

*The Florida Middle School Mock
Trial Virtual
Competition Packet
State of Florida
v.
Jesse Woodson*

*Adapted with Permission from People v. Woodson by the
Constitutional Rights Foundation
601 Kingsley Drive
Los Angeles, California 90005
Phone: 213-487-5590 Website: www.crf-usa.org*

Revised December 2, 2015

*In collaboration with:
The Florida Association for Women Lawyers*



The Florida Law Related Education Association, Inc.

The Florida Law Related Education Association, Inc.
2930 Kerry Forest Parkway, Suite 202
Tallahassee, Florida 32309
Office (850) 386-8223 • Fax (850) 386-8292
E-mail: ECrowe@flrea.org
• Web site: <http://www.flrea.org>

**MIDDLE SCHOOL MOCK TRIAL COMPETITION
2015-2016**

Dear Educator,

Thank you for your interest in the Middle School Mock Trial Competition co-sponsored by the Florida Law Related Education Association, Inc. and the Florida Association for Women Lawyers (FAWL). The mock trial program is tailored to meet the needs of middle school students and to take place within two or more class periods. Educators have the option of requesting an attorney volunteer to aid in conducting the mock trial and FAWL will do its best to fulfill those requests. Trials will be conducted and recorded in the classroom and submitted for judging directly to FAWL as noted in the following directions. The trials will be judged in accordance with the attached rules utilizing the score sheet provided. Teachers should review the score sheet with students to prepare them for the judging requirements in the simulation.

The winning team will be recognized in the FAWL newsletter. Awards will be provided to the teacher and the individual students participating and funds will be provided for a pizza party final celebration to be held in the classroom with the sponsoring local FAWL chapter. Further details are included below, including the final due date that all registration packets and recordings should be received at the address below no later than **May 6, 2016**.

The program objectives are as follows:

- Increase student understanding of and interest in the legal system
- Enable future generations to recognize the role and impact of women in the legal profession.
- Generate interest in law-related careers

Thank you for considering participating in the middle school mock trial program. The program will help you meet the seventh grade civics benchmark:

SS.7.C.2.6 Simulate the trial process and the role of juries in the administration of justice.

Sincerely,

FLREA, Inc. & FAWL

Instructions

1. Read the Rules of Competition (see page) and sign the form acknowledging that you have read and understand the rules of competition.
2. As part of your civics or law instruction, differentiate between civil and criminal trials; trial and appellate courts; court procedures; and the role of the jury in the administration of justice. Thoroughly review the stipulations and jury instructions. For additional classroom materials, contact the Florida Law Related Education Association, Inc. at staff@flrea.org.
3. Contact FAWL to request an attorney volunteer if needed at fawlmocktrial@gmail.com. Assign students to roles and work to prepare opening and closing arguments, develop questions for direct and cross examination, and practice the simulation. This project includes roles for attorneys, witnesses, jury members, the bailiff, etc. Your attorney coach or a local lawyer may serve as the judge.
4. After practicing the simulation, videotape the trial and submit with registration materials listed below. This video will serve as your entry into the Florida Middle School Mock Trial competition and will be assessed based on the attached rubric and score sheet to determine a winner.
5. **Submit the entry packet and electronic recording** of the trial via mail to arrive by **May 6, 2016**.
6. A winner will be announced on or after May 16, 2016.

Checklist to Turn in Packet

- Registration Form
- Student Release forms (to be completed by the guardian of each student) for posting of the winning Middle School Mock Trial video
- DVD, CD or Flash Drive with recording of trial saved in a universal format
- Photo of Participants (Students, Teacher, and attorney/law student volunteers)
- Evaluation Form

Mail packets to:

The Florida Law Related Education Association, Inc.
2930 Kerry Forest Parkway, Suite 202
Tallahassee, Florida 32309

**MIDDLE SCHOOL MOCK TRIAL COMPETITION
REGISTRATION FORM
2015-2016**

I have read and understand the rules of competition as outlined in this competition packet.
_____ (Initial)

Sponsoring Teacher/Group Leader Information

Teacher: _____

Phone Number: _____ Fax Number: _____

Preferred E-mail Address: _____

School Information

School: _____

Mailing Address: _____

City: _____ State: Florida Zip: _____ County: _____

Phone Number: _____ Fax Number: _____

Principal Name: _____

Class/Student Information

Name of Class/Course or Club: _____

Grade Level: _____

Please attach a team roster with the name of the students and the role they will be playing.

Date of Trial: _____

FAWL Information

_____ Check here if you would like to request an attorney volunteer from the Florida Association for Women Lawyers.

If this project is put on in conjunction with the support of a FAWL chapter, please include the following information:

(Optional) FAWL Chapter Information

Name of Chapter: _____

Chair of Mock Trial Program: _____

Preferred E-mail Address: _____

Names of Participating attorneys, judges, law students:

Student Release Form
To be completed by each team member

I hereby grant and assign to the Florida Association for Women Lawyers and the Florida Law Related Education Association, Inc., a nonprofit educational organization, its agents, designees, successors, assigns, or its clients, title and interest to video and photographic reproductions of below named child and consent that such footage and photographs may be used in the educational and promotional materials of the Florida Law Related Education Association, Inc..

In giving this consent I release the Florida Association for Women Lawyers and The Florida Law Related Education Association, Inc., its nominees and designees from liability for any violation of any personal and proprietary right I may have in connection with such reproduction or use.

I am the parent or legal guardians of the minor named below and have the legal authority to execute the above consent and release. I approve the foregoing.

All students who participate in the Middle School Mock Trial virtual competition must complete this form.

