40 Unfortunately, Ms. Cordova died in a car accident on September 12, 2018. The cause of the accident is still under
41 investigation, and an investigator with the Oregon State Police Department is handling the suspicious circumstances
42 of the accident. The investigator told me that though the findings are still pending, it appeared that the braking
43 system of Ms. Cordova's car was disabled. As an investigator, I find it interesting that Ms. Cordova was in a fatal
44 accident only two days after Durden was released on bail.

45
46
47
48 I have reviewed this statement, and I have nothing of significance to add at this time. The material facts are true and
49 correct.

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11

Signed,
Chris Knight
Chris Knight

SIGNED AND SWORN to November 1, 2018

C.M. McCormack
C.M. McCormack, Notary Public, State of Oregon
My Commission Expires: December 31, 2019

1 **AFFIDAVIT OF DR. JADEN CHESSLER, witness for the prosecution**

2
3 My name is Jaden Chessler. I am 29 years old. I received my bachelor's degree in biology from the University of
4 Oregon, and my M.D. from Baylor College of Medicine. I have been in Oregon for the last two years, since
5 finishing my residency requirements. I won awards at Baylor for top marks in the anatomical pathology specialty
6 and graduated third in my class over all. I am a board certified physician and licensed in the State of Oregon
7 through the Oregon Medical Board (OMB). I have certifications in Internal Medicine as well as Anatomical
8 Pathology. I serve as a Deputy State Medical Examiner for the State of Oregon and handle cases from the various
9 Medical Examiners offices that call on us. I have seen all of the usual causes of death from drowning to shootings,
10 stabbings and, of course, auto fatalities.

11
12 The morning of August 26, 2018, we received a body from the Chinook County Medical Examiner's Office. The
13 body was a Caucasian female, giving all outward physical appearances of an older teenager. Per the positive
14 identification of the Thomas McCall University Police Department, the body was identified as Jessica Bateson, 19
15 years of age, of Hermiston, Oregon. Per the records from the emergency room physician, she arrived at the
16 emergency room in an unresponsive state with fixed, dilated pupils and shallow, labored breathing. Time of death
17 was 18:40 on Saturday, August 25, 2018.

18
19 The autopsy was conducted at 10:00 on Monday, August 27, 2018. Upon physical examination of the body, the
20 only marks of external trauma visible were consistent with a fall from intermediate height. The only external
21 markings upon the body were red nail polish on toes and fingers and a tattoo of a cherub with an arrow through its
22 back located on the outside of her right ankle. This was noted in the autopsy filings. Weight of the body was 131
23 lbs 5oz, length 70 inches. The body was dressed in a white t-shirt and tan shorts. There was no indication that the
24 body had been dressed or that clothing was altered post mortem.

25
26 Through the course of the autopsy, all organs appeared unremarkable in coloration, size, and weight with the
27 exception of a distended bladder and an extremely swollen brain stem. I determined the cause of death was swelling
28 of the brain stem due to consumption of a lethal amount of water. This is known as acute hyponatremia.

29
30 There are cases of hyponatremia in the United States every year. The vast majority of fatal hyponatremia cases
31 occur in infants and the elderly. To say it is strange that a teenager would die of this would be an understatement. I
32 have never seen a fatality from hyponatremia before this case. I have read about it in the medical textbooks and I
33 am familiar with the symptoms and the physiological affects. Hyponatremia is a painful way to die. Picture
34 drinking so much fluid that your kidneys cannot keep up and you cannot relieve the fluid from your system to the
35 point that you literally drown in your own cells. When the urinary system cannot flush the excess fluid from the
36 body, the cells all begin to absorb the excess fluid. Some cells absorb water until they burst, and can actually cause
37 the victim to appear to have blotchy skin from all the burst cells. Usually in conjunction with that is the swelling of
38 the brain stem. This is particularly dangerous because if not counteracted, coma and ultimately death occur.
39 Among other things, the brain stem controls consciousness, breathing, heartbeat, eye movements, pupil reactions,
40 swallowing and facial movements. Furthermore, all the sensations going to the brain, as well as the signals from the
41 brain to the muscles, must pass through the brain stem. Without a clear path for these signals to pass back and forth
42 from the brain, it is as if the head had been chopped off.

43
44 Upon checking the sodium serum levels, which indicates water consumption, the numbers were off the charts at the
45 low end of the scale. This merited further urinalyses and blood work. Following the results of those tests, I came to
46 the conclusion that such massive water consumption could not have been voluntary. Ms. Bateson died as a direct
47 result of human intervention.

1 The death certificate notes the cause of death as acute hyponatremia, along with confirmation of homicide as
2 opposed to natural causes. It is unlikely that the condition was accelerated or exacerbated by any other factors. I
3 later found out that after my homicide ruling and the autopsy that the TMU Police Department investigated further
4 the circumstances of Ms. Bateson's death. Taylor Durden and Alex Richards were held responsible with Taylor
5 Durden ultimately charged.

6
7 I understand that Dr. Jackson is testifying for the defense and disagrees with my conclusion. While I have the
8 utmost respect for Dr. Jackson, I believe that medical advances in the field of pathology have passed him/her by.
9 In addition, I attended medical school with Dr. Jackson's son, who later lost his license to practice medicine due to
10 a drug conviction. Over the years, I had on many occasions spoken at length with Dr. Jackson about the practice of
11 medicine and have been dismayed that his/her focus has turned from service to the public to the financial rewards
12 of being an expert witness or "hired gun."

13
14 I have reviewed this statement, and I have nothing of significance to add at this time. The material facts are true and
15 correct.

16 Signed,

17 Jaden Chessler

18 Jaden Chessler, M.D.
19
20

21 SIGNED AND SWORN to November 1, 2018

22
23 C.M. McCormack

24 C.M. McCormack, Notary Public, State of Oregon

25 My Commission Expires: December 31, 2019

1 **AFFIDAVIT OF ALEX RICHARDS, witness for the prosecution**

2
3 My name is Alex Richards, and I am the president of the Chi Si Chapter of Epsilon Sigma Epsilon honors society at
4 Thomas McCall University. I turned 22 on November 10, 2018. During the school year I live at the ESE house at
5 TMU. During the summer I typically travel out of the country to see more of the world. I am a senior with a 4.0
6 GPA, and have already been accepted to law school once I graduate. I have been in ESE for three years now. I was
7 elected Pledge Master for a year before running for and being elected President of the chapter.

8
9 Though we have Greek letters identifying us, much as the traditional fraternities and sororities do, we are quite a bit
10 different. First, we are co-ed. Second, we have much higher GPA standards than any of those groups. And finally,
11 we do true services for the community. We have a few other things in common with the traditional Greek
12 organizations on campus. Our officers are all required by the University to attend the same trainings as traditional
13 Greek organizations. We are an organization that gains membership by invitation only based on brains; not
14 necessarily beauty or popularity. I have greatly enjoyed my time here at Thomas McCall University. I have worked
15 hard to move up through the ranks of the ESE honors society. This year, I became president of the Chapter, and
16 had some great plans for the year. Things have really derailed since then.

17
18 Taylor Durden joined ESE at the same time that I did. Taylor was always more happy working with the new
19 members, or pledges as they are often called. Taylor just loved the process of screening and admitting new
20 members and some of the fun things to build unity within ESE. Taylor learned the ropes of being the pledge
21 master like I did, from Jessica's older brother Colt. Colt put us through the paces of the Water Jeopardy game.
22 Taylor was miserable after we were done that day, but Taylor and Colt became fast friends after the experience.
23 They began to hang out all the time together. I am willing to bet Taylor was with Colt when the University Police
24 golf cart was stolen.

25
26 Every year there is a type of ESE Pledge Olympics. All of the ESE officers review the proposed activities to make
27 sure that we do not run into trouble with the University's hazing policies. Until this year, we have never even had a
28 visit from the University Police Department, much less been sanctioned in any way by TMU Administration. Last
29 year when I was pledge master, everyone had a great time and nobody died from Water Jeopardy. It is awful that
30 Taylor cannot say the same this year.

31
32 This year, Taylor seemed fixated on pushing the pledges further than we had before. I said it was not a good idea,
33 and I even thought that the Water Jeopardy that Taylor was so fond of was probably close to hazing. I even told
34 Taylor about a lady I had read about dying from drinking too much water and not going to the bathroom as a part
35 of a radio contest to win a Nintendo Wii and showed Taylor an article about it. Taylor insisted that Water Jeopardy
36 was not hazing but that s/he would call the University Student Affairs Office to ask. I have no idea if Taylor ever
37 did call or, if Taylor did, what they even said. Either way, Taylor said s/he was moving forward with the Water
38 Jeopardy. We argued about it, and I decided that I did not want to be present for the game. I probably should
39 have double-checked behind Taylor but I had been busy settling back into the fall semester routine. I was around
40 for most of the other pledge week activities and they all seemed to go pretty well. Everyone was having a good
41 time, especially with the shaving cream fight.

42
43 When the Water Jeopardy game started, I headed upstairs to my room to study. After a while, I heard Carmen
44 Cordova yelling for a phone and to call 911. Carmen looked lost wandering around the house when I came
45 downstairs and I realized that she had never been inside the main portion of the house since she was just a pledge.
46 I called 911, while asking what the problem was. Carmen said that one of the pledges passed out. That happens to
47 people from time to time but they could not get her to wake up. That scared me.

1 I went down to the basement level with Carmen, and we opened up the outside doors of the basement and
2 everyone waited for EMS. Taylor and a couple others were trying to wake Jessica up the whole time. EMS arrived,
3 and took Jessica out on a stretcher. She had been a quiet and somewhat silly person, and was not taking the pledge
4 process seriously enough for Taylor all week long. I am sure that Taylor was punishing her with Water Jeopardy.
5 The cop thought it might have been an alcohol poisoning and hazing incident since it was pledge week all over
6 campus. Before Sgt. Knight left, Taylor and I were interviewed about what happened. Sgt. Knight asked if it was
7 okay to search the house for alcohol since there were appearances that alcohol could be involved. Taylor and I
8 both told the cop to feel free to search the house, so Sgt. Knight and Cpl. Dechane did. They of course did not
9 find anything. I found out later that evening from the University Director of Student Affairs that Jessica died.

10
11 A couple days later, Sgt. Knight and another officer came back to the house and said that Water Jeopardy was
12 considered hazing and since Jessica died, this was manslaughter. They said the water was forced on Jessica and that
13 she died from the excessive water and it was our fault. They arrested Taylor for it, and took me down to an
14 interview room at the police department. I was told that because I was the chapter president and it happened while
15 I was responsible for the honors society, that I could be held responsible too. The police gave me a choice. I could
16 sit at the prosecution table or the defense table. You do not have to have a 4.0 in aerospace engineering to realize
17 the implications of that decision. I am sure it was Taylor's meanness and pushing events too far that got Jessica
18 Bateson killed. I am sitting at the right table.

19
20 I have reviewed this statement, and I have nothing of significance to add at this time. The material facts are true and
21 correct.

22 Signed,

23 *Alex Richards*

24 Alex Richards

25
26
27 SIGNED AND SWORN to November 11, 2018

28
29 *C.M. McCormack*

30 C.M. McCormack, Notary Public, State of Oregon

31 My Commission Expires: December 31, 2019

DEFENSE WITNESS STATEMENTS

1 **AFFIDAVIT OF TAYLOR DURDEN, defendant**

2
3 My name is Taylor Durden. I am 21 years old, and will turn 22 on May 22, 2019. I live at the Epsilon Sigma
4 Epsilon house at Thomas McCall University during the school year. For the last two years I have subleased
5 apartment space during the summer so I can stay in town to take summer classes. I am a senior at Thomas McCall
6 University. I have a 3.5 GPA with a major in business. Following undergrad, I plan to go back for an MBA and
7 then work for a major corporation.
8

9 I have been a member of the ESE honors society since 2015. I was the first pledge initiated to the chapter that year
10 and I loved it. I have been to every social, mixer, pledge event, and public service opportunity that we have had
11 since I started. I love the fact that we can have great parties and we can all get together to help others in the
12 community – like at the McCall U Blood Drive and Toys for Tots.
13

14 For the last two years I assisted the other pledge masters including Alex Richards. This year I was asked to be the
15 pledge master. I have taken my role seriously because I think that everyone who joins ESE should take the honor
16 and responsibility seriously as well. My job was to make sure that the students were not only of the highest caliber
17 at the University, but that they were knowledgeable about the University, the ESE chapter, and the community that
18 we serve. I was responsible for all the paperwork that the pledges completed and signed off on as they were
19 working towards joining ESE. That included requesting their transcripts so we could get their GPAs, a medical
20 history chart outlining any health problems that we needed to be aware of, and a general liability release that the
21 University insisted that we get before letting them participate in any events. Everyone joining this semester were
22 sophomores. According to my records, all of them completed and submitted their required paperwork.
23

24 This year's pledge class was a mix of guys and girls like in most years. Our more rigorous GPA requirements meant
25 that we invited fewer to join. Everyone was having a good time all week with the activities. It is not hazing or
26 anything like what I have been accused of doing. Everyone gets a copy of the activities for the week along with the
27 rules for pledges during the week. The rules said that the activities were optional. They weren't any big deal really –
28 just stuff like wearing the same color shirts and shorts every day of the week, not having cell phones and going
29 anywhere in the ESE house, except the basement. Sure, I may have given some of them a hard time when they
30 didn't want to do things but I never really said they couldn't quit. It was all part of the fun.
31

32 The activities were all funny and sometimes foolish – all of which were designed for everyone to get to know each
33 other better, and test their knowledge of the University and the ESE chapter. There were wiffle ball games in the
34 back yard with members versus pledges. There was a water balloon game where everyone stood at attention on the
35 front lawn, and the members stood on the roof and threw water balloons at pledges that did not answer the chapter
36 questions correctly. There were shaving cream fights on the back lawn for the pledges to “get even” with the
37 members who had been egging them on all week long. Then there was the final activity of the week. This is where
38 things went horribly, horribly wrong, but it was not my fault. That was the Water Jeopardy game.
39

40 We all knew then and we all know now that forcing people to drink beer, especially if they are underage, is a huge
41 way to get in a world of trouble. That is why we liked Water Jeopardy so much. We all had to sit in on the
42 University-required sessions about hazing and how not to do hazing, and on and on. That session was such a bore.
43 We all knew that you could not force people to drink alcohol or do humiliating things. That is why we had the water
44 balloon activity, the shaving cream fight, and Water Jeopardy. We have been doing Water Jeopardy for awhile and
45 never had a problem before.
46

47 In Water Jeopardy, we had the traditional looking Jeopardy™ screen projected on the wall and the pledges had turns
48 answering questions just like on the show. The catch was that instead of getting points for correct answers and
49 losing points for incorrect answers, the pledges had to drink from water coolers if they got answers wrong. If

1 someone forgot to put the answer in the form of a question, then they had to drink even more water as a penalty.
2 The pledges had to drink for as long as I counted out loud. You know, 1 Mississippi, 2 Mississippi, and so on. If it
3 was a wrong question they had to drink until I counted to 5. If they did not phrase the answer in the form of a
4 question, then I made them drink for a 10 count. No big deal, it was just water. Besides, it is not like I was going to
5 top the things that happened when Alex was pledge master. Every year there is an unspoken, unwritten challenge
6 for the pledge master to add something to the ESE pledge activities, or push the limits of what activities we were
7 doing. As the Pledge Master, you just had to push the pledges a little harder than the person before you.

8
9 Jessica was lousy at the game but I think she was intentionally being a clown. She kept getting answers wrong and
10 then laughing off her trip to the water coolers to drink. Sometimes she would even forget to put the answer in the
11 form of a question so there were even more penalties. Carmen Cordova, one of the other pledges who was a
12 nursing student, said she thought it was not a good idea to play the game, but I don't know why. I even asked her
13 why she said it was not a good idea and she said something about her nursing professor saying it was bad. What
14 does that even mean? Like you have to use the bathroom? Or what? She was a quitter and didn't even finish
15 Water Jeopardy – she just sat at the back of the room after that. I don't remember Carmen saying anything about
16 Jessica looking ill.

17
18 I think we had been playing for about an hour and a half when Jessica made that fatal turn back from the coolers.
19 She just kind of fell forward and down on the carpet. At first I thought she was just being funny and I told her to
20 get up. When she did not move I got concerned. I went over to her and rolled her over. She was breathing but
21 appeared to have passed out. I thought that was an odd time to pass out. It is not like we were outside in the heat,
22 she was dehydrated, or had been doing anything strenuous. I tried to wake her up a couple of times by shaking her
23 a little bit and calling her name. We even got some water from the water coolers and splashed it on her face but it
24 made no difference. That is when we all got scared and decided to call for an ambulance. It was only a couple
25 minutes before I yelled for someone to call 911. There was no phone in the room where we were playing the game.
26 I do not carry a cell phone when I am conducting activities so that the pledges can see that I am also following the
27 rules. I think Carmen Cordova may have gone upstairs in search of a phone. A little while later Alex came
28 downstairs on the phone and said that an ambulance was on the way. After that, the EMT's came, loaded her on the
29 stretcher, and took her away. I answered some questions from the cop that arrived, who said it did not look like we
30 did anything wrong. I even told them to search the whole house when they asked if her condition could be due to
31 alcohol hazing. They searched and, of course, there was no alcohol. We are not that kind of organization.