Date _____

Child's printed name _____

Signature (parent/guardian) _____

Address _____ **Telephone** _____

School Name: _____

Teacher Name: _____

**MIDDLE SCHOOL MOCK TRIAL COMPETITION
EVALUATION FORM
2015-2016**

Any and all feedback is welcome from teachers, students, and participating attorneys. Feedback may also be emailed to fawlmocktrial@gmail.com.

1. What were the most useful aspects of the program?

2. What were the least useful aspects of the program?

3. Do you have suggestions for future similar programs?

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	2. Dr. Sam Holloway	
	3. Chris Draper	
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TRIAL OVERVIEW

- I. The presiding judge will ask each side if they are ready for trial.
- II. Presiding judge announces that all witnesses are assumed to be sworn.
- III. Opening Statements - no objections allowed. No rebuttals allowed.
- IV. Cases presented. All witnesses must be called per side.
- V. Closing Statements - no objections allowed.
- VI. No jury instructions need to be read at the conclusion of the trial.

CASE SUMMARY

Angel Sterling recently moved with Angel's mother to Sunnyside, Florida from Nebraska. Angel has had a difficult time adjusting to the new home, especially with making friends at Sunnyside High School. There are several cliques at the high school, including a group of students who call themselves the "Pirates". An 18-year-old named Jesse Woodson sometimes associates with this group. Angel and the Pirates have been having problems with each other right from the start, and Angel has complained to school officials about the Pirates. Sydney Campbell, the vice principal, has spoken to the Pirates about the situation.

Angel spends most of the time on the computer to keep in touch with friends from Nebraska and to meet new friends online. Angel likes to use Buddylink, an instant messenger service, and FacePlace, a popular social networking site. Angel has also spoken with Campbell about his/her adjustment to Sunnyside High.

Lately, Sunnyside High School has been experiencing an increase of crime on campus, including multiple car and locker break ins. It appears that those committing these crimes are looking for electronics students leave in their cars/lockers, as well as any cash or other valuables they are able to find. On January 12, 2014, Angel was walking through the parking lot and saw a small group of people rifling through the car near Angel's. When they saw Angel approaching, the people took off running and shouted back at Angel: "If you ever tell anyone about this, you'll get what's coming to you, loser!" Angel went into the school and reported what he/she saw, spoke briefly with the police, and then went home. When the police investigated, they found a student identification card belonging to Madison Jackson lying near the car, which had been broken into.

The police interviewed Madison at school the next day, January 13. Madison denied being in the parking lot, and the police eventually let Madison return to class. When Madison entered the classroom, Madison's teacher Chris Draper believed that Madison made a threat against Angel. Because of Madison's alleged threat against Angel, Madison was suspended from school on January 13 for one week.

On the afternoon of February 22, Angel began to receive a string of messages through Buddylink from unrecognized users. Some messages accused Angel of being a snitch and others threatened to harm Angel. Angel blocked each person, but the messages continued to flood in from new accounts. Angel also discovered that a FacePlace page had been set up in January 2014 titled "Clip Angel's Wings." Jesse Woodson appeared as the name of the person who set up the page. The page contained postings from other students whose names Angel recognized as members of the Pirates.

Angel's mother made Angel delete all of Angel's Internet profiles and abstain from Internet usage. She also decided to keep Angel out of school for a while until the situation calmed down. During the next few weeks, Angel's mother retrieved all of Angel's homework from school, but Angel was still in such emotional distress that Angel barely completed any assignments, and Angel's grades plummeted.

Jesse was arrested and charged with violating section 784.049, Florida Statutes, the recently enacted Anti-Cyberbullying Act, which makes it a crime to bully or harass a person through electronic means.

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR SCOTT COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,

Prosecution,

v.

Case No. 11-0011-H

JESSE WOODSON,

Defendant.

_____ /

INFORMATION

In the name of and by the authority of the State of Florida:

W. George Tate, State Attorney for the Twenty-First Judicial Circuit of the State of Florida, charges that in Scott County, Florida, the above-named Defendant committed the following crimes.

COUNT 1

Between February 22 and March 11, Jesse Woodson committed Cyberbullying in violation of section 784.049, Florida Statutes by transmitting, sending, and/or posting communications by electronic means – namely, the popular internet sites FacePlace and Buddylink – with the purpose to frighten, coerce, intimidate, threaten, abuse, harass, or alarm Angel Sterling, and in furtherance of severe, repeated, or hostile behavior toward Angel Sterling.

Gabriel S. Slaten

Gabriel S. Slaten
Assistant State Attorney
STATE OF FLORIDA
SCOTT COUNTY
W. GEORGE TATE, STATE ATTORNEY
TWENTY-FIRST JUDICIAL CIRCUIT

WITNESS LIST

Prosecution:

1. Angel Sterling
2. Dr. Sam Holloway
3. Chris Draper

Defense:

1. Jesse Woodson
2. Madison Jackson
3. Dr. Brook Crane

*Each team must call all three witnesses for their respective party.

**Witnesses may be male or female.

EXHIBIT LIST

Only the following physical evidence may be introduced at trial:

- A. Narrative from Detective Cooper's police report.
- B. Printout from the FacePlace page set up by Jesse Woodson.
- C. Blackwatch log from February 22, 2014.
- D. Printout from Angel Sterling's Buddylink Message Page

STIPULATIONS

Stipulations shall be considered part of the record. Prosecution and defense stipulate to the following:

1. Florida Middle School Mock Trial Rules of Evidence and Procedure apply.
2. All of the exhibits referred to above are authentic and accurate copies of the documents. No objections as to the authenticity of the exhibits may be made. Exhibits may still be objectionable under the Florida Middle Mock Trial Rules of Evidence and will require a proper foundation for admission.
3. All witness statements were given under oath.
4. All charging documents were signed by the proper parties.
5. Jurisdiction and venue are proper.
6. The arrest warrant was based on sufficient probable cause and properly issued.
7. The contents of the Blackwatch log are accurate.
8. Dr. Holloway and Dr. Crane are qualified expert witnesses and can testify to each other's statements and relevant information they would have reasonable knowledge of from other witness statements.
9. The narrative from Detective Cooper's police report is a true and accurate recitation of the narrative from the actual police report prepared on March 15, 2014. The parties have stipulated that, because Detective Cooper is unavailable for trial, the prosecution can admit the narrative into evidence as an exhibit through Dr. Holloway, as a party working in cooperation with the police department who reviewed and is otherwise familiar with the report. However, the parties reserve any and all objections that may apply to certain portions of the narrative to the extent those portions would be objectionable if Detective Cooper were testifying to the information himself, live and on the witness stand. In that regard, the parties may argue that the narrative should be admitted by the judge only after certain redactions are made. The judge is free to accept or reject such arguments. If the judge agrees that certain redactions should be made, the redactions will be deemed to have been made constructively.
10. The absence of photographs may not be questioned.
11. All physical evidence and witnesses not provided for in the case are unavailable and their availability may not be questioned.
12. Beyond what's stated in the witness statements, there was no other forensic evidence found in this case.
13. All witness statements were taken in April 2014.
14. Angel Sterling did not respond to any of the messages posted on Buddylink or FacePlace.

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR SCOTT COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,

Prosecution,

v.

Case No. 11-0011-H

JESSE WOODSON,

Defendant.

SWORN STATEMENT OF ANGEL STERLING

1 My name is Angel Sterling. I am 15 years old and I live with my mother and
2 grandparents on 288 Gilmore Avenue, one block south of Powell Avenue. I've lived there since
3 November 2013, when my mother and I moved from Nebraska. I am now a sophomore attending
4 Sunnyside High School.

5 It's been difficult for me to adjust to Sunnyside and make new friends. For some reason,
6 the other kids at school started picking on me immediately. My old school wasn't like this at all.
7 Everyone was friendly and knew each other. Here the kids make fun of how I talk and the words
8 I use. I sometimes feel like being intelligent is viewed as a negative personality trait. When I
9 transferred, Vice Principal Campbell offered to give me an orientation of the school before
10 starting classes, which he said was standard procedure for new students and helps with their
11 adjustment to SHS. My mom said that wasn't necessary. Looking back, I wonder if that would
12 have helped, but doubt it.

13 The bullying is done by the Pirates. They're a group of troublemakers at school, and I'm
14 their favorite target. They like to punch me in the shoulder when I'm carrying my books and to
15 slam me into the lockers. The ringleader of the group is Jesse Woodson. Jesse is older and works
16 with the school computer club run by Chris Draper, one of my teachers. I have made complaints

17 about them. Jesse has come up to me a few times and told me to quit making trouble for Madison
18 Jackson and the rest of the Pirates, as if it was my fault.

19 Chris Draper and Vice Principal Campbell talk to me every so often to see how things are
20 going. They started to talk to me in early December. They told me I needed to find a social group
21 at the school and wanted me to join the computer club to meet new friends. I told them that I'm
22 fine with my online friends. They referred me to the acting school counselor, Dr. Crane, to talk
23 about my feelings. I didn't really talk to anybody, but I met with Dr. Crane to get everyone off
24 my back. I can definitely say that talking to the good doctor did nothing to help me, even though
25 everyone insisted I keep meeting with Dr. Crane. When I brought up the Pirates, the doctor
26 suggested a "meeting" between me and Jesse. I'm not crazy – I know how that would end up. I
27 wasn't even going to entertain that idea, so I said I wasn't interested.

28 I spend a lot of my time on the computer chatting with my old friends. I use the site
29 FacePlace. It allows you to create a personal profile listing your likes and interests. You can also
30 write public or private messages to people on your friends' list. I also use Buddylink for instant
31 messaging. I probably spent around two or three hours a night on average talking online. My
32 mom doesn't like it much, but I really feel that my online friends are the only ones who
33 understand me.

34 In mid-December, I was called into Campbell's office about the Pirates. I guess Draper
35 saw the Pirates messing with me. I told Campbell that the Pirates make fun of me and where I'm
36 from, call me a "freak," "nerd," and "loser," and even push me around in the hallway. Campbell
37 promised to speak to the Pirates and said that Campbell's office was always open if I had any
38 problems. I don't know what Campbell said to the Pirates, but it seemed to work for a while.

39 On the afternoon of January 12, I was walking through the parking lot, which is the
40 fastest way for me to get home. It was around 4:30 in the afternoon – I had stayed after school to
41 do some research for a project I was working on. As I was getting to the middle of the parking
42 lot, I saw some people – probably 3 or 4 – going through a car. I couldn't quite make out exactly
43 who it was. As I got closer, one of them yelled, "Here comes the loser!" and they took off
44 running in the opposite direction. As they were running away, one of them yelled, "If you ever
45 tell anyone about this, you'll get what is coming to you, loser!" I was sure it was someone with
46 the Pirates, and it sounded a lot like Jesse Woodson. I ran back into the school and told Vice
47 Principal Campbell what I saw. He called the police, they took my statement, and I ran home. I
48 didn't name anyone specifically when I talked to the principal and the police because I didn't
49 want to have the Pirates really come down on me. But if you ask me, I think Jesse and Madison
50 had something to do with the burglary. I was pretty scared after that happened. Sunnyside is a
51 small town – everyone knows where people live and I was already getting bullied at school. I had
52 no idea how far they would take things after they said I would get what was coming to me.