32
33 Four days later the cop came back and arrested me. I did not haze anyone. And I darn sure did not kill anyone.
34 Jessica Bateson could have stopped drinking water at any time. She even signed a waiver saying that she knew what
35 she was voluntarily doing for the entire pledge week.

36
37 Look, I am friends with Colt Bateson. I have known Jessica Bateson for years. She used to visit her brother on
38 campus on the weekends and she even did some of the service projects with us while she was still in high school.
39 In fact, we kept her from engaging in some of the more inappropriate social activities around campus. There is no
40 way that I would have let her continue if I had known that she was in danger.

41
42 I have reviewed this statement, and I have nothing of significance to add at this time. The material facts are true and
43 correct.

44 Signed,
45 Taylor Durden
46 Taylor Durden
47
48

49 SIGNED AND SWORN to November 1, 2018

1
2 *C.M. McCormack*
3 C.M. McCormack, Notary Public, State of Oregon
4 My Commission Expires: December 31, 2019

1 **AFFIDAVIT OF DR. AHSAN JACKSON, witness for the defense**

2
3 My name is Dr. Ahsan Jackson. I have an M.D. in internal medicine from Duke University, and have been a
4 Fellow Professor of Pathology at the University of Maryland for the last six years. Prior to that, I was the
5 Associate Director of the University of Tennessee Forensic Anthropology Facility. It is more commonly referred to
6 as the “Body Farm.” It is a facility in which medical examiners, anthropologists, and law enforcement officials study
7 all manner of death and decomposition in order to make better decisions in criminal investigations and to make
8 more thorough diagnoses in the autopsy procedures. Both prosecutors’ offices and defense firms have contracted
9 with me for over 15 years as an expert in the field of pathology, decomposition, and in questions determining the
10 timeline of death. My average annual income as an expert (apart and separate from my Fellowship at the
11 University) has been approximately \$200,000 per year for the past five years, before taxes and overhead. I hold
12 certifications in Anatomical and Clinical Pathology as well as Forensic Pathology and Anthropology.
13

14 I was contacted by the defense to look into the matter of the death of Jessica Bateson. For the purposes of my
15 investigation, I examined the health records, medical release, emergency room record, death certificate, and Medical
16 Examiner’s report on Ms. Bateson. These documents were all released to the defense from the prosecutor’s office.
17 My report works from the assumption that the reports are full and complete records on Jessica Bateson with no
18 other records or information being available through other means.
19

20 The autopsy conducted by the State does properly show that the swelling of the brain stem did ultimately cause the
21 death of Ms. Bateson. What the State missed, in its overzealous attempt to lay blame on what should more properly
22 be termed an accident, were the underlying health conditions of Ms. Bateson. Deputy Medical Examiner Chessler
23 appears fascinated with the idea of a death from hyponatremia. I can certainly remember being fascinated by some
24 of the more obscure deaths that I attended when first cutting my teeth as a pathologist.
25

26 According to the medical records provided by the solicitor’s office, Ms. Bateson had a family history of thyroid
27 problems. Hypothyroidism is a direct cause for acute hyponatremia and some resulting fatalities. In the medical
28 waiver statement obtained by the State from the ESE honors society, there is no mention of that condition or
29 history within the family. Certainly if someone was suffering from this condition or if there was a family history,
30 they could have given warnings about volume of water intake, salt consumption and so on. Without the disclosure
31 of that information to the ESE members, they could not reasonably make accommodations for Ms. Bateson, or
32 even know what type of activities might be harmful to her.
33

34 Regardless of recent media hype, death from acute hyponatremia is a rare event. Other questions as to Ms.
35 Bateson’s death also are brought up. Acute hyponatremia is often best dealt with in the field and en route to the
36 hospital. I saw nothing in the emergency room record to reflect a proper diagnosis of acute hyponatremia in
37 progress. Had that been done, there would have been multiple treatment regimens for the condition to lessen the
38 brain stem swelling and thus prevent brain damage and death.
39

40 Additionally, in reviewing the autopsy report and associated blood work, I noted the sodium serum levels were
41 depressed but certainly not in the critical range. In the report the brain stem swelling is much more consistent with
42 a reaction of the hyperthyroid to an influx of water rather than of the water alone. In addition to evaluating sodium
43 serum levels when acute hyponatremia is suspected, a seasoned pathologist draws from the fluid remaining in the
44 bladder to gain a baseline for the volume of water that had been in the system of the deceased at the time of death.
45 Dr. Chessler did not do this and, had this occurred in my lab, it would have been considered a fundamentally basic
46 error. Without that baseline information as to how much water was in the bladder, it would be difficult if not
47 impossible to determine the volume of water in the deceased’s system in order to properly rule out hypothyroidism
48 and establish acute hyponatremia as a sole cause of brain stem swelling and ultimately death.
49

1 I have known Dr. Chessler since s/he was my son's classmate in medical school. Jaden was not a very impressive
2 student according to my son, Leon. Leon even said that Jaden would cheat off of his exams. Further evidence of
3 Jaden's lack of academic aspirations is the fact that Jaden has never pursued any further specialization, teaching
4 fellowships, or been published. Clearly not the equal of my son.
5

6 Though a horrible accident for which the community and University should grieve, given the lack of disclosure and
7 the lack of diagnosis by medical professionals involved with this case, I cannot see the connection of responsibility
8 to anyone other than that of Ms. Bateson.
9

10 I am aware that Dr. Chessler believes that I am nothing more than a mercenary for the highest dollar but I base my
11 opinions on the medical records alone despite the financial rewards.
12

13 I have reviewed this statement, and I have nothing of significance to add at this time. The material facts are true and
14 correct.
15

Signed,

Ahsan Jackson, M.D.

Ahsan Jackson
18
19

20 SIGNED AND SWORN to November 1, 2018
21

C.M. McCormack

23 C.M. McCormack, Notary Public, State of Oregon

24 My Commission Expires: December 31, 2019

1 **AFFIDAVIT OF SHAWN BOYD, witness for the defense**
2

3 My name is Shawn Boyd. I am 20 years old, and a junior at McCall University. I live in the South Quad dormitory.
4 I am in my second year as a member of Epsilon Sigma Epsilon honors society. I have known Taylor since I was a
5 freshman. Taylor was a student assistant to the professor in my University 101 class, and we have been friends ever
6 since. I think Taylor is crazy about the rules and rituals of the ESE but that has not caused any problems in our
7 friendship. Taylor learned all these rules and rituals from Colt Bateson. Even though Colt was Taylor's pledge
8 master, they became good friends even after the pledge week initiation chaos, so I do not think Taylor would have
9 done anything to deliberately hurt Jessica Bateson. Colt and Taylor had some fun at TMU, but they are basically
10 good people. Colt is a strong American who felt the call to service so much that he joined the Army right after
11 college and is currently serving in Afghanistan.
12

13 For me, membership in ESE is something that I can point to on my resume after college. I did not and do not care
14 about the socials and all the other events. It is just a resume builder; it makes me look good. Taylor encouraged
15 me to join ESE. I gave it considerable thought and decided to join. I told Taylor up front that I was not going to
16 do all the foolishness and junk that they push on all the pledges. Taylor gave me a hard time about it but ultimately
17 had no choice since it even says in the ESE charter that being a member depends on maintaining a certain GPA and
18 paying dues to the charitable funds account,. They use the funds to pay for supplies for Toys for Tots and so on.
19 Every year or so there might be a couple of us that pretty much pay our dues but never do the activities or move
20 into the house.
21

22 One of the forms that we all sign when we are joining says something about all the activities that try to build unity at
23 ESE, the rules, and not having to do the games and such. Taylor and Alex have not gotten along for as long as I
24 have known them. Alex thinks s/he is going to save the world and that EVERYTHING we do has to be linked to
25 that goal. Alex and Taylor have fought before because the games and activities that Taylor organizes take up too
26 much of ESE's time. On top of that, they worked together on the pledge class last year when Alex was the pledge
27 master. Maybe Taylor pushed the limits further than Alex; I don't know. I do know that those two were always at
28 each other's throats about one thing or another. Some people just cannot get along. Alex even said to Taylor at the
29 last ESE mandatory meeting before pledge week started that there was no way Taylor could top the pledge week of
30 last year. I do not know if Alex meant the number of pledges or the kind of activities for pledge week.
31

32 I also remember when Colt was the pledge master. I do not think that Taylor did anything beyond what Colt did.
33 In fact, I talked with Colt at the funeral. Colt said he thought this was a tragic accident and could not believe there
34 were criminal charges. They all used the Water Jeopardy game as a part of the Pledge Olympics – Colt, Alex, and
35 Taylor. Someone did pass out during Colt's term as pledge master. I do not remember during what activity but that
36 was probably just from the stress of Pledge Week or from the August heat. Colt was deployed to Afghanistan
37 shortly after the funeral.
38

39 I was not around when Jessica died but I had been in the basement to watch the fun. It is always funny to laugh at
40 the pledges that take everything so seriously, especially with Water Jeopardy. While I was there, Jessica was being a
41 clown and had to drink more water than the rest. Before I wandered out to go watch some of the fall football
42 practice, I heard Carmen Cordova tell Jessica to stop playing. Taylor laughed it off and asked Jessica if she wanted
43 to continue and she said she did. That was when I wandered out.
44

45 I talked to Taylor and others the next day about Water Jeopardy. Everyone said it was the usual stuff being played
46 during the game; nothing seemed out of the ordinary. Yeah, there was probably some teasing when Carmen quit but
47 I think Taylor was hard on all the pledges, not anyone in particular. If Jessica could see that other people were
48 quitting without negative consequences, then there was no reason she could not have quit, too – especially if she
49 was not feeling well. Taylor said something about Carmen saying that drinking too much water could be bad but I

1 don't think she ever told anyone why or how it was bad. I think like everyone else who was present: Carmen was
2 probably just trying to find a way to get out of the game without looking like a wuss.

3
4 Jessica could have quit at any time but she always was a little irresponsible about her safety. When she was still in
5 high school and visited Colt on campus, she would try to attend parties where alcohol was being served. Alex will
6 do anything to stay out of trouble and blame others for what was a weird accident. I think Alex is trying to throw
7 Taylor under the bus with this whole hazing business. All Alex cares about is staying out of trouble and getting rich
8 after graduation. I think Alex would do or say anything to keep a clean record and an impressive resume. In fact,
9 when the police golf cart was stolen, Alex told the other ESE members that if the cart was anywhere on ESE
10 property, that it had better be moved to another Greek house.

11
12 I have reviewed this statement, and I have nothing of significance to add at this time. The material facts are true and
13 correct.

14 Signed,

15 *Shawn Boyd*

16 Shawn Boyd

17
18
19 SIGNED AND SWORN to November 1, 2018

20
21 *C.M. McCormack*

22 C.M. McCormack, Notary Public, State of Oregon

23 My Commission Expires: December 31, 2019

EXHIBITS

EXHIBIT 1: 911 Call Transcript

08-25-2018 17:06

Dispatch: Emergency 911. Is your emergency Police, Fire, or Medical?

Caller 1: I'm at the ESE house at 313 Salmon Street in Green Valley. One of the pledges has passed out. We need an ambulance in a hurry."

Dispatch: I need your name and location, please.

Caller 1: My name is Alex Richards.

Dispatch: Can you confirm the address?

Caller 1: It's the ESE house on Salmon Street. 313 Salmon.

Dispatch: EMS (Emergency Medical Service) 4, Prepare to copy.

EMS 4: EMS 4. Go ahead dispatch.

Dispatch: Report of a person unconscious at 313 Salmon Street, Green Valley. No further information available at this time. Your incident number is 46-108290911, and time of dispatch is 17:07.

EMS 4: EMS 4 copies. We are in route to 313 Salmon Street for report of an unconscious person. We have an ETA (estimated time of arrival) of ten minutes.

Dispatch: Good copy.

Dispatch: TMPD (Thomas McCall University Police Department) 33, prepare to copy.

TMPD 33: TMPD 33. Go ahead dispatch.

Dispatch: Report of a person unconscious at 313 Salmon Street, Green Valley. No further information available at this time. EMS en route. Your incident number is 46-108290911, and time of dispatch is 17:08.

TMPD 33: TMPD 33 copies. En route to 313 Salmon Street for report of person unconscious. 33 also copies EMS en route. Time is 17:09.

Dispatch: Good copy.

Dispatch: I've dispatched police and EMS to 313 Salmon Street, but it's a long street. Do you know the nearest cross-street?

Caller 1: We're near the intersection of North Pioneer Street. It's a big white two-story house with columns. They can't miss it.

Dispatch: OK, I just want you to stay on the line with me. We need to know what's going on.

Caller 1: OK.

Dispatch: Do you know the name of the individual who passed out?

Caller 1: Yes, it's Jessica Bateson.

Dispatch: Do you know whether Jessica has any medical conditions? Is she on any medications?

Caller 1: I don't know.

Dispatch: Is Jessica conscious?

Caller 1: No, she's not but she's breathing really shallow.

EMS 4: Dispatch, EMS 4.

Dispatch: Go ahead EMS 4.

EMS 4: EMS 4 on scene.

Dispatch: Copy. EMS 4 on scene at 17:26.

TMPD 33: Dispatch, TMPD 33."

Dispatch: Go ahead TMPD 33.

TMPD 33: TMPD 33 on scene.

Dispatch: "Copy. TMPD 33 on scene at 17:27."

Caller 1: Thank goodness, EMS is here. Thank you. Thank you. I'm going now." - CALL ENDS

EMS 4: Dispatch, EMS 4.

Dispatch: Go ahead EMS 4.

EMS 4: One unconscious female, respiratory distress. En route Chinook Regional Medical Center cleared from 313 Salmon Street.

Dispatch: Copy. EMS 4 clear from 313 Salmon Street at 17:34, en route to Chinook Regional Medical Center with one unconscious female, respiratory distress.

EXHIBIT 2: Initial Police Incident Report

| | | | | | | | | | | | |
|---------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|------------------------|----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|--|-----------------------------------------------|--|-------------|
| AGENCY ID OR04619 | THOMAS MCCALL UNIVERSITY POLICE DEPARTMENT Green Valley, Oregon (541) 555-1234 | INCIDENT # 46-108290911 | | | | | | | | | |
| INCIDENT REPORT PRINT OR TYPE ALL INFORMATION | | | | | | | | | | | |
| EVENT | INCIDENT TYPE | COMPLETED | FORCED ENTRY | PREMISE TYPE | UNITS ENTERED | TYPE VICTIM <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Government <input type="checkbox"/> Other | | | | | |
| | Assisting other Agencies - Chinook County EMS | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | Res. | 1 | | | | | | |
| | | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | | | | | | | | |
| | INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) | | | | ZIP CODE | WEAPON TYPE | | | | | |
| | 313 Salmon Street | | | | 97652 | | | | | | |
| | INCIDENT DATE | 24 HOUR CLOCK | TO | DATE | 24 HOUR CLOCK | | | | | | |
| 8/25/2018 | 17:27 | | 8/25/2018 | 19:05 | | | | | | | |
| COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) | | RELATIONSHIP TO SUBJECT | | DAYTIME PHONE | | EVENING PHONE | | | | | |
| Richards, Alex | | NA | | 541-555-0789 | | 541-555-0789 | | | | | |
| ADDRESS | | CITY | | STATE | | ZIP CODE | | | | | |
| 313 Salmon Street | | Green Valley | | OR | | 97652 | | | | | |
| SUBJECT NO. 1 | NAME (LAST, FIRST, MIDDLE) | | AKA | | | | | | | | |
| | NA | | | | | | | | | | |
| | FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULARITIES, ETC. | | | | | | | | | | |
| | ADDRESS | | CITY | | STATE | | ZIP CODE | | | | |
| | | | | | | | | | | | |
| SUBJECT (NO.1) USING: | | ARRESTED NEAR OFFENSE SCENE | | DATE / TIME OF OFFENSE | | DATE / TIME OF ARREST | | | | | |
| ALCOHOL <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN | | <input type="checkbox"/> YES <input type="checkbox"/> NO | | | | | | | | | |
| DRUGS <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN | | | | | | | | | | | |
| NARRATIVE | Responding Officer (RO) arrived on scene at the above date and time in reference to an unresponsive female at the Epsilon Sigma Epsilon house. In the basement area of the house, EMS was working on what appeared to be an unconscious teenage female. RO made contact with Chapter President Alex Richards, Pledge Master Taylor Durden, and pledge Carmen Cordova. Based upon experience, RO had probable cause to believe that this was an alcohol-based initiation. RO inquired with both Richards and Durden as to the age of the female and whether or not alcohol was being used. Both denied any alcohol and stated that Ms. Bateson merely passed out. During this time EMS cleared the scene to Chinook Regional Hospital with Bateson. RO requested and was granted permission to search the premises for alcohol. Additional officers arrived on scene shortly thereafter. Once additional officers were at the residence, RO and Cpl. Dechane conducted a thorough search of the premises. 500 ml. of tequila was discovered in the room of one resident who was above 21. No other illicit substances were discovered. RO interviewed Carmen Cordova following the consent | | | | | | | | | | |
| | PROPERTY | | | | | | | | | | |
| | TYPE (GROUP) | | | | TOTAL VALUE | | | | | | |
| | STOLEN | | | | | | | | | | |
| | DAMAGED | | | | | | | | | | |
| | BURNED | | | | | | | | | | |
| RECOVERED | | | | | | | | | | | |
| SEIZED | | | | | | | | | | | |
| ADMINISTRATIVE | SUBJECT IDENTIFIED | | SUBJECT LOCATED | | <input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED | | <input type="checkbox"/> ARRESTED UNDER 18 | | <input type="checkbox"/> EX-CLEAR UNDER 18 | | |
| | <input type="checkbox"/> YES <input type="checkbox"/> NO | | | | <input type="checkbox"/> UNFOUNDED | | <input type="checkbox"/> ARRESTED 18 AND OVER | | <input type="checkbox"/> EX-CLEAR 18 AND OVER | | |
| | REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH. 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRACTION DENIED | | | | | | 4. <input type="checkbox"/> VICTIM DECLINES OPERATION 5. <input type="checkbox"/> JUVENILE NO CUSTODY | | | | |
| | REPORTING OFFICER | | DATE | | 24 HOUR CLOCK | | APPROVING OFFICER | | DATE | | UNIT NUMBER |
| | Sgt. Chris Knight | | 8/25/2018 | | 20:11 | | Lt. Solomon | | 8/25/2018 | | 4618 |
| FOLLOW-UP INVESTIGATION REQUIRED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | | | | | | | | | | | |

AGENCY ID
OR04619

THOMAS MCCALL UNIVERSITY POLICE DEPARTMENT
Green Valley, Oregon (541) 555-1234

INCIDENT
46-108290911

SUPPLEMENTAL INCIDENT REPORT
PRINT OR TYPE ALL INFORMATION

| | | | | | |
|----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|-------------------------------|-------------------|
| INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) 313 Salmon Street | | | | ZIP CODE 97652 | CASE # 1879320 |
| INCIDENT DATE 8/25/2018 | 24 HOUR CLOCK 17:27 | TO | DATE 8/25/2018 | 24 HOUR CLOCK 19:05 | |
| COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) Richards, Alex | | RELATIONSHIP TO SUBJECT NA | DAYTIME PHONE 541-555-0789 | EVENING PHONE 541-555-0789 | |
| ADDRESS 313 Salmon Street | | CITY Green Valley | STATE OR | ZIP CODE 97652 | |
| SUBJECT NO.2 | NAME (LAST, FIRST, MIDDLE) NA | | AKA | | |
| | FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULARITIES, ETC. | | | | |
| | ADDRESS | CITY | STATE | ZIP CODE | |
| | SUBJECT (NO.2) USING: ALCOHOL <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN DRUGS <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN | ARRESTED NEAR OFFENSE SCENE <input type="checkbox"/> YES <input type="checkbox"/> NO | DATE / TIME OF OFFENSE | DATE / TIME OF ARREST | |
| DATE 8/25/2018 | 24 HOUR CLOCK 19:05 | <p>search for alcohol. Cordova stated that the game in which all pledges were playing required them to drink water as punishment if they answered questions wrong. RO asked if this was hazing, and Cordova stated that she felt it was, but she quit the game, so maybe it was not. RO asked why Cordova felt this was hazing, and Cordova stated that she heard in nursing class that too much water was harmful. Seeing nothing that constituted a criminal violation, RO cleared the scene, and drove to Chinook Regional Hospital to interview Ms. Bateson as to the circumstances of her collapse. Upon arrival at Chinook Regional Hospital, RO met with ER doctor on call, Cory White. Dr. White stated that Ms. Bateson never regained consciousness and died subsequent to her arrival at Chinook Regional. RO inquired about signs of trauma indicative of criminal intervention in her death. Dr. White stated that there was no evidence of any overt trauma that would have resulted in her death. As with state law, an autopsy would be performed. The body was transported by the Chinook County Medical Examiner's Office to the Medical Examiner's Office at the Medical University of Oregon. RO consulted with Lt. Solomon regarding the fatality of a student, and RO was assigned to attend the autopsy. RO then made contact with the Student Life Coordinator at the University and made contact with Hermiston County Sheriff's Office (HCSO). HCSO along with a local grief counselor handled death notification to the parents.</p> | | | |
| REPORTING OFFICER Sgt. Chris Knight | DATE 8/25/2018 | 24 HOUR CLOCK 20:11 | SUPERVISING OFFICER Lt. Solomon | | |

EXHIBIT 3: Investigative Report

| | | | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------|---------------------------------------------------------------------------------|--------------------------------------------------------------|
| AGENCY ID OR04619 | THOMAS MCCALL UNIVERSITY POLICE DEPARTMENT Green Valley, Oregon (541) 555-1234 | INCIDENT 46-108290911 | | | | |
| INCIDENT REPORT PRINT OR TYPE ALL INFORMATION | | | | | | |
| EVENT | INCIDENT TYPE | COMPLETED | FORCED ENTRY | PREMISE TYPE | UNITS ENTERED | TYPE VICTIM Individual Business Government Other |
| | Manslaughter | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | Res. | 1 | |
| | Hazing | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | Res. | 1 | |
| | INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) | | | | ZIP CODE | WEAPON TYPE |
| | 313 Salmon Street, Green Valley, OR | | | | 97652 | UNK |
| | INCIDENT DATE | 24 HOUR CLOCK | TO | DATE | 24 HOUR CLOCK | |
| | 8/25/2018 | 17:27 | | 8/25/2018 | 19:05 | |
| VICTIM'S NAME (LAST, FIRST, MIDDLE) | | RELATIONSHIP TO SUBJECT | DAYTIME PHONE | EVENING PHONE | | |
| Bateson, Jessica | | In Care Of | UNK | UNK | | |
| ADDRESS | | CITY | STATE | ZIP CODE | | |
| 603 Moore Tower, Thomas McCall University | | Green Valley | OR | 97652 | | |
| SUBJECT NO. 1 | NAME (LAST, FIRST, MIDDLE) | | AKA | | | |
| | Darden, Taylor L | | None | | | |
| | FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULARITIES, ETC. | | | | | |
| | None | | | | | |
| | ADDRESS | CITY | STATE | ZIP CODE | | |
| 313 Salmon Street | Green Valley | OR | 97652 | | | |
| SUBJECT (NO.1) USING: | | ARRESTED NEAR OFFENSE SCENE | DATE / TIME OF OFFENSE | DATE / TIME OF ARREST | | |
| ALCOHOL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN DRUGS <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNKNOWN | | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | 8/25/2018 17:27 | 8/29/2018 15:30 | | |
| NARRATIVE | Following the homicide ruling of the Medical Examiner's Office in re: Jessica Bateson, Investigating officer questioned Durden and Richards. Based upon the further questioning, this officer did arrest and charge Durden and Richards with manslaughter, and hazing. Carmen Cordova was out of town when contacted, but agreed to an interview upon her return to the campus. Interview was set for 9/12/2018 at 09:00 at the TMU PD. | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| PROPERTY | TYPE (GROUP) | | | | TOTAL VALUE | |
| | STOLEN | | | | | |
| | DAMAGED | | | | | |
| | BURNED | | | | | |
| | RECOVERED | | | | | |
| | SEIZED | | | | | |
| ADMINISTRATIVE | SUBJECT IDENTIFIED | | SUBJECT LOCATED | | <input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED | |
| | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | | YES | | <input type="checkbox"/> UNFOUNDED | |
| | | | | | <input checked="" type="checkbox"/> ARRESTED UNDER 18 | |
| | | | | | <input type="checkbox"/> ARRESTED 18 AND OVER | |
| | | | | | <input type="checkbox"/> EX-CLEAR UNDER 18 | |
| | | | | <input type="checkbox"/> EX-CLEAR 18 AND OVER | | |
| REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH. 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRACTION DENIED | | | | | | |
| 4. <input type="checkbox"/> VICTIM DECLINES OPERATION 5. <input type="checkbox"/> JUVENILE NO CUSTODY | | | | | | |
| REPORTING OFFICER | DATE | 24 HR CLOCK | APPROVING OFFICER | DATE | UNIT NUMBER | |
| Sgt. Chris Knight | 8/29/2018 | 16:50 | Lt. Solomon | 8/29/2018 | 4618 | |
| FOLLOW-UP INVESTIGATION REQUIRED | | | | | | |
| <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | | | | | | |

EXHIBIT 4: Emergency Room Record

Chinook Regional Hospital

3505 Chinook Highway
Chinook, OR 97652
541-555-7131

EMERGENCY ROOM REPORT

PATIENT NAME: Jessica Bateson
BILLING ADDRESS: 603 Moore Tower, Thomas McCall University, OR 97652
CONTACT NUMBER: NA

DATE: 8/25/2018
TIME OF ARRIVAL: 17:50
TIME OF TREATMENT: 17:51

INSURANCE COMPANY: Blue Cross Blue Shield of Oregon
INSURANCE PHONE NUMBER: (888) 675-6570

DATE OF BIRTH: 05/22/1999
POLICY NUMBER: OR 998405667-1

EMPLOYER: None/Student

EMPLOYER NUMBER: N/A

IF UNDER AGE OF 18, GUARDIAN NAME: N/A

CONTACT NUMBER: N/A

VITAL SIGNS: BLOOD PRESSURE 101/50 PULSE 68bpm AGE 19 years old WEIGHT 131lbs

BLOOD TYPE: B+

CURRENT MEDICATIONS: None known at admission

ALLERGIES: None known at admission

PHYSICIAN OF RECORD: Dr. Cory White

NURSE ON DUTY: Amanda Adams, RN

REASON FOR VISIT NOTED BY PATIENT: N/A – Patient arrived unconscious via Chinook EMS

OBSERVATIONS MADE BY PHISICIAN: Patient arrived by Chinook County EMS. Patient was in an unresponsive state with fixed pupils and labored breathing.

TREATMENT PERFORMED: Administered steroid to allow for ease of breathing, immediately following injection, patient’s heart stopped. Code alarm triggered, immediate resuscitation efforts began, Shot of Adrenaline injected, AED paddles charged and executed four times, RN Adams administered rebreathing bag for approximately 20 minutes. Following 20 minutes of unsuccessful life support, Time of Death was called and resuscitation efforts ceased.

DIAGNOSIS: Acute respiratory arrest

MEDICATIONS PERSCRIBED: Anabolic Steroid, Adrenaline,

ADMITTANCE DATE / TIME: 17:50

RELEASE DATE / TIME: Time of Death Notated at 18:40. Subsequent release to the Chinook County Medical Examiner’s Office.

FOLLOW-UP NEEDED: N/A

REFERRED TO: Chinook County Medical Examiner’s Office

Cory White, M.D

8/25/2018

PHYSICIAN’S SIGNATURE

DATE

PATIENT’S SIGNATURE

DATE

EXHIBIT 5: Record of Medical Examiner

**STATE OF OREGON
OREGON STATE POLICE
DIVISION OF FORENSIC SCIENCES
RECORD OF MEDICAL EXAMINER**

| | | | | | |
|------------------------------|-----------------------------------------------------|----------------------|------------------|-----------------|-------------|
| City | Green Valley | County | Chinook | Case No. | 2018-470152 |
| Name of Deceased | Jessica Bateson | | | | |
| Residence of Deceased | 603 Moore Tower, Thomas McCall University, OR 97652 | | | | |
| Age | 19 years, 3 months, 4 days | DOB | 5/22/99 | | |
| Race | Caucasian | Height/Weight | 70" 131 lbs, 5oz | | |

MANNER OF DEATH

() Natural (**X**) Homicide () Suicide () Accident () Undetermined () Other

CAUSE OF DEATH

Swollen brain stem as a result of acute Hyponatremia

| | | | | | | |
|-------------------|------------------|-----------|-------------|-------|--------------|----------------------------|
| LAST SEEN | Date | 8/25/2018 | Hour | n/a | Place | 313 Salmon Street |
| FOUND | Date | 8/25/2018 | Hour | 17:26 | Place | 313 Salmon Street |
| INJURY | Set forth below. | | | | | |
| PRONOUNCED | Date | 8/25/2018 | Hour | 18:40 | Place | Dr. Cory White |
| NOTIFIED | Date | 8/26/2018 | Hour | 11:25 | By | Lt. Clarice Starling, HCSO |

BODY IDENTIFIED BY

(**X**) Fingerprints (**X**) State ID Card () Photographs () Family

AUTOPSY

| | | | |
|---------------------------|---------------------------------------------------------------------------------|----------------------------------|-----|
| AUTHORIZED BY | Medical Examiner Eppes | MEDICAL EXAMINER NOTIFIED | Yes |
| PRESENT AT AUTOPSY | Sgt. Chris Knight, Thomas McCall University Police Dept., Investigating Officer | | |

SUSPECT(S)

| | | | |
|--|--|--|--|
| | | | |
|--|--|--|--|

MORGUE INFORMATION

| | | | | | |
|--------------------------|---------------------------|----------------------|-----------|-------------|-------|
| NAME | Chinook Regional Hospital | Date Received | 8/25/2018 | Hour | 19:05 |
| BODY REMOVED FROM | Chinook Regional Hospital | | | | |
| TRANSPORTED BY | J.P. Dawson | | | | |

PURPOSE

(**X**) Autopsy () Limited Dissection () External Exam () History Review

| | | | | | |
|---------------------|---------------------------|-------------|----------------|-------------|-------|
| PERFORMED BY | Dr. Jaden Chessler | Date | 8/27/2018 | Hour | 10:15 |
| SIGNED | <i>Dr. Jaden Chessler</i> | Date | <i>8/27/18</i> | | |
| APPROVED | <i>Dr. Randall Gentry</i> | Date | <i>8/27/18</i> | | |

In accordance with ORS § 146.117, an autopsy is performed on the body of Jessica L. Bateson at the Medical University of Oregon, Portland, Oregon, on Monday, August 27, 2018, commencing at 10:15 hours.

EXTERNAL, EXAMINATION: Body is that of an adult female, approximately 70" in height, and weighing 131 lbs. 5oz, consistent with the documented age of 19 years. Body is received wrapped in a black zippered disaster bag, identified by an attached name tag and clad in the following articles of clothing:

1. White shirt and tan colored shorts with multiple pockets were worn. ESE pin worn at the upper right of shirt. Gas station receipt and one container of Soft Lips lip-gloss were located in the front right pocket. No other contents found.
2. Tan colored flip-flops.

Body was refrigerated and is cool to the touch. The blood from the body pooled evenly in the lower portions of the body as it presents on the examination table. Rigor mortis is fully fixed in the extremities and jaw.

Red scalp hair ranges to an estimated 14 inches. Irises are hazel. Equal pupils are .118 inch. Whites of the eyes do not show blood vessels indicative of strangulation. Ears and nose are without discharge. Mouth is in good condition. Lips, gums, and tongue are moist. Symmetric neck is mildly pinched but otherwise without note.

Chest is normal size and is without lesion. Upper chest area still has medical leads attached from resuscitation efforts at Chinook Regional Hospital.

Hands have moderate length, irregular nails red in color, with minimal dirt underneath. Dorsal right forearm has multiple purple contusions extending from the dorsal hand to the forearm. A 1-inch group of blue ink lines is on the left outer hand. Bilateral shins lack significant edema. An indistinct 6-inch purple contusion is around the left knee and matching on the right knee. Skin of the bilateral shins, extending to the feet is without note. Additional superficial healed scars range to 1 inch. Varicose veins of both feet are prominent at the arches and insteps. Toenails are short to moderate in length, painted red, and minimally irregular. Pooling of blood in the upper back is prominent with multiple blotchy spots. Remaining extremities and back are without lesion.

EVIDENCE OF MEDICAL INTERVENTION: A single electrocardiographic lead is on the upper left chest. Injection site is visible where IV port is still present and in place on the inside of the right forearm. Marks from AED paddles are visible on the opposing chest sides in locations consistent with emergency cardiac resuscitation efforts. Intubation tube is still present in upper trachea extending out of the mouth. Patient identification is still present on left wrist.

EVIDENCE OF INJURY: A 1-inch group of abrasions is on the dorsal right elbow, indicative of a fall of intermediate height.

INTERNAL EXAMINATION: The following excludes the described injuries. Soft tissues and typically positioned internal organs lack unusual odor or color. Soft tissues and internal organs have mild breakdown of cells/tissue by self-produced enzymes.

CAVITIES: The serosal cavities have usual smooth glistening tan-pink lining. Tissues around the heart have no fibrous adhesions and contain estimated 110 ml of fluid without clot. Remaining cavities are without excess fluid accumulation.

CARDIOVASCULAR: The 360-gram heart is smooth and glistening with mildly increased fat tissue. The valves, delicate cords, and papillary muscles are without note. The chambers of the heart that receive blood from the veins are acutely dilated.

LIVER / GALLBLADDER: The 2260-gram liver has a smooth glistening capsule. The pale yellow-brown tissue is soft and without discreet gross lesion. The liver is without note. The typically positioned gallbladder contains an estimated 15 ml of green sticky bile without stone; the duct is open and unobstructed.