53 That afternoon on Buddylink, I started to accept messages from new people, who turned
54 out not to be friends. I guess the Pirates found out I'm a Buddylink user from computer lab. I'm
55 always forgetting to log out of my account. I have seen Madison, Jesse, and other Pirates in the
56 computer lab before. When I see them, I leave immediately.

57 The messages were scary and would randomly show up throughout the next month. The
58 worst was on February 22. They called me a "dirty snitch," and one of the messages by someone
59 named "Capt'n" said, "U know wut u deserve?" and they posted a picture of bullets. I also had
60 discovered that the Pirates had a page on FacePlace about me. It was called "Clip Angel's
61 Wings," and Jesse had created it. Every page lists the page's creator. A lot of nasty things were

62 written there. One comment from Jesse said, "Someone should teach that kid a lesson. BOOM.
63 LOL!" And then Madison posted that SHS would be better off without me.

64 I still didn't want to say anything, but I figured that since I never told about the car break
65 in but was being blamed anyway, there was no reason to keep it to myself. On February 25, I told
66 my mom about the messages and who I thought sent them, and she freaked out. She talked to
67 Campbell on the phone, told about the messages, said that I wouldn't be going to school until this
68 all blew over, and that I would have to quit all my online accounts for the time being.

69 It was a terrible time. I was stuck inside the house all day and all night and couldn't talk
70 to anyone else. I didn't know what the Pirates were thinking and getting ready to do to me either.
71 I got real sick and would throw up and have other stomach problems. I couldn't sleep, I stopped
72 eating, and every little sound scared me. I wasn't able to focus on my homework and was failing
73 some of my classes. My mom eventually made me go talk to a counselor and I finally decided
74 it was time to speak up for myself. My mom called the police and we showed them all of the
75 messages I had received. I told them Jesse was responsible, and then they arrested Jesse. I just
76 don't know how I am ever going to recover from this. My mom and I are talking about just going
77 back to Nebraska where I can be safe again.

78

79 *Angel Sterling*

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR SCOTT COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,

Prosecution,

v.

Case No. 11-0011-H

JESSE WOODSON,

Defendant.

_____ /

SWORN STATEMENT OF DR. SAM HOLLOWAY

1 My name is Sam Holloway. I'm 50 years old and a psychologist who specializes in
2 juvenile counseling services. I hold a PhD from Sunshine State University and a Certified
3 Clinical Mental Health Counselor through the National Board for Certified Counselors. I have
4 been working with juveniles for 20 years, with my focus on those who exhibit post-traumatic
5 stress disorder symptoms. I work in cooperation with many police agencies to determine the
6 impact of traumatic events on juvenile victims.

7 In the past 8 years we have seen a dramatic change in how juveniles interact with one
8 another through social media. We find that those who engage online have a reduced sense of
9 responsibility for the things they say and believe there are no consequences for the disturbing
10 words they so openly publish. I have committed myself to helping those who are the victims of
11 online bullying and helping them find their voice where they feel they have been threatened into
12 silence.

13 I first met Angel at the beginning of March in 2014. Angel is a bright, sensitive, and kind
14 individual. Upon our first meeting, however, it was very apparent that Angel was experiencing

15 some very real difficulties at Sunnyside High School. Angel was withdrawn and very timid about
16 speaking about his/her interactions with other students at the school. We spent most of our time
17 together talking about Angel's academic interests and friends from Nebraska, who Angel kept in
18 touch with through various social media sites. When I asked about any new friends made through
19 social media in past months, Angel shut down and withdrew from the conversation. After these
20 initial meetings, it was apparent there had been some trauma that was responsible for Angel's
21 change in personality and grades. I decided that I would need to administer an emotional
22 evaluation to assess the level of trauma. I also requested print outs of the social media pages
23 from Angel's mother to assess the statements used by those doing the alleged bullying and
24 determine if they would, in fact, have an impact on Angel. I was also provided Detective
25 Cooper's report to review so I could form a complete picture of the situation.

26 After reviewing the test results and the social media print outs, I concluded that Angel
27 was suffering from lasting emotional trauma from the bullying s/he had experienced. In fact,
28 I diagnosed Angel with post-traumatic stress disorder ("PTSD") using a PTSD diagnostic test.
29 There are six criteria required to be diagnosed with PTSD: first, they must experience a traumatic
30 incident where they are threatened; second, they must somehow relive that traumatic experience;
31 third, they must experience avoidance symptoms; fourth, , they must experience hyperarousal
32 symptoms; fifth, these symptoms must be present for over a month; and finally, the symptoms
33 must negatively impact the person's life.

34 It is my conclusion that Angel meets all six of these criteria. I also believe that the PTSD
35 stems not only from Jesse Woodson's harassment by way of the FacePlace page s/he created, but
36 also the seemingly anonymous threats received through BuddyLink. It is clear the Angel feels
37 frightened and helpless, exemplified in his/her withdrawn nature and avoidance of school. Both

38 the physical and psychological symptoms displayed by Angel – vomiting, loss of appetite,
39 insomnia, and paranoia – show the negative impact this bullying had on his/her life. There is no
40 question that the verbal torment inflicted by Jesse Woodson and those influenced by Jesse caused
41 Angel’s emotional distress and poor performance at school.

42 *Dr. Sam Holloway*

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
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STATE OF FLORIDA,

Prosecution,

v.

Case No. 11-0011-H

JESSE WOODSON,

Defendant.

_____ /

SWORN STATEMENT OF CHRIS DRAPER

1 My name is Chris Draper. I'm 33 and I teach math and computer teacher at Sunnyside
2 High School. I graduated from Freemont University with a dual degree in mathematics and
3 computer science and then went on to get my master's in education from Cortez University.

4 I've been at SHS for seven years now. I've really enjoyed my time there though things
5 have gotten more difficult in recent years. Bullying has become quite prevalent. I take bullying
6 seriously and try to make sure my classroom is a safe environment for all students, but it's
7 impossible to catch everything. I'm happy the state legislature stepped up with that anti-
8 cyberbullying law that was passed recently.

9 Angel Sterling joined my class earlier this school year and right from the start had trouble
10 fitting in. Some kids in school call themselves the Pirates and try to act tough. In mid-December,
11 I observed the Pirates making fun of Angel's family, where Angel came from, and the fact that
12 Angel was smart. I sent these students to see Campbell.

13 I was concerned about Angel, so I reached out to Angel's mother. It sounded like Angel
14 had not made any friends at SHS. I suggested that Angel join the school's computer club because
15 he was gifted with computers and math and was easily one of my top students, but also because

16 it would provide the opportunity to meet new friends. Angel told me s/he was not interested. I
17 suggested that Angel meet with the school counselor to discuss how s/he was feeling about
18 school. I don't know if Angel ever followed through on that.

19 Jesse Woodson used to be a student of mine. He didn't have the best reputation, but I've
20 always thought Jesse was pretty much a good kid. When Jesse applied for an internship with our
21 computer lab, I was happy. Jesse has always been something of a natural when it comes to
22 computers. Jesse comes in three days a week to help me with the after-school computer club and
23 shows up now and again at other times to use the computer lab.

24 The school computer lab adjoins my main room. Except for when I conduct my computer
25 class twice each day, the room is open to anyone in the school, provided they respect the
26 equipment. The computers are all monitored by a software program called Blackwatch, which
27 makes sure the students aren't looking up inappropriate material. Social networking sites like
28 FacePlace had been previously allowed, but after this whole incident they've been added to the
29 banned sites list.

30 Blackwatch requires the students to log in with a personal access code created for each
31 student. The code is good throughout that student's time at SHS and expires upon graduation.
32 When Jesse began the internship, I created an access code to use the school's computers. When
33 students stop using the computer they're supposed to log out. The computer also logs out
34 automatically after being idle for half an hour. The students routinely forget to log out, and since
35 so many students go in and out of the lab all the time, the automatic logouts aren't always
36 activated. Often students are using a computer that might be logged in under a different student's
37 access code.

38 One day in mid-January, the police interrupted my class. They had found Madison
39 Jackson's school identification card at the scene of a car break in the afternoon before. The police
40 spoke to Madison, but no arrest was made. When Madison returned to class, I heard Madison tell
41 a classmate, "Angel snitched on me and now I'm going to have to hunt that little rat down after
42 school." I immediately sent Madison to Sydney Campbell's office. I'm not sure what happened,
43 but Madison was in computer club after school. I assumed that the vice principal gave Madison a
44 warning, but I learned the next day that Madison was suspended from school for a week.

45 I was told that Madison, who is known to be a member of the Pirates, had been
46 implicated in the car break ins that had been happening. I knew Jesse was affiliated with that
47 group. In the interest of the school, I told Jesse we would need to suspend his/her internship until
48 the issue was cleared up. Jesse stormed out, mumbling something about Angel – which didn't
49 make sense at the time.

50 Towards the end of February, I received word from Campbell that Angel would be out of
51 school for an extended amount of time, and I should drop off all my assignments in the main
52 office for Angel's mother. I thought this was strange, but I provided the requested assignments.
53 When Angel's assignments were returned to me, I was shocked by how bad they were. Angel's
54 work had fallen off considerably, with most of the work receiving D's or even F's.

55 Soon after Angel withdrew from school, I heard that Jesse was arrested based on the
56 anti-cyberbullying statute because of some things he allegedly said about Angel. I received a
57 request from Sunnyside Police Department for the Blackwatch log from February 22 and the
58 master login code. I promptly provided the information.

59

60

Chris Draper

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR SCOTT COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,

Prosecution,

v.

Case No. 11-0011-H

JESSE WOODSON,

Defendant.

_____ /

SWORN STATEMENT OF JESSE WOODSON

1 My name is Jesse Woodson. I'm 18 years old and live at 445 Gilmore Avenue. I attended
2 high school for two years, but I had some family stuff come up so I dropped out and got my
3 GED instead. I attend a local junior college part-time. I worked at a grocery store for a while and
4 then at a restaurant, but both jobs were cut back. Until recently, I had an internship working as an
5 assistant in a computer club after school from 3:00-4:00 at my old high school, SHS, a few times
6 a week. I spend the rest of my time now helping out at home and taking care of my little sister
7 Harriet who is 14 and in ninth grade at SHS. For whatever reason, I don't have the best
8 reputation. I come from a rough area of town, but I work hard and look out for my little sister
9 and my friends.

10 Because I'm at Harriet's school a lot, I get to be like a parent or mentor to a lot of the
11 students, including a group called the Pirates. I give them advice and help them out in a way no
12 one ever did for me. They even call me the "Captain," and I really like how that sounds. One of
13 the things I do for the Pirates and other kids is teach them all about computers. I did well in

14 school and I've always been really great with computers. Everyone is always coming up to me
15 with questions and asking for help with making then homework and projects look better. I really
16 like making fake websites and messing around with the designs. I'm also really into graphic
17 design. I often leave my school assigned access code logged in so I can teach the students about
18 a new program I found or an interesting website.