RESPIRATORY: The examination of neck musculature lacks blood or lesion. The intact typically minimally hyoid bone is situated between the base of the tongue and the larynx supporting the tongue, larynx and their muscles are without note. The typically branching tracheobronchial tree has a smooth glistening tan-pink mucosa without lesion. A moderate quantity of pink froth is within the lower bronchial tree. The typically formed 560-gram right and 530 gram left lung have smooth glistening membranes. Each is well aerated, deep purple red to pink parenchyma which issues a small quantity of pink froth but which otherwise has no discreet gross lesion. The pulmonary blood vessels are without note.

GASTROINTESTINAL: The typically formed tongue, esophagus, junction involving the stomach and the esophagus, and lining of the digestive tract are without note. The stomach contains an overabundance of water. The gastric tubular organ contains an estimated 550 ml of yellow-green thick opaque fluid and includes partially digested pizza. The small and large bowels are enlarged from excessive water presence but are without significant gross lesion.

GENITOURINARY: The 190-gram right and 210 gram left kidney have smooth red-brown outward appearances and distinct junctions. The pelvis contains no stone and drains freely to the unobstructed organs, which empty typically to the bladder. The urinary bladder contains an estimated 750 ml of clear pale to clear urine. The urinary bladder is markedly grossly enlarged.

NEUROLOGICAL: The 1420-gram brain has a distinct grey-white matter. The symmetric hemispheres are without gross lesion. The grey-white matter separation is distinguishable. The brainstem and the cerebellum located between the brain stem and the back of the cerebrum have significant swelling. Further detail notes excessive fluid in the area. At the brain stem area, excessive swelling noted. Likely nerve damage.

MUSCULOSKELETAL: The typically formed skeleton is without note. The intact vertebrae, ribs, pelvis and extremity long bones are without note.

OTHER PROCEDURES:

1. Documentary photographs obtained.
2. Blood, urine, bile, and other fluids submitted for toxicological analysis.
3. Blood submitted for blood analysis.
4. Head and body hair submitted.
5. Clothing submitted for chemical determination.

AUTOPSY FINDINGS: At the time of death, this was a healthy adult female, showing no natural cause of death or traumatic injury. Toxicological testing per report: no alcohol, nor narcotics – prescription.

OPINION: Based upon the medical science reports, as well as physical observation, this otherwise healthy 19-year-old female, Jessica L. Bateson, died from an overdose of water resulting in an acute case of hyponatremia. The volume of water found in the decedent's system was sufficient to alter the sodium serology balance, and would undoubtedly be lethal for someone of Bateson's height and weight. Based upon this information, a lethal overdose of water was neither accidental nor self-inflicted.

MANNER OF DEATH: Deceased died of acute hyponatremia through criminal intervention.

EXHIBIT 6: Photograph of the Epsilon Sigma Epsilon House



EXHIBIT 7: Photograph of Red Plastic 16oz. “Solo” Brand Cup Used by the Victim



EXHIBIT 8: Photograph of Water Coolers used by ESE in the Basement

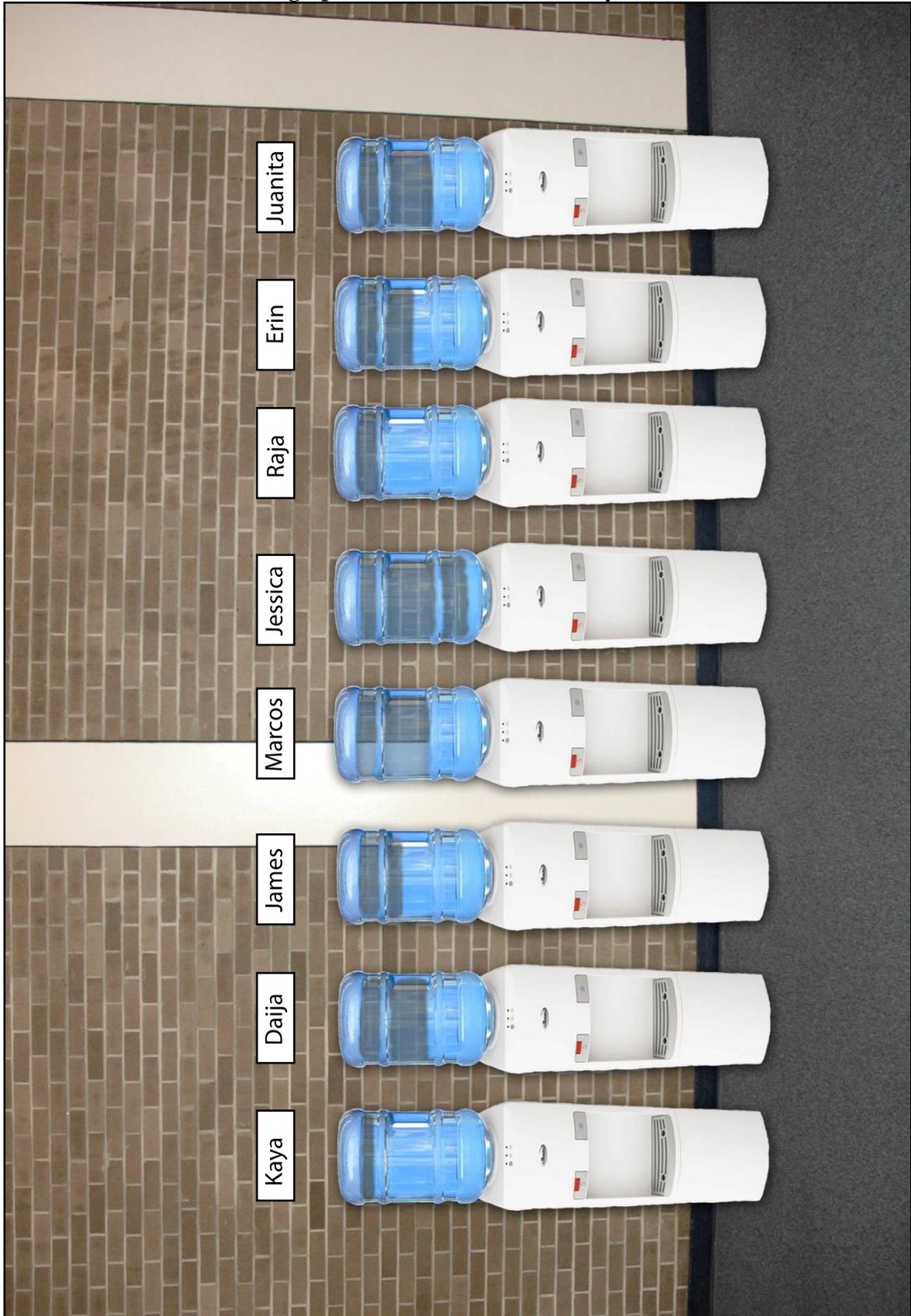


EXHIBIT 9: News Report of Hyponatremia Fatality¹

CBS/AP – JAN 2013. Homicide detectives are investigating the death of a woman believed to have been killed by drinking too much water in a radio station contest.

On a tape of the Jan. 12 show, disc jockeys on KDND-FM's "Morning Rave" joke about the possible dangers of consuming too much water, at one point alluding to a college student who died during such a stunt in 2011.

During the contest, a listener - self-identified as a nurse - called the live radio broadcast and warned that the game was dangerous, CBS News station KOVR-TV reported. "I want to say that those people drinking all that water can get sick and die from water intoxication," said the caller.

"Yeah, we're aware of that," one of them said. Another DJ laughed: "Yeah, they signed releases, so we're not responsible. We're OK." "And if they get to the point where they have to throw up, then they're going to throw up, and they're out of the contest before they die, so that's good, right?" another one said.

The Sacramento County Sheriff's Department decided to pursue the investigation Wednesday after listening to the tape, obtained by The Sacramento Bee newspaper, sheriff's spokesman Sgt. Tim Curran said.

Jennifer Lea Strange, a 28-year-old mother of three, was one of about 18 contestants who tried to win a Nintendo Wii gaming console by determining how much water they could drink without going to the bathroom. The show's DJs called the contest "Hold your Wee for a Wii."

"Hey, Carter, is anybody dying in there?" a DJ asked during the show. "We got a guy who's just about to die," the other responded, and all the DJs laughed. "I like that we laugh about that," another said.

"Make sure he signs the release. ... Get the insurance on that, please."

Strange participated in the contest during the morning in the studio and was found dead that afternoon. The county coroner said preliminary autopsy findings indicate she died of water intoxication.

Other contestants said Strange may have ingested as much as two gallons of water. Several hours into the contest, Strange was interviewed on the air and complained that her head hurt. "They keep telling me that it's the water. That it will tell my head to hurt and then it will make me puke," she said.

¹ © [2007] Sacramento Televisions Incorporated. All rights reserved. Reproduced under license.

EXHIBIT 9: News Report of Hyponatremia Fatality²

Strange won the second-place prize, tickets to a Justin Timberlake concert. She commented on the tape that she looked pregnant, and a female DJ agreed. "Oh, my gosh, look at that belly. That's full of water. ... Come on over, Jennifer, you OK?" the DJ asked. "You going to pass out right now? Too much water?"

The winner of the contest, Lucy Davidson, said she collapsed just 15 minutes after leaving the station with her prize. "I didn't know what was wrong with me. I just knew I had never felt so sick in my life," Davidson told KOVR.

Davidson said Strange's stomach protruded over her waist as the contest ended.

"As soon as we went to the bathroom we both came out of the stalls. I looked over at her and she probably looked as pale as I did," Davidson said.

On Tuesday, KDND's parent company, Entercom/Sacramento, fired 10 employees connected to the contest, including three morning disc jockeys. The company also took the morning show off the air. Station spokesman Charles Sipkins said Wednesday that the company had not yet heard from the sheriff's department but that it would cooperate with the investigation. Attorneys for the Strange family said Wednesday they plan to file a wrongful death lawsuit against the radio station.

² © [2007] Sacramento Televisions Incorporated. All rights reserved. Reproduced under license.

EXHIBIT 10: WebMD.com Medical Report on Hyponatremia³

Background

Serum sodium concentration and serum osmolarity normally are maintained under precise control by homeostatic mechanisms involving stimulation of thirst, secretion of antidiuretic hormone (ADH), and renal handling of filtered sodium. Clinically significant hyponatremia is relatively uncommon and is nonspecific in its presentation; therefore, the physician must consider the diagnosis in patients presenting with vague constitutional symptoms or with altered level of consciousness. Irreparable harm can befall the patient when abnormal serum sodium levels are corrected too quickly or too slowly. The physician must have a thorough understanding of the pathophysiology of hyponatremia to initiate safe and effective corrective therapy. The patient's fluid status must be accurately assessed upon presentation, as it guides the approach to correction.

Hypovolemic hyponatremia

Total body water (TBW) decreases; total body sodium (Na⁺) decreases to a greater extent. The extracellular fluid (ECF) volume is decreased.

Euvolemic hyponatremia

TBW increases while total sodium remains normal. The ECF volume is increased minimally to moderately but without the presence of edema.

Hypervolemic hyponatremia

Total body sodium increases, and TBW increases to a greater extent. The ECF is increased markedly, with the presence of edema.

Redistributive hyponatremia

Water shifts from the intracellular to the extracellular compartment, with a resultant dilution of sodium. The TBW and total body sodium are unchanged. This condition occurs with hyperglycemia or administration of mannitol.

Pseudohyponatremia

The aqueous phase is diluted by excessive proteins or lipids. The TBW and total body sodium are unchanged. This condition is seen with hypertriglyceridemia and multiple myeloma.

Pathophysiology

Serum sodium concentration is regulated by stimulation of thirst, secretion of ADH, feedback mechanisms of the renin-angiotensin-aldosterone system, and variations in renal handling of filtered sodium. Increases in serum osmolarity above the normal range (280-300 mOsm/kg) stimulate hypothalamic osmoreceptors, which, in turn, cause an increase in thirst and in circulating levels of ADH. ADH increases free water reabsorption from the urine, yielding urine of low volume and relatively high osmolarity and, as a result, returning serum osmolarity to normal. ADH is also secreted in response to hypovolemia, pain, fear, nausea, and hypoxia.

Aldosterone, synthesized by the adrenal cortex, is regulated primarily by serum potassium but also is released in response to hypovolemia through the renin-angiotensin-aldosterone axis. Aldosterone causes absorption of sodium at the distal renal tubule. Sodium retention obligates free water retention, helping to correct the hypovolemic state. The healthy kidney regulates sodium balance independently of ADH or aldosterone by varying the degree of sodium absorption at the distal tubule. Hypovolemic states, such as hemorrhage or dehydration, prompt increases in sodium absorption in the proximal tubule. Increases in vascular volume suppress tubular sodium reabsorption, resulting in natriuresis and helping to restore normal vascular volume. Generally, disorders of sodium balance can be traced to a disturbance in thirst or water acquisition, ADH, aldosterone, or renal sodium transport.

Hyponatremia is physiologically significant when it indicates a state of extracellular hyposmolarity and a tendency for free water to shift from the vascular space to the intracellular space. Although cellular

³ <http://emedicine.medscape.com/article/907841-overview>, excerpt reprinted with permission from eMedicine.com, 2009.

edema is well tolerated by most tissues, it is not well tolerated within the rigid confines of the bony calvarium. Therefore, clinical manifestations of hyponatremia are related primarily to cerebral edema. The rate of development of hyponatremia plays a critical role in its pathophysiology and subsequent treatment. When serum sodium concentration falls slowly, over a period of several days or weeks, the brain is capable of compensating by extrusion of solutes and fluid to the extracellular space. Compensatory extrusion of solutes reduces the flow of free water into the intracellular space, and symptoms are much milder for a given degree of hyponatremia.

When serum sodium concentration falls rapidly, over a period of 24-48 hours, this compensatory mechanism is overwhelmed and severe cerebral edema may ensue, resulting in brainstem herniation and death.

Frequency United States: Hyponatremia is the most common electrolyte disorder, with a marked increase among hospitalized and nursing home patients. A 1985 prospective study of inpatients in a US acute care hospital found an overall incidence of approximately 1% and a prevalence of approximately 2.5%. On the surgical ward, approximately 4.4% of postoperative patients developed hyponatremia within 1 week of surgery. Hyponatremia has also been observed in approximately 30% of patients treated in the intensive care unit.

International: Though clearly not indicative of the overall prevalence internationally, hyponatremia has been observed in as high as 42.6% of patients in a large acute care hospital in Singapore and in 30% of patients hospitalized in an acute care setting in Rotterdam.

Mortality/Morbidity

Pathophysiologic differences between patients with acute and chronic hyponatremia engender important differences in their morbidity and mortality.

Patients with acute hyponatremia (developing over 48 h or less) are subject to more severe degrees of cerebral edema for a given serum sodium level. The primary cause of morbidity and death is brainstem herniation and mechanical compression of vital midbrain structures. Rapid identification and correction of serum sodium level is necessary in patients with severe acute hyponatremia to avert brainstem herniation and death.

Patients with chronic hyponatremia (developing over more than 48 h) experience milder degrees of cerebral edema for a given serum sodium level. Brainstem herniation has not been observed in patients with chronic hyponatremia. The principal causes of morbidity and death are status epilepticus (when chronic hyponatremia reaches levels of 110 mEq/L or less) and cerebral pontine myelinolysis (an unusual demyelination syndrome that occurs in association with chronic hyponatremia).

The distinction between acute hyponatremia and chronic hyponatremia has critical implications in terms of morbidity and mortality and in terms of proper corrective therapy.

Sex

Overall incidence of hyponatremia is approximately equal in males and females, though postoperative hyponatremia appears to be more common in menstruant females.

Age

Hyponatremia is most common in the extremes of age; these groups are less able to experience and express thirst and less able to regulate fluid intake autonomously. Specific settings that have been known to pose particular risk include the following:

Infants fed tap water in an effort to treat symptoms of gastroenteritis

Infants fed dilute formula in attempt to ration

Elderly patients with diminished sense of thirst, especially when physical infirmity limits independent access to food and drink

Clinical

History

The number and severity of symptoms increase with the degree of hyponatremia and the rapidity with which it develops. When the serum sodium level falls gradually, over a period of several days or weeks, sodium levels as low as 110 mEq/L may be reached with minimal symptomatology. In contrast, an equivalent fall in serum sodium level over 24-48 hours may overwhelm compensatory mechanisms, leading to severe cerebral edema, coma, or brainstem herniation.

Symptoms range from mild anorexia, headache, and muscle cramps, to significant alteration in mental status including confusion, obtundation, coma, or status epilepticus.

Hyponatremia is often seen in association with pulmonary/mediastinal disease or CNS disorders.

Hyponatremia must be considered in patients with pneumonia, active tuberculosis, pulmonary abscess, neoplasm, or asthma, as well as in patients with CNS infection, trauma, or neoplasm.

Patients with carcinoma of the nasopharynx, duodenum, stomach, pancreas, ureter, prostate, or uterus also have an increased risk.

Hyponatremia is associated with numerous medications. The patient's medication list should be examined for drugs known to cause hyponatremia.