19 So one day in early December, the Pirates came up to me and said that this kid named
20 Angel Sterling was causing problems for them and even got some of them in trouble. I didn't
21 know what was going on. A lot of my friends were having problems with Angel so I spoke to
22 Angel myself a few times to make sure Angel didn't cross the line. Angel told me one time that
23 he hated living in Sunnyside and said, "I'll do anything to get back to Nebraska." I think Angel
24 is trying to get attention by stirring up drama.

25 Then in January, Angel tried to frame Madison for all those campus car break ins.
26 Madison didn't get arrested, but got suspended from school instead. The same day that Madison's
27 suspension began (January 13), Chris Draper tells me not to come around to the computer club
28 anymore. A lot of the Pirates wanted to beat Angel up, but the last thing I wanted was for any of
29 them to end up in juvenile detention. Madison in particular was really upset, and I was worried
30 Madison might do something without thinking it through.

31 On January 15, I decided to set up a page on FacePlace. FacePlace is a social networking
32 site where friends can post messages to each other and discuss topics in forums called threads. I
33 thought that if the Pirates had a place to go and vent about Angel, then maybe it would calm
34 them down. I gave it a provocative title to get them to sign up and soon everyone was on there
35 talking about what they'd like to see happen to Angel. I even said some things too. I posted,

36 "Someone should teach that kid a lesson. BOOM. LOL!" I was just kidding around and being
37 funny.

38 I was at the computer club on the day the Buddylink messages were sent, but I did not
39 send Angel any messages. I used to use Buddylink, but now I find it a little juvenile. Although I
40 don't use Buddylink, I often show students how to use it. I do not have an active Buddylink
41 account.

42 I thought things had died down until Detective Cooper showed up at my house one day.
43 He was asking all kinds of questions about my role at the school, who my friends were, what
44 social media accounts I had, and what my relationship was to Angel Sterling. I told him Angel
45 and I have zero relationship and that Angel is always looking to get people in trouble. The
46 detective left and I thought that the whole thing would drop since I hadn't done anything wrong.
47 But a couple of days later, they came back and arrested me for cyberbullying Angel.

48 *Jesse Woodson*

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR SCOTT COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,

Prosecution,

v.

Case No. 11-0011-H

JESSE WOODSON,

Defendant.

_____ /

SWORN STATEMENT OF MADISON JACKSON

1 My name is Madison Jackson. I'm 16 years old and in the tenth grade at Sunnyside High
2 School. People like to call me "Mad Jack" because they think I'm crazy. I'm not really crazy
3 though: I've just got style.

4 I belong to the Pirates, a bunch of friends from Sunnyside. We come from a tough area of
5 town and that doesn't always get us the best reputation – even if it's not true. We're just friends
6 looking out for one another.

7 Jesse Woodson has an undeserved reputation too. Jesse is really smart, especially with
8 computers. Jesse is great at making web pages and graphic designing. S/he also knows computer
9 programs and teaches us all about them in computer club. Some students use Buddylink, but I
10 don't have an account. I don't understand why anyone would use Buddylink; I prefer to call my
11 friends. I did not send Angel any stupid Buddylink message.

12 Angel Sterling moved to town late last fall. I knew Angel was going to be a problem right
13 from the start. Angel has no respect for anyone and doesn't understand how to make it in
14 Sunnyside. Angel likes to show off in class and will smirk when other students don't know the

15 answers to questions. I've said some things to Angel about it, but Angel just mocked me. One
16 time after we were in the same group for an assignment, Angel looked at me and said "Good job
17 this time. I'm impressed that you knew the answer." It was really snide. All of us Pirates feel the
18 same way. We don't want anything to do with Angel, and we make that feeling known.

19 I wouldn't call any of it bullying, but even if it was, it's not like it was ever serious. Angel
20 did rat on us about it anyway, and Draper sent us to the vice principal's office. Campbell warned
21 us to leave Angel alone and gave us detention. Campbell also said we would be suspended if the
22 bullying continued. I don't understand what the big deal was. If you ask me, I would say that
23 Angel is really sensitive.

24 I thought everything was cool, but in January, I got called into the vice principal's office
25 again. The police were there, and they wanted to talk about a break-in that happened in the
26 school parking lot. They seemed to think I had something to do with it. I've never been in trouble
27 for anything like that. They had my school identification card, but I don't know how or where
28 they got it. I had lost that card weeks earlier. It had been in my bag at school, but it just vanished
29 one day. At the end of the interview, the police just let me go back to class, because they had
30 nothing.

31 I really couldn't believe what was happening. I figured that Angel was trying to get back
32 at me for the cold shoulder, but the whole mess was so unbelievable. I was worried about what
33 would happen if Angel kept on making up stories. Angel is this star student and everyone thinks
34 I'm a bad kid, who are adults going to believe in the end?

35 So the incident made me really mad. I told the other Pirates and Jesse about it all that
36 night and they were pretty mad too. We all got together and started this burn page about Angel
37 on FacePlace. I knew that Angel liked to use those sites too, and I was hoping Angel would see

38 the posts and regret making up stories about me. We all just wrote down what we thought of
39 Angel. It was just talk. I mean if you did act on it after writing it all down first, you'd have to be
40 some kind of moron, right? Everyone was involved and said things, everyone in the Pirates that
41 is. I think it had an effect. When I came to school the next day, I found out I was suspended for a
42 week. Draper thought I said something about Angel after I got back from the cops, but I swear I
43 didn't. Later the Pirates told me Angel stopped coming to school.

44 I think this whole thing is a bunch of crap. I know Jesse and s/he would never say
45 anything as a threat or to scare someone. People are just too sensitive and read into things too
46 much. Everyone said things about Angel on the computer, including myself, to be completely
47 honest. And everything we said was true. The cops just want to pin it on Jesse because that's the
48 easiest thing to do.