Hyponatremia has been noted in patients with poor dietary intake who consume large amounts of beer (called beer potomania) and after use of the recreational drug *N*-methyl-3,4-methylenedioxyamphetamine (ie, MDMA or ecstasy). MDMA-induced hyponatremia occurs via multiple mechanisms; these include the induction of syndrome of inappropriate antidiuretic hormone (SIADH), the encouragement to drink large amounts of water to prevent unpleasant side effects of the drug, and the tendency among those intoxicated to be involved in vigorous physical activity that results in heavy sweating.

A history of hypothyroidism or adrenal insufficiency should be sought because each is associated with hyposmolar hyponatremia.

Patients with clinically significant hyponatremia present with nonspecific symptoms attributable to cerebral edema. These symptoms, especially when coupled with a recent history of altered fluid balance, should suggest the possibility of hyponatremia.

Anorexia

Nausea and vomiting

Difficulty concentrating

Confusion

Lethargy

Agitation

Headache

Seizures

Physical

Physical findings are highly variable and dependent on the degree and the chronicity of hyponatremia. Patients with acutely developing hyponatremia are typically symptomatic at a level of approximately 120 mEq/L. Those patients with chronic hyponatremia tolerate much lower levels.

Most abnormal findings on physical examination are characteristically neurologic in origin.

Level of alertness ranging from alert to comatose

Variable degrees of cognitive impairment (eg, difficulty with short-term recall; loss of orientation to person, place, or time; frank confusion or depression)

Focal or generalized seizure activity

In those patients with acute severe hyponatremia, signs of brainstem herniation, including coma; fixed, unilateral, dilated pupil; decorticate or decerebrate posturing; sudden severe hypertension and respiratory arrest

In addition to neurologic findings, patients may exhibit signs of hypovolemia or hypervolemia.

Determining the hydration status of the patient may help establish the etiology of the hyponatremia and direct subsequent treatment.

Dry mucous membranes, tachycardia, diminished skin turgor, and orthostasis suggest hypovolemic hyponatremia due to excessive loss of body fluids and replacement with inappropriately dilute fluids.

Pulmonary rales, S3 gallop, jugular venous distention, peripheral edema, or ascites suggest hypervolemic hyponatremia due to excess retention of sodium and free water (ie, cirrhosis, nephrotic syndrome, congestive heart failure).

Patients who lack findings of hypovolemia or hypervolemia are considered to have euvolemic hyponatremia, which is consistent with such etiologies as exogenous free water load, hypothyroidism, cortisol deficiency, or SIADH.

Other nonspecific signs include muscle weakness and cramping. Rhabdomyolysis is an occasional consequence of hyponatremia and should be considered in patients with muscle pain or tenderness.

Causes

Hypovolemic hyponatremia develops as sodium and free water are lost and replaced by inappropriately hypotonic fluids, such as tap water, half-normal saline, or dextrose in water. Sodium

can be lost through renal or nonrenal routes. Nonrenal routes include GI losses, excessive sweating, third spacing of fluids (eg, ascites, peritonitis, pancreatitis, burns), and cerebral salt-wasting syndrome. Excess fluid losses (eg, vomiting, diarrhea, excessive sweating, GI fistulas or drainage tubes, pancreatitis, burns) that have been replaced primarily by hypotonic fluids
Acute or chronic renal insufficiency, in which the patient may be unable to excrete adequate amounts of free water
Salt-wasting nephropathy

Cerebral salt-wasting syndrome seen in patients with traumatic brain injury, aneurysmal subarachnoid hemorrhage, and intracranial surgery. Cerebral salt-wasting must be distinguished from SIADH because both conditions can cause hyponatremia in neurosurgical patients, and yet the pathophysiology and treatment are different.

Prolonged exercise in a hot environment, especially in patients who hydrate aggressively with hyposmolar fluids during exertion. Severe symptomatic hyponatremia has been reported in marathon runners and in recreational hikers in the Grand Canyon.

Euvolemic hyponatremia implies normal sodium stores and a total body excess of free water. This occurs in patients who take in excess fluids.

Psychogenic polydipsia, often in psychiatric patients

Administration of hypotonic intravenous or irrigation fluids in the immediate postoperative period

In a recent meta-analysis, administration of hypotonic maintenance intravenous fluids to hospitalized children has been associated with an increased incidence of acute hyponatremia compared with administration of isotonic maintenance fluids.

Infants who may have been given inappropriate amounts of free water

Ingestion of sodium phosphate or sodium picosulfates and magnesium citrate combination as a bowel preparation before colonoscopy or colorectal surgery

SIADH

Hypervolemic hyponatremia occurs when sodium stores increase inappropriately.

This may result from renal causes such as acute or chronic renal failure, when dysfunctional kidneys are unable to excrete the ingested sodium load. It also may occur in response to states of decreased effective intravascular volume.

History of hepatic cirrhosis, congestive heart failure, or nephrotic syndrome, in which patients are subject to insidious increases in total body sodium and free water stores

Uncorrected hypothyroidism or cortisol deficiency (adrenal insufficiency, hypopituitarism)

Consumption of large quantities of beer or use of the recreational drug MDMA (ecstasy)

Hyponatremia can be caused by many medications. Known offenders include acetazolamide, amiloride, amphotericin, aripiprazole, atovaquone, thiazide diuretics, amiodarone, basiliximab, angiotensin II receptor blockers, angiotensin-converting enzyme inhibitors, bromocriptine, carbamazepine, carboplatin, carvedilol, celecoxib, cyclophosphamide, clofibrate, desmopressin, donepezil, duloxetine, eplerenone, gabapentin, haloperidol, heparin, hydroxyurea, indapamide, indomethacin, ketorolac, levetiracetam, loop diuretics, lorcaïnide, mirtazapine, mitoxantrone, nimodipine, oxcarbazepine, opiates, oxytocin, pimozide, propafenone, proton pump inhibitors, quetiapine, sirolimus, ticlopidine, tolterodine, vincristine, selective serotonin reuptake inhibitors, sulfonyleureas, trazodone, tolbutamide, venlafaxine, zalcitabine, and zonisamide.

EXHIBIT 11: Medical Release Form

EMERGENCY MEDICAL/GENERAL RELEASE/WARNING

EPSILON SIGMA EPSILON (ESE)

CHI SI Chapter

Name of Participant: Jessica Bateson Phone: (541) 555-26XX
Address: 603 Moore Tower, Thomas McCall University, Green Valley, OR 97652
Date of Birth: 5/22/1999
Emergency Contact: Linda Bateson Phone: (541) 555-26XY

- 1. I hereby certify that I am physically fit to participate in Epsilon Sigma Epsilon (ESE). JB I hereby consent to be said participant competing in events sponsored by ESE Fraternity and/or the Epsilon Sigma Epsilon Foundation. JB
2. By signing this contract, I agree to abide by the rules and regulations of ESE and events. I understand that signing this contract releases from liability: ESE Fraternity, its chapters and the ESE Foundation. I understand that signing this contract releases from liability: ESE Fraternity's and ESE Foundation's members, employees, officers, agents, sponsors, judges, coaches and managers, in connection with any injury to or death of the above named participant. JB

WARNING: I am aware that playing or practicing to play/participate in any sport can be dangerous activity involving many risks of injury. I understand that the dangers and risks of playing or practicing to play/participate in the above mentioned event(s) include, but are not limited to, death, serious neck and spinal injuries which may result in complete or partial paralysis, injury to virtually all bones, joints, ligaments, muscles, tendons and other aspects of the skeletal system, and serious injury or impairment to other aspects of my body, general health and well being. I understand that the dangers of playing or practicing to play/participate in the above mentioned event may result not only in serious injury, but also in serious impairment of my future abilities to earn a living, to engage in other business, social and recreational activities and generally enjoy my life.

ACKNOWLEDGEMENT OF WARNING: I (student) Jessica Bateson, hereby acknowledge that I have been properly advised, cautioned, and warned by the proper personnel of ESE Taylor Durden, that by participating in such event, I am exposing myself to the above described risks.

Signature of Participant: Jessica Bateson Date: 8/15/2018
Signature of Witness: Taylor Durden Date: 8/15/2018

GENERAL RELEASE OF ALL CLAIMS:

General Release made August 15, 2018 by Jessica Bateson student of Thomas McCall University residing at 603 Moore Tower city of Green Valley, county of Chinook.

In consideration of permission granted by me by ESE Fraternity to participate in ESE, Jessica Bateson, I hereby release and discharge ESE Fraternity, its chapters and ESE Foundation, and their members, employees, officers, agents, sponsors, coaches, judges and managers, from all claims, demands, actions, judgments, and executions which the undersigned's heirs, executors, administrators, or assigns may have or claim to have against ESE Fraternity, its chapters and ESE Foundation, their members, employees, officers, agents, sponsors, coaches, judges, and managers for all injuries or death to me, Jessica Bateson, including personal injuries or death caused by negligence, or otherwise, known or unknown, and injuries to property, real or personal, caused by, or arising out of the above event(s). I, the undersigned, have read this general release and understand all of its terms. I execute it voluntarily and with full knowledge of its significance. In witness whereof, I have executed this general release the day and year set forth above written.

MEDICAL HISTORY / IMPAIRMENTS: Please note any prior injuries or medical history that would preclude you from participating in ESE activities. None

Signature of Participant: Jessica Bateson Date: 8/15/2018
Signature of Witness: Taylor Durden Date: 8/15/2018

EXHIBIT 12: Epsilon Sigma Epsilon Pledge Rules

PLEDGE RULES FOR EPSILON SIGMA EPSILON CHI SI Chapter Thomas McCall University

1. Wear pledge pin all of the time (this includes on pajamas, towel to and from the shower etc).
2. Carry pledge book at all times (this includes to and from the shower etc).
3. Address members as "Ms." and "Mr."; a pledge may never address a member by their first name.
4. All pledges will wear tan shorts and white shirts without logos or graphics on them during pledge week.
5. Possession of cell phones by pledges during pledge week is prohibited.
6. Pledges are not allowed in any portion of the ESE House except the basement via a basement entrance until full membership status is attained.
7. Mandatory pop quizzes initiated by members at any time.
8. Must carry backpacks to and from classes for members with the same course.
9. Must transport home at any time any member who calls upon a pledge to do so from any location within the metro area.
10. Massive memorization of every song, local chapter affiliation and large portions of the ESE constitution is required.
11. Prepare a pledge class song and skit and perform it on request whenever and wherever requested.
12. Wear a pledge clothing item to all University sponsored athletics activities.

Demerits may be received for any rule infraction. Demerits must be atoned for before full initiation. Atonement for demerits may include any of the following at a member's request: washing laundry, picking up meals at the Student Union, washing member's cars, singing the ESE song during lunch in the Student Union, swimming through the reflecting pool at the library, or any other appropriately formulated task assigned by a full member.

EXHIBIT 13: Death Certificate of Jessica Bateson

| <p>1. Place of Death County of <u>Chinook</u></p> <p style="text-align: center;">or</p> <p>City of <u>Green Valley</u></p> <p>Home Address: <u>603 Moore Tower, Thomas McCall University, Green Valley, OR 97652</u></p> <p>2. FULL NAME <u>Jessica Bateson</u></p> | <p>STANDARD CERTIFICATE OF DEATH STATE OF OREGON CENTER FOR HEALTH STATISTICS State Board of Health</p> <p>Registration District No. <u>46-055-89</u></p> | <div style="border: 1px solid black; padding: 10px; margin-bottom: 10px;"> <p>File No – For State Registrar Only OR-55513</p> </div> <p>Registered No. _____ <small>(For use of Local Registrar) (If death occurred in a Hospital or institution give its NAME instead of street and Number.)</small></p> <p>Residence NA</p> <p>In City <u>19</u> Yrs <u>3</u> Mos <u>4</u> Days</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">PERSONAL AND STATISTICAL PARTICULARS</th> <th style="width: 50%;">MEDICAL CERTIFICATE OF DEATH</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">3. Sex F</td> <td style="width: 33%;">4. Color of Race Caucasian</td> <td style="width: 33%;">5. Marital Status Single</td> </tr> <tr> <td colspan="3">a. If married, widowed, or divorced HUSBAND or WIFE of</td> </tr> <tr> <td colspan="3">6. DATE OF BIRTH (month, day, year): May 22, 1999</td> </tr> <tr> <td colspan="3">7. AGE 19 Years 3 Months 4 Days</td> </tr> <tr> <td rowspan="4" style="text-align: center; vertical-align: middle;">OCCUPATION</td> <td colspan="2">8. Trade, profession or particular kind of work done as spinner, lawyer, bookkeeper, etc. _____</td> </tr> <tr> <td colspan="2">9. 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| 19. UNDERTAKER _____ (Address) _____ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 20. FILED <u> </u> / <u> </u> / <u> </u> _____ <small>(Registrar Signature)</small> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">21. DATE OF DEATH (month, day and year) August 25, 2018</td> </tr> <tr> <td colspan="2">22. I HEREBY CERTIFY, That I attended deceased from 8/25/2018 to 8/25/2018. I last saw Jessica Bateson alive on 8/25/2018, death is said to have occurred on the date stated above, at 18:40. The principal cause of death and related cause of importance in order of onset were as follows:</td> </tr> <tr> <td style="width: 50%;"></td> <td style="width: 50%; text-align: right;">Date of Onset:</td> </tr> <tr> <td>Severe Respiratory Distress</td> <td style="text-align: right;">8/25/2018</td> </tr> <tr> <td>Unrecovered Cardiac Arrest</td> <td style="text-align: right;">8/25/2018</td> </tr> <tr> <td colspan="2">Was this death due to pregnancy or to childbirth? If so, state which.</td> </tr> <tr> <td colspan="2">Contributory causes of importance not related to principal cause. Respiratory arrest</td> </tr> <tr> <td colspan="2">Name of operation _____ Date _____</td> </tr> <tr> <td colspan="2">What test confirmed diagnosis? _____ Was there an autopsy? Yes</td> </tr> <tr> <td colspan="2">23. If death was due to external causes (violence) fill in the following: Accident, suicide, or homicide? _____ Date of Injury _____ Where did the injury occur? _____ <small>(Specify city or town and state)</small> Specify whether injury occurred in industry, in home, or in public place Manner of Injury _____ Nature of Injury _____</td> </tr> <tr> <td colspan="2">24. Was disease or injury in any way related to occupation of deceased? no If so, specify _____ (Signed) Cory White _____ M.D. Address 3505 Chinook Highway, Chinook, OR 97652</td> </tr> </table> | | | 21. DATE OF DEATH (month, day and year) August 25, 2018 | | 22. I HEREBY CERTIFY, That I attended deceased from 8/25/2018 to 8/25/2018 . I last saw Jessica Bateson alive on 8/25/2018 , death is said to have occurred on the date stated above, at 18:40 . The principal cause of death and related cause of importance in order of onset were as follows: | | | Date of Onset: | Severe Respiratory Distress | 8/25/2018 | Unrecovered Cardiac Arrest | 8/25/2018 | Was this death due to pregnancy or to childbirth? If so, state which. | | Contributory causes of importance not related to principal cause. Respiratory arrest | | Name of operation _____ Date _____ | | What test confirmed diagnosis? _____ Was there an autopsy? Yes | | 23. If death was due to external causes (violence) fill in the following: Accident, suicide, or homicide? _____ Date of Injury _____ Where did the injury occur? _____ <small>(Specify city or town and state)</small> Specify whether injury occurred in industry, in home, or in public place Manner of Injury _____ Nature of Injury _____ | | 24. Was disease or injury in any way related to occupation of deceased? no If so, specify _____ (Signed) Cory White _____ M.D. Address 3505 Chinook Highway, Chinook, OR 97652 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Severe Respiratory Distress | 8/25/2018 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Unrecovered Cardiac Arrest | 8/25/2018 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Was this death due to pregnancy or to childbirth? If so, state which. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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EXHIBIT 14: Dr. Jackson's Report

Ahsan Jackson, M.D.

180 Glen Burnie Drive, Baltimore, MD 21282 – Phone: 301.555.129XY

Pathology Report - CONFIDENTIAL – Defense Work Product

SUBJECT NAME: Jessica Bateson

DATE OF DEATH: 8/25/2018

DECEDANT'S ADDRESS: 603 Moore Tower
Thomas McCall University
Green Valley, OR 97652

LOCATION OF DEATH: Chinook Regional Hospital **ATTENDING PHYSICIAN:** Cory White, M.D.

DATE OF AUTOPSY: 8/27/2018

AT BEHEST OF: State of Oregon

AUTOPSY CONDUCTED BY: Jaden Chessler, M.D.

RECORDS AVAILABLE FOR EXAMINATION:

Medical Waiver, Emergency Room Records, Death Certificate, Autopsy Record, E-911 Transcript, Family Medical History and Limited Records from Primary Care Physician

Pursuant to defense counsel request, I have reviewed all of the above listed records to ascertain the cause of death for Jessica Bateson. In particular, I reviewed the report of the Coroner's Office and autopsy report due to the rare cause of death listed.

Jessica Bateson died at Chinook Regional Hospital on August 25, 2018. Immediately prior to her death, she had been a pledge at the Epsilon Sigma Epsilon Honors Society, and was participating in events termed as "Pledge Week." At one of these events, she collapsed and was transported to Chinook Regional Hospital by Chinook County EMS.

The cause of death was listed as acute hyponatremia and was ruled as a homicide by the Coroner's Office. Due to an excess amount of water in the system, the brain stem became swollen to the point that it destroyed impulse transmission from the brain to the rest of the nervous system. In a teenager this would be a very rare diagnosis. In the autopsy findings, no mention is made of testing for hypothyroidism. This would be an intervening factor that could cause acute hyponatremia with a much lower volume of water than would normally be fatal for anyone outside of infants and the extremely elderly. In the documents provided by the State, a medical release for Jessica Bateson was included. The medical release indicates in her own handwriting no medical conditions or impairments that would preclude her from activities. The family history and medical records from the primary care physician both indicate a genetic history of thyroid related illnesses. This strongly suggests that a thyroid condition existed in Ms. Bateson and was missed by the autopsy. A family history of thyroid problems would be a condition necessary to disclose on any medical release.

Additionally, there was no treatment or diagnosis of acute hyponatremia either by the paramedic with the EMS unit or by the treating emergency room physician. Had either of these professionals made the correct diagnosis, Ms. Bateson could have been rapidly treated with an IV solution that would bring the body chemistry back into balance. This treatment would have prevented the coma and death. The treatment could have even averted brain damage, but definitely would have prevented the coma and death.

In my professional medical opinion, the ineptness of the paramedic and ER attending physician in addition to the lack of disclosure by Ms. Bateson led to her death. The autopsy report was incomplete and thus negligent by not conducting serology tests to determine if an underlying thyroid condition could have contributed to or been the root cause for the acute hyponatremia which resulted in the brain stem swelling and death.

IV. The Form and Substance of this Criminal Trial

A. The Elements of a Criminal Case

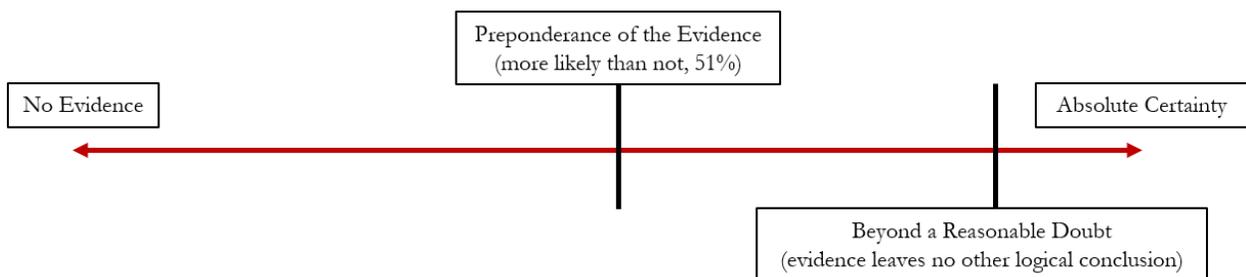
Criminal statutes generally define two aspects of every crime: (1) the physical act (*actus reus*), and (2) the mental state of the actor (*mens rea*). Most crimes are composed of some physical act, such as firing a gun in a crowded room, **plus** a guilty or culpable mental state, such as the *intent* to commit a crime or a *reckless disregard* for the consequences of one's actions. Bad thoughts alone are not enough; a crime requires the union of thought and action, or *actus reus* and *mens rea*.

Also, a defendant may justify his/her actions by showing a lack of criminal intent. For instance, the crime of burglary has two elements: (1) breaking and entering (2) with intent to commit a crime. A person breaking into a burning house to rescue a baby does not commit a burglary.

B. Presumption of Innocence, Proof Beyond a Reasonable Doubt

The American criminal justice system is based on the premise that allowing a guilty person to go free is better than putting an innocent person behind bars. For this reason, the Prosecution bears a heavy burden of proof. Defendants are *presumed innocent*. The Prosecution must convince a judge or jury of the defendant's guilt *beyond a reasonable doubt*.

Despite its use in every criminal trial, the term *reasonable doubt* is one of the more difficult legal terms to understand. A good way to think about the standard is by imagining a continuum (see below). In the middle of the continuum is the civil case standard of proof of *preponderance of the evidence* which means that the evidence shows that it is more likely than not that the defendant is responsible for the harm to the plaintiff. *Beyond a reasonable doubt* is greater than a preponderance, but less than absolute certainty. When the jury considers all of the evidence presented and the only logical conclusion is that the defendant committed the crime with the required mental state, then the Prosecution has proven its case *beyond a reasonable doubt*.



Jurors may reach a verdict despite contradictory evidence. Two witnesses might give different accounts of the same event. Sometimes a single witness will give a different account of the same event at different times. Such inconsistencies often result from human fallibility rather than intentional lying. The trier of fact (the judges in the Mock Trial competition) applies his/her own best judgment in evaluating inconsistent testimony.

C. The Statute

ORS 163.005: Criminal homicide

- (1) A person commits criminal homicide if, without justification or excuse, the person intentionally, knowingly, recklessly or with criminal negligence causes the death of another human being.
- (2) “Criminal homicide” is murder, manslaughter, criminally negligent homicide or aggravated vehicular homicide.
- (3) “Human being” means a person who has been born and was alive at the time of the criminal act.

ORS 163.125: Second degree manslaughter

- (1) Criminal homicide constitutes manslaughter in the second degree when:
 - (a) It is committed recklessly;
 - (b) A person intentionally causes or aids another person to commit suicide; or
 - (c) A person, with criminal negligence, causes the death of a child under 14 years of age or a dependent person, as defined in ORS 163.205, and:
 - (A) The person has previously engaged in a pattern or practice of assault or torture of the victim or another child under 14 years of age or a dependent person; or
 - (B) The person causes the death by neglect or maltreatment, as defined in ORS 163.115.
- (2) Manslaughter in the second degree is a Class B felony.

ORS 161.085: Definitions

As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

- (1) “Act” means a bodily movement.
- (2) “Voluntary act” means a bodily movement performed consciously and includes the conscious possession or control of property.
- (3) “Omission” means a failure to perform an act the performance of which is required by law.
- (4) “Conduct” means an act or omission and its accompanying mental state.
- (5) “To act” means either to perform an act or to omit to perform an act.
- (6) “Culpable mental state” means intentionally, knowingly, recklessly or with criminal negligence as these terms are defined in subsections (7), (8), (9) and (10) of this section.
- (7) “Intentionally” or “with intent,” when used with respect to a result or to conduct described by a statute defining an offense, means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.
- (8) “Knowingly” or “with knowledge,” when used with respect to conduct or to a circumstance described by a statute defining an offense, means that a person acts with an

awareness that the conduct of the person is of a nature so described or that a circumstance so described exists.

(9) “Recklessly,” when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(10) “Criminal negligence” or “criminally negligent,” when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

ORS 163.197: Hazing

(1) A student organization or a member of a student organization commits the offense of hazing if, as a condition or precondition of attaining membership in the organization or of attaining any office or status in the organization, the organization or member intentionally hazes any member, potential member or person pledged to be a member of the organization.

(2)

(a) A student organization that violates subsection (1) of this section commits a Class A violation.

(b) A member of a student organization who personally violates subsection (1) of this section commits a Class B violation.

(3) Consent of the person who is hazed is not a defense in a prosecution under this section.

(4) As used in this section:

(a) “Haze” means:

(A) To subject an individual to whipping, beating, striking, branding or electronic shocking, to place a harmful substance on an individual's body or to subject an individual to other similar forms of physical brutality;

(B) To subject an individual to sleep deprivation, exposure to the elements, confinement in a small space or other similar activity that subjects the individual to an unreasonable risk of harm or adversely affects the physical health or safety of the individual;

(C) To compel an individual to consume food, liquid, alcohol, controlled substances or other substances that subject the individual to an unreasonable risk of harm or adversely affect the physical health or safety of the individual;
or

(D) To induce, cause or require an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(b) “Member” includes volunteers, coaches and faculty advisers of a student organization.

(c) “Student organization” means a fraternity, sorority, athletic team or other organization that is organized or operating on a college, university or elementary or secondary school campus for the purpose of providing members an opportunity to participate in student activities of the college, university or elementary or secondary school.

D. Role Descriptions

Attorneys

Trial attorneys present evidence to support their side of the case. They introduce physical evidence and elicit witness testimony to bring out the facts surrounding the allegations.

In a criminal case, the State brings the case against a defendant. In this case, the State of Oregon will try to prove Taylor Durden’s guilt beyond a reasonable doubt.

The Defense attorneys will present the case of the defendant, _____. They will offer their own witnesses and evidence to show their client’s version of the facts. They may undermine the Prosecution’s case by showing that the Prosecution’s witnesses cannot be depended upon, that their witness testimony makes no sense or is inconsistent, or by presenting physical evidence that contradicts that brought by the Prosecution.

The demeanor of **all attorneys** is very important. It is easy to be sympathetic and supportive on direct examination of your own witnesses. While less easy, it is also important to be sympathetic on cross-examination. An effective cross-examination is one in which the cross-examiner, the witness, the judge, and the jury all agree on the outcome. It is poor form and unethical to be sarcastic, snide, hostile or contemptuous on cross-examination. The element of surprise is a valuable tool in an attorney’s tool belt, but it is best achieved by being friendly and winning in the courtroom, including when interacting with the other side.

Attorneys on both sides will:

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

Attorneys – Opening Statement

An opening statement outlines the case each side intends to present at trial. The attorney for the Prosecution delivers the first opening statement and the Defense follows with the second. A good opening statement should explain what the attorneys plan to prove, what evidence they will use to prove it, mention the burden of proof and applicable law, and present the facts of the case in an orderly, easy to understand manner.

One way to begin your opening statement could be:

“Your Honor, members of the jury, my name is _____ and I represent the State of Oregon/defendant in this case.”

Proper phrasing in an opening statement includes:

- “The evidence will indicate that...”
- “The facts will show that...”
- “Witness (use name) will be called to tell...”
- “The defendant will testify that...”

An attorney makes a successful opening statement when they appear confident, make eye contact with the judges, use the future tense when describing what their side will present, and uses notes sparingly and for reference.

Attorneys – Direct Examination

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

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

Attorneys call a witness with a formal request:

“Your Honor, the Prosecution/Defense would like to call _____ to the stand.”

The clerk will swear in the witness before you begin asking questions. It is good practice to ask your witness some introductory questions to help the witness feel more comfortable. Appropriate introductory questions might include asking the witness’s name, residence, present employment, etc.

Some examples of the phrasing of questions on direct examination include:

- “Could you please tell the court what occurred on _____?”
- “How long did you remain in that spot?”
- “What happened while you waited?”

Conclude your direct examination with:

“Thank you _____. I have no further questions, your Honor.”

To prepare for direct examination, an attorney should isolate the information each witness can contribute to proving the case and prepare a series of clear and simple questions

designed to obtain that information. Good attorneys make certain that all items needed to prove the case are presented through the witnesses, never ask a question they don't know the answer to and listen very carefully to the answers given before asking the next question. It is appropriate to ask the judge for a brief moment to collect your thoughts or confer with co-counsel if needed.

Attorneys – Cross Examination, Re-Direct, Re-Cross, and Closing

- For cross-examination, see explanations, examples, and tips for [Rule 611](#).
- For redirect and recross, see explanation and note to [Rule 42](#) and [Rule 611](#).
- For closing, see explanation to [Rule 43](#).

Witnesses

Witnesses supply the facts in the case. A witness's official source of testimony is the witness's statement, all stipulations, and exhibits a witness would reasonably have knowledge of.

A witness may testify to facts stated in or reasonably inferred from the record. If an attorney asks a witness a question and there is no answer to it in the official record, the witness may choose how to answer it. A witness may reply, "I don't know," or "I don't remember," or can infer an answer from the facts the witness officially knows. Inferences are only allowed if they are *reasonable*. If the inference contradicts the official statement, the witness can be impeached. [See Rule 3](#).

It is the responsibility of the attorneys to make the appropriate objections when witnesses are asked to testify about something that is not generally known or cannot be inferred from the witness statement. If an objection is not made, the testimony will stand.

Court Clerk, Bailiff, Team Manager

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

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

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

Duties of the Clerk – Provided by the Prosecution

When the judge arrives in the courtroom, the clerk should introduce him/herself and explain that he/she will assist as the court clerk. The clerk's duties are as follows:

1. **Roster and rules of competition:** The clerk is responsible for bringing a roster of students and their roles to each trial round. The clerk should have enough copies to be able to give a roster to each judge in every round, one for the

opposing team, and some extras (5-6 copies per round). The [roster form](#) contained in this packet should be used. In addition, the clerk is responsible for bringing a copy of the “Rules of Competition” to each round. In the event that questions arise and the judge needs clarification, the clerk shall provide this copy to the judge.

2. **Swear in the Witnesses:** The clerk should swear in each witness as follows:

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

Witness responds, “I do.”

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

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

A proficient clerk is critical to the success of a trial and points will be given on his or her performance.

Duties of the Bailiff – Provided by the Defense

When the judge arrives in the courtroom the bailiff should introduce him/herself and explain that he/she will assist as the court bailiff. The bailiff’s duties are to call the court to order and to keep time during the trial.

1. **Call to Order:** As the judges enter the courtroom, the bailiff says, “All rise. The Court with the Honorable Judge _____ presiding, is now in session. Please be seated and come to order.” Whenever the judges leave or enter the courtroom, you should ask the audience to rise.
2. **Timekeeping:** **The bailiff is responsible for bringing a stopwatch to the trial.** The stopwatch cannot be a cell phone; no electronic devices are permitted. [See Rule 41.](#) A bailiff should practice with the stopwatch and know how it works before the competition. [Time limits](#) are provided for each segment of the trial. The bailiff should keep track of time used and time remaining for each segment of the trial using the [timesheet](#) provided in this packet.

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

After each witness has finished testifying, the bailiff should announce the time remaining in the segment. For instance, if after direct examination of two witnesses, the Prosecution has used 12 minutes announce, "Ten minutes remaining." (22 minutes total allowed for direct/redirect, less the 12 minutes already used). After each witness has completed his/her testimony, the bailiff marks the timesheet the time to the nearest 10 seconds. When three minutes remain, the bailiff holds up the "3 minutes" card, followed by the "1 minute" and "0" cards. When time has run out for a segment, the bailiff announces, "Time." The bailiff should make certain the time cards are visible to all judges and attorneys when they are held up.

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

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

Team Manager, Unofficial Timer

Team Manager (optional)

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

Unofficial Timekeeper (optional)

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

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

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

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

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

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

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

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

Time shall be stopped during a timekeeping request.

V. Rules of the Competition

A. Administration

Rule 1. Rules

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

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

Rule 2. The Problem

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

Rule 3. Witness Bound by Statements

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

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

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

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

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

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

Rule 4. Unfair Extrapolation

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

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

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

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

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

Rule 5. Gender of Witnesses

All witnesses are gender neutral. Personal pronouns in witness statements indicating gender of the characters may exist. Any student may portray the role of any witness of either gender. Teams are requested to indicate members' preferred gender pronouns on the [Team Roster](#) for the benefit of judges and opposing counsel.

B. The Trial

Rule 6. Team Eligibility, Teams to State

Teams competing in the Oregon High School Mock Trial Competition must register by the registration deadline. A school may register up to three teams.

To participate in the state competition, a team must successfully compete at the regional level. Teams will be assigned to their regions by Classroom Law Project in January. Every effort is made to allow teams to compete in the regions in which their school or organization is located. If a region

assignment causes substantial hardship to a team, the Competition Coordinator may change the assignment to address the hardship.

All **regional** competitions will be held on **Saturday, February 22nd, 2020**. Teams should be aware that the regional competition date is subject to change. Regional Coordinators have discretion to slightly alter the date depending on scheduling requirements, availability of courtrooms, the needs of teams, or inclement weather. If dates change, every effort will be made to notify all teams in a timely manner.

All teams participating at the regional level must be prepared to compete at the state level should they finish among the top in their region. Students on the advancing team must be the same as those in the regional competition. Should a team be unable to compete in the state competition, Classroom Law Project may designate an alternate team. The **state competition** is scheduled for **March 6th-7th, 2020**, in Portland.

The number of teams advancing to the state competition will be determined as follows:

| Number of Teams Competing in Region | Number of Teams Advancing to State |
|-------------------------------------|------------------------------------|
| 5 or less | 1 |
| 6-10 | 2 |
| 11-15 | 3 |
| 16-20 | 4 |
| 21-25 | 5 |
| More than 25 | TBD by Classroom Law Project |

Rule 7. Team Composition

A mock trial team must consist of a **minimum of eight** and a **maximum of 18** students all from the same school or organization. Classroom Law Project will determine on a case-by-case basis if a team affiliated with an organization, rather than a school, is eligible to compete.

Additional students may be used in support roles as researchers, understudies, photographers, courtroom artists, court reporters, and news reporters. However, none of these roles will be used in the competition. Teams are encouraged to use the maximum number of students allowable in order to maximize participation.

Note: The National High School Mock Trial Competition limits teams to a maximum of nine members with no more than six competing in any given round. Oregon's advancing team may have to change the composition of the team in order to participate at the national level.

A mock trial team is defined as an entity that includes attorneys and witnesses for both the Prosecution and Defense (students may play roles on both sides if necessary), clerk, and a bailiff.