49 And now I recently found out that the school is suspending me for four weeks because
50 they found out about the FacePlace page and the things I said about Angel. This is all just
51 unbelievable.

52 *Madison Jackson*

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR SCOTT COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,

Prosecution,

v.

Case No. 11-0011-H

JESSE WOODSON,

Defendant.

_____ /

SWORN STATEMENT OF DR. BROOK CRANE

1 My name is Dr. Brook Crane. I am 45 years old, and I am currently the head of the
2 counseling services for Sunshine School District. I have my PhD in psychology from Everglades
3 University where I was an instructor specializing in school counseling services. I have been
4 published in many academic journals and am an active member of the American Counseling
5 Association.

6 I serve many of the schools in the district by overseeing counseling services provided to
7 the students. In some cases, I fill in as the school counselor when there is a need. Sunnyside High
8 School's counselor recently took a leave of absence so I have been serving as the interim
9 counselor there, meeting with students to discuss a variety of issues from academics to their
10 emotional well-being.

11 Angel Sterling was referred to me by Vice Principal Campbell in December before the
12 winter break. Angel was new student at SHS and seemed to be having trouble fitting in with the
13 other students, particularly those who associate with a group called the Pirates. I find that these
14 students are often misunderstood. Many perceive them to be a rough group of students simply

15 because of where in our community they live. This is in an unfair generalization and something
16 we as a school district work to combat. Many have worked against their circumstances to excel
17 in the school environment despite these misperceptions. One wonderful example is Jesse
18 Woodson. Jesse dropped out of school due to unfortunate family circumstances requiring him to
19 seek a part time job to help support his/her family. Even with this challenge, Jesse sought out a
20 GED course and passed the exam on the first attempt, scoring very high which was a reflection
21 of his abilities in the classroom.

22 Angel Sterling, at the request of the Vice Principal, Chris Draper, and Angel's mother,
23 attended three counseling sessions with me. In the time we spent together it was clear that Angel
24 was angry about having to move to Sunnyside from Nebraska and had intentionally not sought
25 out making new friendships at school. Angel expressed negative feelings towards the Pirates
26 without any real evidence as to why s/he felt that way. When I proposed a meeting between Jesse
27 Woodson and Angel Sterling as a means resolving the issue, Angel said s/he was not interested
28 and it was not worth talking about. This is a case of a student who does not want to be here in
29 Sunnyside and made no effort to fit in to this new environment. I requested biweekly meetings
30 with Angel so I could closely monitor the situation.

31 At the end of March I was approached by Detective Cooper about Jesse Woodson and
32 his/her role at the school. The Detective explained that Jesse was implicated in cyberbullying of
33 Angel Sterling, which was a complete surprise to me. I had met with Angel five times since the
34 start of the semester and Angel never mentioned any online harassment or threats. The Detective
35 showed me the social media pages and the things that were said to Angel. As a school counselor
36 I see this kind of thing all the time. Where I do not like it and I discourage it, it is quite prevalent
37 and is usually short-lived. I do not have the technical expertise to say who is behind the social

38 media posts in question. What I do know is that Angel never wanted to be in Sunnyside and as a
39 result of these posts, his/her parents are considering sending Angel back to Nebraska. Angel is
40 getting exactly what s/he wants as a result of this online confrontation.

41

Dr. Brook Crane

EXHIBIT A

Narrative from Police Report by Detective Frankie Cooper dated March 15, 2014

On February 25, 2014, I received call from Mrs. Rosa Sterling, the mother of the victim, Angel Sterling. Mrs. Sterling informed me that Angel had been receiving threats from a group of students at Angel's High school called the Pirates. Mrs. Sterling told me that the Pirates had accosted Angel at school and through online programs like FacePlace and Buddylink. She said the abuse had intensified after Angel witnessed a car break in. It had gotten so bad that Angel had been kept out of school for several weeks and was demonstrating emotional distress.

Mrs. Sterling told me that the leader of the group was a kid named Jesse Woodson and that Jesse had written threatening statements on a social media post, causing Angel to fear for his/her life.

After viewing the social media posts and speaking with Angel, I proceeded to the Woodson residence. Jesse denied knowing anything about the BuddyLink posts and acknowledge he had created a FacePlace page for people to "vent" about Angel.

The next day I began to investigate the electronic messages received on the victim's computer through the instant messaging service Buddylink. The specific message was from a user named "Capt'n" and said, "U know wut u deserve? " followed by a picture of bullets. Like other instant messaging services, Buddylink allows users to create a unique profile and then directly connect to other available users. Each user has a specific list of friends to easily access. A user can, however, also use a search engine to find any user regardless of whether they are friends or not.

When users send messages through Buddylink, each computer links their IP addresses, and a record of the message is stored on each computer. It's similar to how phone tracing works. I used a tracing program on Angel's computer to discover that the message in question came from a computer at Sunnyside High School.

Through my investigation, I discovered the school uses a software program called Blackwatch, which I'm very familiar with. Blackwatch supervises Internet content for children. It also requires anyone who wishes to use the computer to log in. Blackwatch keeps a record of all logins stored in the database on the computer. That database is completely inaccessible to all users except the one who has the master user login. In this case, the computer teacher, Chris Draper, had the master login. I requested the logs, all access codes, and the master user login from Chris Draper. I used it to retrieve the Blackwatch log and discovered that when the computer sent the message to Angel's computer (3:45 p.m.), Jesse Woodson's access code was logged in to that computer.

Based on all the available evidence I had probable cause to arrest Jesse Woodson for the cyberbullying of Angel Sterling, and I arrested Jesse Woodson that evening.