All team members, including teacher and attorney coaches, are required to wear name badges at all levels of competition. Name badges are provided by the Competition Coordinator.

All mock trial teams must submit a [Team Roster](#) listing the team name and all coaches and students to the Competition Coordinators at student check-in. If a school/organization enters more than one team, **team members cannot switch teams at any time for any round of regional or state competition.**

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

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

Rule 8. Team Presentation

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

Note: Because teams are power-matched after Round 1, there is no guarantee that a team will automatically switch sides for Round 2. However, if a team argues the same side in Rounds 1 and 2, they will be guaranteed to switch sides in Round 3. Parents/observers should be made aware of this rule.

Rule 9. Emergencies

During a trial, the Presiding Judge shall have discretion to declare an emergency and adjourn the trial for a short time to address the emergency.

In the event of an emergency that would cause a team to participate with less than eight members, the team must notify the Competition Coordinator as soon as is reasonably practical. If the Coordinator, in his or her sole discretion, agrees that an emergency exists, the Coordinator shall declare an emergency and will decide whether the team will forfeit or continue any trial round with less than eight members. A penalty may be assessed.

A forfeiting team will receive a loss and points totaling the average number of the team ballots and points received by the losing teams in that round. The non-forfeiting team will receive a win and an average number of ballots and points received by the winning teams in that round.

Final determination of emergency, forfeiture, reduction of points, or advancement will be made by the Competition Coordinator. The rules do not provide for voluntary forfeiture by a team.

Rule 10. Team Duties

Team members should divide their duties as evenly as possible. Opening statements must be given by both sides at the beginning of the trial. The attorney who will examine a particular witness on

direct is the only person who may make objections to the opposing attorney’s questions of that witness’s cross-examination; and vice versa.

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

Rule 11. Swearing in the Witnesses

The following oath may be used before questioning begins:

“Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?”

The **clerk**, provided by the Prosecution, swears in all witnesses.

Rule 12. Trial Sequence and Time Limits

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

| | |
|---------------------------------|-------------------------------------------------|
| Introductory Matters | 5 minutes total (conducted by Presiding Judge)* |
| Opening Statement | 5 minutes per side |
| Direct and Re-Direct(optional) | 22 minutes per side |
| Cross and Re-Cross(optional) | 11 minutes per side |
| Closing Argument | 5 minutes per side** |
| Judges’ Deliberations | 10 minutes total (judges in private)* |
| Total Competition Time Per Side | 43 minutes |

*Not included in 43 minutes allotted for each side of the case.

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

The Prosecution delivers its Opening Statement and Closing Argument first. The Prosecution may reserve a portion of its closing argument time for rebuttal. The rebuttal is limited to the scope of the Defense’s closing argument.

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

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

Rule 13. Timekeeping

Time limits are mandatory and will be enforced. The official timekeeper is the bailiff and is provided by the Defense. **Timekeepers shall not use a cell phone as a stopwatch.** An optional unofficial timekeeper may also be provided by the Prosecution according to the directions in [Section V.E.](#) of these materials.

Timing will stop during objections, extensive questioning from a judge, and administering the oath. Timing will **not** stop during the admission of evidence unless there is an objection by opposing counsel.

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

Rule 14. Time Extensions and Scoring

The Presiding Judge has sole discretion to grant time extensions, though they should be rare. If time has expired and an attorney continues without permission from the Court, the scoring judges may determine whether to deduct points because of overruns in time.

Rule 15. Supplemental Material, Illustrative Aids, Costuming

Teams may refer only to materials included in these trial materials. No illustrative aids of any kind may be used unless provided in the case materials. No enlargements of the case materials will be permitted. Absolutely no props or costumes are permitted unless authorized in these case materials or by Classroom Law Project. Use of easels, flip charts, and the like is prohibited. Violation of this rule may result in a lower team score.

Rule 16. Trial Communication

Coaches, non-performing team members, alternates, and observers shall not talk, signal, communicate with, or coach their teams during trial. **This rule remains in force during any recess time** that may occur. Performing team members may, among themselves, communicate during trial, however, no disruptive communication is allowed. **There must be no spectator or non-performing team member contact with the currently performing student team members once the trial begins.**

Everyone in the courtroom shall turn off all electronic devices except stopwatches being used by the timekeeper(s).

Non-team members, alternate team members, teachers, and coaches must remain outside the bar in the spectator section of the courtroom. Only team members participating in the round may sit inside the bar.

There will be an **automatic two-point deduction** from a team's total score if the coach, other team members, or spectators are found in violation of this rule by the Judges or Competition Coordinators. Competition Coordinators may exercise their discretion in deducting points if they find a complaint is frivolous or the conversation was harmless.

Rule 17. Viewing a Trial

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

Rule 18. Videotaping, Photography, Media

Any team has the option to refuse participation in videotaping, audio recording, still photography, or media coverage. However, media coverage shall be allowed by the two teams in the championship round of the state competition.

C. Judging and Team Advancement

Rule 19. Decisions

All decisions of the judging panels are FINAL.

Rule 20. Composition of Panel

The judging panel will consist of three individuals: one Presiding Judge, one Attorney Judge, and one Witness Judge. All three shall score teams using the [sample ballots](#) provided in these materials. The Presiding Judge shall cast a ballot based on the overall team performances including the clerk and bailiff, the Attorney Judge shall cast a ballot based on the performance of the attorneys, and the Witness Judge shall cast a ballot based on the performance of the witnesses. All judges receive the mock trial case materials, a memorandum outlining the case, orientation materials, and a briefing in a judges' orientation.

If necessary to continue competition, the Competition Coordinator may allow two judges to score a trial. In that instance, the witness ballot shall be completed by the Presiding Judge and Attorney Judge together.

During the final championship round of the state competition, the judges' panel may have more than three members at the discretion of Classroom Law Project.

Rule 21. Ballots

The term "ballot" refers to the decision made by each judge as to which side had the better performance in a round. Each judge casts a ballot based on specific team members' performances: Presiding Judges score overall team performances, clerks, and bailiffs; Attorney Judges score the attorneys; Witness Judges score the witnesses. Each judge completes his/her own ballot. Ties and fractional points are not allowed. The team that earns the most points on an individual judge's ballot is the winner of that ballot. The team that receives the majority of the three ballots wins the round. The winner of the round shall not be announced during the competition. [Sample ballots](#) are included in these materials.

Rule 22. Team Advancement

Teams will be ranked based on the following criteria in the order listed:

1. Win/Loss Record – the number of rounds won or lost by a team;
2. Total Number of Ballots – the number of judges' votes a team earned in preceding rounds;
3. Total Number of Points accumulated;
4. Point Spread Against Opponents – used to break a tie, 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.

Rule 23. Power Matching

Pairings for the first round of regional competition will be selected randomly. A power matching system will determine opponents for all other rounds. The teams emerging with the strongest record from the first three rounds will advance to the state competition and the final round. At the state competition, as between the top two teams in the championship round, the winner will be determined by the ballots from the championship round only.

Power matching provides that:

1. Pairings for the first round of regional competition will be randomly selected;
2. All teams are guaranteed to present each side of the case at least once;
3. Brackets will be determined by win/loss record. Sorting within brackets will be determined in the following order: (a) win/loss record, (b) ballots, and (c) total points. The team with the highest number of ballots in the bracket will be matched with the team with the lowest number of ballots in the bracket; the next highest with the next lowest, and so on until all teams are paired;
4. If there is an odd number of teams in a bracket, the team at the bottom of that bracket will be matched with the top team from the next lower bracket;
5. Efforts will be made to assure teams do not meet the same opponent twice;
6. To the greatest extent possible, teams will alternate side presentation in subsequent rounds;
7. Bracket integrity in power matching supersedes alternate side presentation.

Competition Coordinators in smaller regions (less than eight teams) have the discretion to modify power matching rules to create a fairer competition.

Rule 24. Merit Decisions

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

Rule 25. Effect of Bye, Default, or Forfeiture

A bye becomes necessary when an odd number of teams compete in a region. The bye in the first round is assigned randomly. In Rounds 2 and 3, the bye is given to the team with the lowest cumulative score at that point in the competition.

For the purposes of advancement and seeding, when a team draws a bye or wins by default in Round 1, that team will be given a win and, temporarily, the average number of ballots and points earned by all Round 1 winners. A team that wins by default or draws a bye in Round 2 will be given a win and, temporarily, the average number of ballots and points earned by all the Round 2 winners. A team that wins by default or draws a bye in Round 3 will be given a win and an average of that team's wins and ballots from Rounds 1 and 2. After Round 3, bye teams or default winners will replace their average ballots and points with an average of their own ballots and points from the 2 rounds in which they competed.

D. Dispute Settlement

Rule 26. Reporting Rules Violation – Inside the Bar

At the conclusion of each trial round, the Presiding Judge will ask each side if it would like to file a dispute. If any team has serious reason to believe that a material rules or ethical violation has occurred, one of its student attorneys shall indicate that the team intends to file a dispute. The student attorney may communicate with co-counsel and student witnesses before lodging the notice of dispute or in preparing the [Rule 26 Reporting Form](#) contained in these materials. **At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. Only student attorneys may invoke dispute procedures.** Teams filing frivolous disputes may be penalized.

Rule 27. Dispute Resolution Procedure

The Presiding Judge will review the written dispute and determine whether the dispute deserves a hearing or should be denied. If the dispute is denied, the Presiding Judge will record the reasons for denial, announce the decision to the Court, and retire along with the other judges to complete the scoring process.

If the Presiding Judge determines the grounds for the dispute merit a hearing, the form will be shown to opposing counsel for their written response. After the team has recorded its response and transmitted it to the Presiding Judge, the Presiding Judge will ask each team to designate a spokesperson. Spokespersons will have 5 minutes maximum to prepare their arguments, after which the Presiding Judge will conduct a hearing, providing each spokesperson three minutes to present their argument. Spokespersons may be questioned by the judge. At no time during the process may team sponsors or coaches communicate or consult with the student attorneys. After the hearing, the Presiding Judge will adjourn the court and retire to consider a ruling on the dispute. That decision will be recorded on the dispute form with no further announcement. Bailiff will keep time for all stages of the dispute process.

Rule 28. Effect of Violation on Score

If the Presiding Judge determines that a substantial rules violation or a violation of the Code of Ethical Conduct has occurred, the judge will inform the scorers of the dispute and provide a summary of each team's argument. Two penalty points will also be deducted from the violating teams score and indicated on the Presiding Judge's ballot. The decision of the Presiding Judge is FINAL.

Rule 29. Reporting Rules Violation – Outside the Bar

Charges of ethical violations that involve people other than performing student team members must be made promptly to a Competition Coordinator, who will ask the complaining party to complete the [Rule 29 Reporting Form](#). The form will be submitted to the Competition Coordinator who will rule on any actions to be taken regarding the charge, including notification of the judging panel. Violations occurring during a trial involving competing students should be handled according to [Rules 26-28](#).

VI. Rules of Procedure

A. Before the Trial

Rule 30. Team Roster

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

Rule 31. Stipulations

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

Rule 32. The Record

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

Rule 33. Courtroom Setting

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

B. Beginning the Trial

Rule 34. Jury Trial

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

Rule 35. Motions Prohibited

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

Rule 36. Standing During Trial

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

Rule 37. Objection During Opening Statement, Closing Argument

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

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

C. Presenting Evidence

Rule 38. Objections

1. Argumentative Questions

An attorney shall not ask argumentative questions.

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

2. Lack of Proper Foundation

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

3. Assuming Facts Not in Evidence

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

4. Questions Calling for Narrative or General Answer

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

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

5. Non-Responsive Answer

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

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

6. Repetition

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

Rule 39. Procedure for Introduction of Exhibits

The following steps effectively introduce evidence:

Introduce the Item for Identification

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

Offer the Item into Evidence

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

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

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

Rule 40. Procedure for Qualifying Expert Witnesses

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

1. Ask the expert to describe factors such as education, professional training, work experience, special skills, or publications they have authored.
2. Ask the Court to qualify the witness as an expert in a particular field.
3. Once qualified, ask for witness’s expert opinion on _____.

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

Attorney: “Dr. Jones, what is your occupation?”

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

Attorney: “Where did you attend medical school?”

Witness: “I graduated from OHSU Medical School in 1985.”

Attorney: “Where did you do your internship?”

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

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

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

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

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

Attorney: “Do you hold any professional licenses?”

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

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

Judge: “Any objections?”

Opposing Attorney: “No, Your Honor.”

Judge: “Let the record reflect that Dr. Jones is qualified to testify as an expert in the fields of cardiothoracic surgery and heart attack care.”

Rule 41. Use of Notes; No Electronic Devices

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

Rule 42. Redirect, Recross

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

D. Closing Arguments

Rule 43. Scope of Closing Arguments

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

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

A closing argument should:

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

E. Critique

Rule 44. The Critique

There is **no oral critique** from the judging panel. At the conclusion of the trial, each judge may make a brief, general, congratulatory statement to each team. Substantive comments or constructive criticism may be included on judges' ballots at their discretion. Judges' written comments will be shared with teams following the competition.

VIII. Federal Rules of Evidence – Mock Trial Version

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

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

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

Article I. General Provisions

Rule 101. Scope

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

Rule 102. Purpose and Construction

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

Article II. Judicial Notice

Rule 201. Judicial Notice of Adjudicative Facts

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

6. In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

Article IV. Relevancy and Its Limits

Rule 401. Definition of Relevant Evidence

Evidence is relevant if:

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

Rule 402. General Admissibility of Relevant Evidence

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

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

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

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

Rule 404. Character Evidence; Crimes or Other Acts

a) Character Evidence

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

b) Crimes, Wrongs, or Other Acts

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

Rule 405. Methods of Proving Character

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

Rule 406. Habit, Routine Practice

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

Rule 407. Subsequent Remedial Measures

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

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

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

Rule 408. Compromise Offers and Negotiations

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

Rule 409. Offers to Pay Medical and Similar Expenses

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

Rule 410. Pleas, Plea Discussions, and Related Statements

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

Rule 411. Liability Insurance (civil cases only)

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

Article V. Privileges

Rule 501. General Rule

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

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

Article VI. Witnesses

Rule 601. General Rule of Competency

Every person is competent to be a witness.

Rule 602. Lack of Personal Knowledge

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

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

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

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

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

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

Rule 607. Who May Impeach

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

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

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

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

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

Mrs. Burns: "Yes."

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

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

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

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

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

Witness: "Yes."

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

Witness: "Yes."

Rule 608. Evidence of Character and Conduct of Witness

- a) Reputation or Opinion Evidence. A witness's credibility may be attacked or supported by testimony about the witness's reputation for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

Example:

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

Witness: "Yes, but..."

Attorney 1: "Thank you."

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

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

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

Witness: "25 years."

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

Witness: "Yes."

- b) Specific Instances of Conduct. Except for a criminal conviction under [Rule 609](#), extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:

1. the witness; or
2. another witness whose character the witness being cross-examined has testified about.

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

Rule 609. Impeachment by Evidence of Conviction of Crime

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

Rule 610. Religious Beliefs or Opinions

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

Rule 611. Mode and Order of Interrogation and Presentation

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

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

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

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

- c) Leading questions. Leading questions should not be used on direct examination except as necessary to advance the witness's testimony. Ordinarily, the court should allow leading questions:
 1. on cross-examination; and

2. when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

Example:

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

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

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

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

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

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

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

Rule 613. Witness’s Prior Statement

- a) Showing or Disclosing the Statement During Examination. When examining a witness about the witness’s prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party’s attorney.

- b) Extrinsic Evidence of a Prior Inconsistent Statement. Extrinsic evidence of a witness's prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision 2. does not apply to an opposing party's statement under [Rule 801 d.2.](#)

Article VII. Opinions and Expert Testimony

Rule 701. Opinion Testimony by Lay Witness

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

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

Example:

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

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

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify in the form of an opinion or otherwise. See [Rule 40.](#)

Rule 703. Bases of Opinion Testimony by Experts

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

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

Rule 704. Opinion of Ultimate Issue

- a) In General – Not Automatically Objectionable. An opinion is not objectionable just because it embraces an ultimate issue.

- b) Exception. In a criminal case, an expert must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.

Article VIII. Hearsay

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

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

Rule 801. Definitions

The following definitions apply under this article:

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

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

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

Susan: "Well, Nate said he was driving, not Mary."

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

- d) Statements that are not Hearsay. A statement that meets the following conditions is not hearsay:
 - 1. A Declarant Witness's Prior Statement. The declarant testifies and is subject to cross-examination about a prior statement, and the statement
 - A. is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;
 - B. is consistent with the declarant's testimony and is offered to rebut an express or implied charge that the declarant recently fabricated it or acted from recent improper influence or motive in so testifying; or

C. identifies a person as someone the declarant perceived earlier.

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

Prosecutor: “Nate, you testified today that you were driving the vehicle before it hit the curb, correct?”

Nate: “Yes.”

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

Nate: “Witness (Nate): ‘Mary was driving the vehicle and swerved.’”

Mary’s Attorney: “Objection! That statement is hearsay.”

Prosecutor: “Your Honor, this is a prior statement made by the witness under oath and is not hearsay.”

Judge: “Objection is overruled. Witness’s prior statement under oath is not hearsay and is admissible.”

2. An Opposing Party’s Statement. The statement is offered against an opposing party and:
- A. was made by the party in an individual or a representative capacity;
 - B. is one the party manifested that it adopted or believed to be true;
 - C. was made by a person whom the party authorized to make a statement on the subject;
 - D. was made by the party’s agent or employee on a matter within the scope of that relationship and while it existed; or
 - E. was made by the party’s coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not by itself establish the declarant’s authority under C.; the existence or scope of the relationship under D.; or the existence of the conspiracy or participation in it under E.

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

Prosecutor: “Mary actually called you after the accident, didn’t she?”

Susan: “Yes.”

Prosecutor: “And Mary told you all about the accident didn’t she?”

Susan: “She talked about the accident, yes.”

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

Mary’s Attorney: “Objection! Mary’s statement to Susan is hearsay.”

Prosecutor: “Your Honor, Mary’s statement is an Opposing Party’s statement.”

Judge: “Objection overruled. Mary’s statement is not hearsay and is admissible.”

Prosecutor: “So, Mary told you she’d driven her car into a person, right?”

Susan: “Mary said, ‘I can’t believe I drove my car into a person.’”

Rule 802. Hearsay Rule

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

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

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

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

Example: Mary’s Attorney calls a bystander who was at the scene of the accident to testify about what happened in the accident.

Mary’s Attorney: “Were you present when the accident occurred?”

Bystander: “Yes, I was across the street.”

Mary’s Attorney: “And what do you remember about the accident?”

Bystander: “I was across the street looking for an address. I had my back turned to the street and I heard an engine revving. Then, someone behind me said, ‘That car is going to hit that dog.’”

Prosecutor: "Objection! That statement is hearsay."

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

Judge: "Objection overruled."

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

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

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

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

Bystander: "I started to turn toward the street and as I turned I heard a woman yell, 'That *man's* car just ran over someone!'"

Prosecutor: "Objection, Your Honor. Hearsay."

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

Judge: "Overruled. The statement is admissible."

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

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

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

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

Prosecutor: "Objection! Hearsay!"

Mary's Attorney: "Your Honor, the declarant's statement was a statement of a then-existing physical condition of drunkenness."

Judge: "The objection is overruled."

4. Statement Made for Medical Diagnosis or Treatment. Statements made for the purpose of medical diagnosis or treatment.
5. Recorded Recollection. A record that:
 - A. is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;
 - B. was made or adopted by the witness when the matter was fresh in the witness's memory; and
 - C. accurately reflects the witness's knowledge.

If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.
6. Records of Regularly Conducted Activity. A record of an act, event, condition, opinion, or diagnosis if:
 - A. the record was made at or near the time by – or from information transmitted by – someone with knowledge;
 - B. the record was kept in the course of regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;
 - C. making the record was a regular practice of the activity;
 - D. all these conditions are shown by the testimony of the custodian or another qualified witness; and
 - E. the opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.
7. Absence of Regularly Conducted Activity. Evidence that a matter is not included in a record described in Rule 803.6. if:
 - A. the evidence is admitted to prove that the matter did not occur or exist;
 - B. a record was regularly kept for a matter of that kind; and
 - C. the opponent does not show that the possible source of information or other circumstances indicate a lack of trustworthiness.
8. Public Records. A record or statement of a public office if:
 - A. it sets out:
 - i. the office's activities;
 - ii. a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law enforcement personnel; or
 - iii. in a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and
 - B. the opponent does not show that the source of information or other circumstances indicate a lack of trustworthiness.
10. Absence of a Public Record. Testimony that a diligent search failed to disclose a public record or statement if the testimony or certification is admitted to prove that:
 - A. the record or statement does not exist; or

- B. a matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind.
 - 16. Statements in Ancient Documents. A statement in a document that is at least 20 years old and whose authenticity is established.
 - 18. Statements in Learned Treatises, Periodicals, or Pamphlets. A statement contained in a treatise, periodical, or pamphlet if:
 - A. the statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and
 - B. the publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.
 - 21. Reputation Concerning Character. A reputation among a person's associates or in the community concerning a person's character.
 - 22. Judgment of a Previous Conviction. Evidence of a final judgment of conviction if:
 - A. the judgment was entered after a trial or guilty plea, but not a nolo contendere plea;
 - B. the conviction was for a crime punishable by death or by imprisonment for more than one year;
 - C. the evidence is admitted to prove any fact essential to the judgment; and
 - D. when offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.
- The pendency of an appeal may be shown but does not affect admissibility.

Rule 804. Hearsay Exceptions; Declarant Unavailable

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

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

- b) The Exceptions. The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:
 - 1. Former Testimony. Testimony that:
 - A. was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and
 - B. is now offered against a party who had – or in a civil case, whose predecessor in interest had – an opportunity and similar motive to develop it by direct, cross-, or redirect examination.

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

Rule 805. Hearsay Within Hearsay

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

IX. Notes to Judges

A. Judging Guidelines

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

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

1. Students are prohibited from making objections or using trial procedures not listed in the Mock Trial materials. Students should request a bench conference (to be held in open court from counsel table) if they think the opposing attorneys are using trial procedures outside the rules.
2. Students are limited to the information in the witness statements and fact situation. If a witness invents information, the opposing attorney may object on the grounds that the information is beyond the scope of the Mock Trial materials. The Presiding Judge is encouraged to request a bench conference (to be held in open court from counsel table) to ask the students to find where the information is included in the case materials.
3. Mock Trial rounds are timed. The student Bailiff, provided by the defense team, is the official timekeeper. The Prosecution/Plaintiff provides the Clerk. Bailiffs time all phases of the trial, including the final remarks. The Prosecution/Plaintiff may provide an unofficial timer if they choose. See [Team Roles, Unofficial Timer](#).
4. Students have been instructed to address their presentations to the judge and jury. The students will address the Presiding Judge as the judge in the case and the Attorney and Witness Judges as the jury, since they are in the jury box.
5. Each trial round should be **completed in less than two hours**. To keep the competition on schedule, please keep within the time limits set out in [Rule 12](#). Objections stop the clock, so please be as efficient as possible when ruling while still allowing students to argue the objections.
6. Judges shall **not** give an oral critique at the end of the trial. At the conclusion of the trial, each judge may offer a general congratulatory comment to each team. Substantive comments or constructive criticism should be included in the judges' ballots, at their discretion. Ballots will be shared with teams following the competition. [See Rule 44](#). Additionally, judges shall **not** offer a verdict on the merits.

Each courtroom will be assigned a panel of three judges. In extenuating circumstances, a courtroom may have only two judges. See [Rule 20](#). The Presiding Judge will sit at the bench and the remaining two judges will sit in the jury box.

B. Introductory Matters (Presiding Judge)

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

7. Ask each side if it is ready for trial. If so, ask each side to provide each judge with a copy of its Team Roster. Then, ask each member to rise and state their name, role, and team letter code (not school name).
8. If video or audio recorders are present, inquire of both teams whether they have objections to recording of the round.
9. Ask if there are people in the courtroom who are connected with other schools in the competition not performing in your courtroom. If so, they should be asked to leave. They may contact the Competition Coordinator to determine the location of the courtroom in which their school is performing.
10. Remind spectators of the importance of showing respect for the teams. Ask spectators to **silence electronic devices**. Judges may remove spectators who do not adhere to proper courtroom decorum.
11. Remind teams that witnesses are permitted to testify only to the information in the fact situation, their witness statements, and what can be reasonable inferred from that information.
12. Remind teams that they must complete their presentations within the specified time limits. The bailiff will signal you as the time for each segment progresses. Three-minute, one minute, and zero-minute cards will be held up by the bailiff. At the end of each segment attorneys and witnesses will be stopped when time has run out, regardless of completion of the presentation.
13. All witnesses must be called. If a team fails to call a witness penalty points will be assigned. See [Rule 10](#).
14. Only the following exhibits may be offered as evidence at the trial:
 - 1) 911 Phone Transcript
 - 2) Initial Police Incident Report
 - 3) Investigative Report
 - 4) Emergency Room Record
 - 5) Record of Medical Examiner
 - 6) Photograph of ESE House
 - 7) Photograph of Red Plastic “Solo” Brand Cup Used by Victim
 - 8) Photograph of Water Coolers used by ESE in the Basement
 - 9) News Report of Hyponatremia Fatality
 - 10) WebMD.com Medical Report on Hyponatremia
 - 11) Medical Release Form
 - 12) ESE Pledge Rules
 - 13) Death Certificate of Jessica Bateson
 - 14) Dr. Jackson’s Report

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

At the end of the trial, the Presiding Judge shall ask teams if either side wishes to make a Rule 26 motion. If so, resolve the matter as indicated in [Rule 27](#). Then, judges will complete their ballots. **Judges shall NOT inform the students of results of their scores or results from their ballots.** Judges should also **not** announce a verdict on the merits. Once ballots are

complete, the clerk will immediately deliver them to the score room while final remarks are made.

C. Evaluation Guidelines

All teams will compete in all three rounds unless a team has a bye. Teams are randomly matched for Round 1 and power-matched based on win/loss record, total ballots, and total number of points.

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

Judges will be provided with individual ballots. Ballots shall be completed and given to the Clerk for delivery to the scoring room **immediately** following completion of the round and before and final remarks. Judges will **not** provide oral critique. Comments may be written on ballots. Teams will be provided with copies of their ballots after the competition. Scoring duties among the judges will be distributed as follows:

- The Presiding Judge shall score based on overall strategy and performance – the big picture – and the clerk and bailiff.
- The Attorney Judge shall score the student attorneys' performances.
- The Witness Judges shall score the student witness's performances.

Judges shall assign a score of 1-10 in each section of their ballots. The sections should be added and the total should be written at the bottom of the ballot. Scoring is broken down as follows:

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

The back of each ballot will have a list of criteria for each role being evaluated. A good way to approach assigning points is to start each performance at a 5 (average). Then, the performance can either drop below or exceed average. This helps to avoid score inflation. Remember: a score of 1 OR 10 should be rare.

D. Penalty Points

Penalty Points should be assigned if a team member:

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

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

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

X. Appendices

A. Often Used Objections in Suggested Form

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

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

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

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

Example:

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

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

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

Judge: “Objection is overruled.”

OR

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

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

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

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

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

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

Defendant: “Yes.”

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

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

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

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

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

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

Defense Attorney: “So, then what happened?”

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

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

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

Judge: “Overruled. The statement is admissible.”

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

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

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

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

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

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

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

Example:

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

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

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

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

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

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

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

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

Witness: “Yes.”

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

Witness: “Yes.”

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

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

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

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

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

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

C. Team Roster

OREGON HIGH SCHOOL MOCK TRIAL
TEAM ROSTER

Team Code: _____

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

| MOCK TRIAL ROLE | STUDENT NAME |
|---------------------------------------------------|--------------|
| PROSECUTION TEAM | |
| Witness – | |
| Witness – | |
| Witness – | |
| Attorney – Opening Statement | |
| Attorney – Direct Examination of Witness | |
| Attorney – Direct Examination of Witness | |
| Attorney – Direct Examination of Witness | |
| Attorney – Cross-Examination of Defense Witness | |
| Attorney – Cross-Examination of Defense Witness | |
| Attorney – Cross-Examination of Defense Witness | |
| Attorney – Closing Argument | |
| Clerk | |
| DEFENSE TEAM | |
| Witness – | |
| Witness – | |
| Witness – | |
| Attorney – Opening Statement | |
| Attorney – Direct Examination of Witness | |
| Attorney – Direct Examination of Witness | |
| Attorney – Direct Examination of Witness | |
| Attorney – Cross Examination of Plaintiff Witness | |
| Attorney – Cross Examination of Plaintiff Witness | |
| Attorney – Cross Examination of Plaintiff Witness | |
| Attorney – Closing Argument | |

Bailiff

E. Rule 26 Reporting Form

**RULE 26 - REPORTING RULES VIOLATION FORM
FOR TEAM MEMBERS INSIDE THE BAR
(PERFORMING IN THIS ROUND)**

THIS FORM MUST BE RETURNED TO THE TRIAL COORDINATOR ALONG WITH THE SCORESHEETS OF THE SCORING JUDGES.

Round (circle one) **1 2 3** **Pros/Plaintiff:** team code _ **Defense:** team code _____

Grounds for Dispute: _____

Initials of Team Spokesperson: ____ Time Dispute Presented to Presiding Judge: _____

Hearing Decision of Presiding Judge (circle one): **Grant Deny** Initials of Judge: _____

Reason(s) for Denying Hearing: _____

Initials of Opposing Team's Spokesperson: _____

Presiding judge's notes from hearing and reason(s) for decision: _____

Signature of Presiding Judge

F. Rule 29 Reporting Form

**RULE 29 - REPORTING RULES VIOLATION FORM
FOR USE BY PERSONS BEHIND THE BAR
(NOT PERFORMING IN THIS ROUND)**

*Non-Performing team members wishing to report a violation must promptly
submit this form to competition coordinator*

Date: _____ **Time Submitted:** _____

Person Lodging: _____ **Affiliated With:** (Team Code) _____

Grounds for Dispute: _____

Initials of Competition Coordinator: _____ Time Dispute Presented to Coordinator: _____

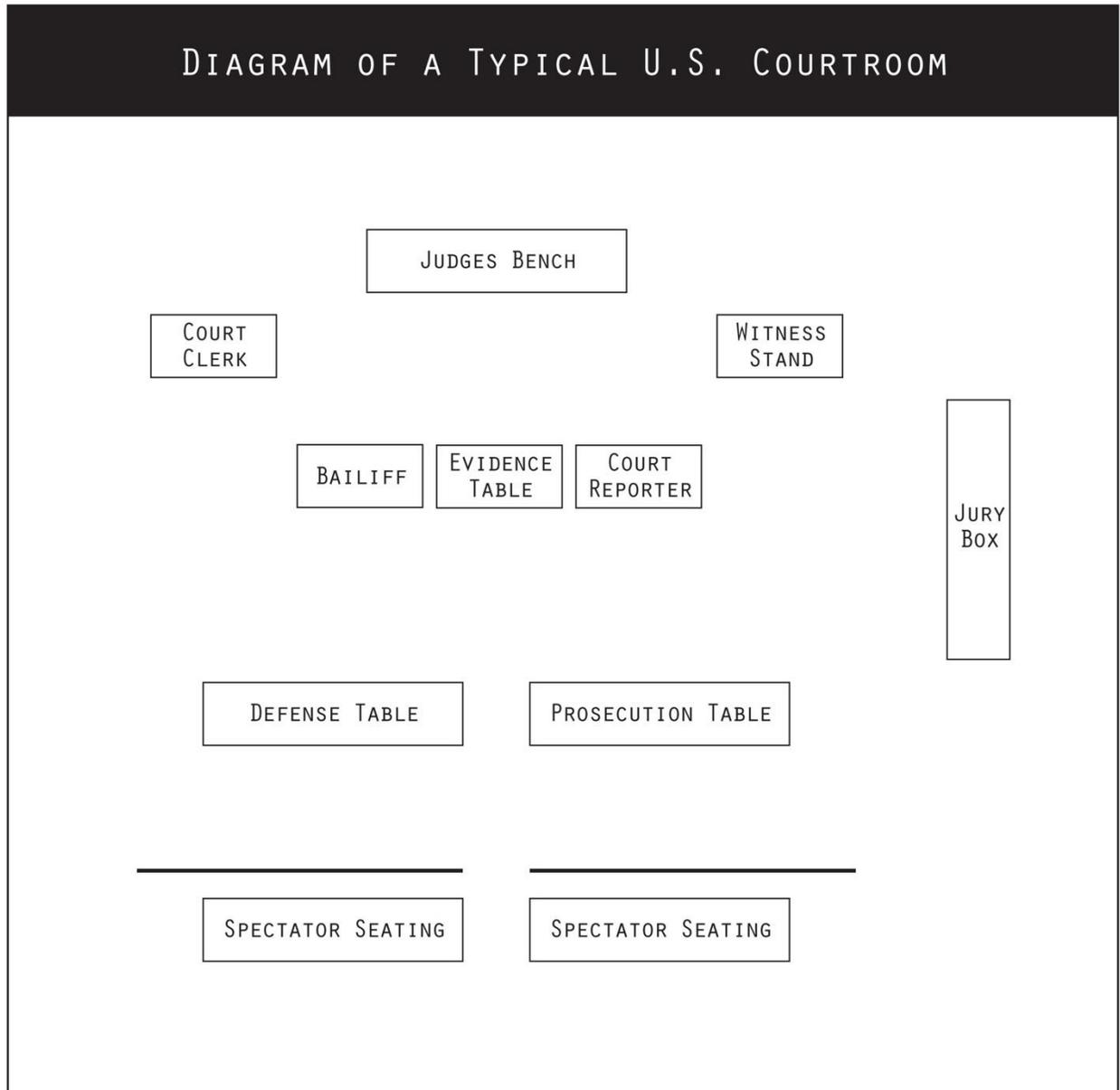
Notes From Hearing: _____

Decision/Action of Coordinator: _____

Signature of Competition Coordinator

Date /Time of Decision

G. Courtroom Diagram



H. Notes