Detective Frankie Cooper

EXHIBIT B

FacePlace

HOME

MESSAGES

FRIENDS

PAGES

SETTINGS

Clip Angel's Wings

Group

Post a Note!

New Note:

Post It!

Cancel

Kris Mathers: Do you think everyone from where ever this kid came from is such a nasty rat? We should put a dead rat in Angel's locker as a welcome back present...if that pansy ever has the guts to come back.

February 28, 2014.6:26pm

Comment

Madison Jackson: Probably. Should go back to where they came from.

February 28, 2014.6:30pm

Peyton Simpson: Angel is SOOOOO weird and such a stuck up little jerk – always thinking they're better than everyone else. Sry - not all of us are dating our textbooks like you.

February 27, 2014.7:26am

Comment

Warren Peters: Still 2 scared 2 come to school I guess.

February 25, 2014.12:06am

Comment



Send a Message
Join this Group
Report this Group

About this Group:

This group is all about a SHS student whose mouth is always running to teachers and principals. Feel free to sound off!!

126 Members

Creator:

Jesse Woodson

Created on:

January 15, 2014

Warren Peters: Aw poor little baby – had to stay home cause they were scuueured. Little punk can't even show around school. Good – stay home. No one wants u here.

February 25, 2014.3:15pm

Comment

Madison Jackson: SHS would be better off without a nothing like Angel. Your life at SHS is over.

February 22, 2014.10:47pm

Comment

Martina Sanders: HARSH!

February 22, 2014.10:49pm

Jesse Woodson: Haha.

February 22, 2014.10:51pm

Amy Jacobs: Angel is suuuuuch a loser. I think Mikey said it best – Angels a freak.

February 22, 2014.11:42pm

Melissa Grayson: Bahahaha it was soooo funny today. Angel tripped + dropped all kinds of books and papers on the floor and everyone was just staring and cracking up. What a dork! Wish you had seen it Mad Jack – u would have died laughing. Miss u – how long you out 4?

January 17, 2014.4:21pm

Comment

Madison Jackson: Little jerk got me kicked out for a week. Miss u 2.

January 17, 2014.4:58pm

Madison Jackson: Angel told the whole world I was part of that robbery – that loser needs to pay. Chubby nerd like that should never have been born.

January 16, 2014.5:47pm

Comment

Jesse Woodson: Someone should really teach that kid a lesson. BOOM. LOL.

January 16, 2014 6:04pm

Tanya Smith: Hahaha. Ur so funny Captain

January 16, 2014 6:06pm

Danny Livingston: That sux Mad Jack!

January 16, 2014 6:10pm

Marcus Walker: U now we got ur back

January 16, 2014 6:22pm

Ally Patel: Oh no Maddy! What a bigmouth. Nvr liked that kid.

January 16, 2014 7:02pm

Tucker Landings: That kids in trble now...

January 16, 2014 7:16pm

Mikey Fernandez: Someone finally made a FacePlace page about this little freak – 2 funny.

January 15, 2014.4:45pm

Comment

Jesse Woodson: U guys needed somewhere to vent about that kid. Ur welcome – LOL.

January 15, 2014 6:19pm

Blackwatch

Computer and Internet Access Monitoring Systems

Computer Access Log

22 February 2014

Master Login: C. Draper

Authorization Code: 56901810

User ID (PAC): WoodsonJ

Registered to: Jesse Woodson

Authorization Code: 45492962

Log in: 1535

Log out: 1625 (Automatic – time out)

User ID (PAC): PrichardM

Registered to: Morgan Prichard

Authorization Code: 65299642

Log in: 1500

Log out: 1515 (Manual)

User ID (PAC): FernandezM

Registered to: Michael Fernandez

Authorization Code: 51889292

Log in: 1442

Log out: 1455 (Manual)

User ID (PAC): NanceP

Registered to: Peter Nance

Authorization Code: 51884812

Log in: 1245

Log out: 1350 (Automatic – time out)

User ID (PAC): BushellC

Registered to: Carlton Bushell

Authorization Code: 29949842

Log in: 1203

Log out: 1241 (Automatic – time out)

Blackwatch

Computer and Internet Access Monitoring Systems

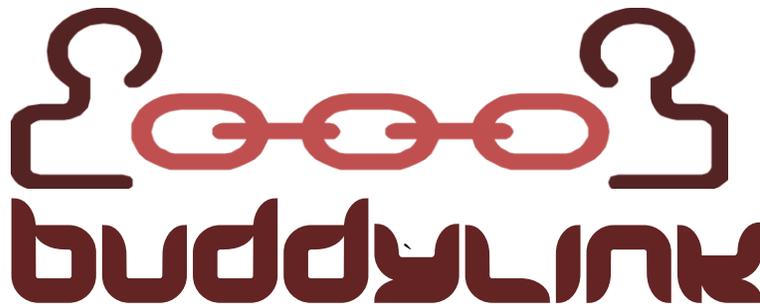
User ID (PAC): BurkeH
Registered to: Harrison Burke
Authorization Code: 65618185
Log in: 1102
Log out: 1151 (Manual)

User ID (PAC): SterlingA
Registered to: Angel Sterling
Authorization Code: 89784156
Log in: 0945
Log out: 1042 (Automatic – time out)

User ID (PAC): BlackN
Registered to: Nicole Black
Authorization Code: 14151561
Log in: 0909
Log out: 0953 (Automatic – time out)

User ID (PAC): MarksT
Registered to: Toby Marks
Authorization Code: 51516266
Log in: 0801
Log out: 0814 (Manual)

User ID (PAC): MichaelsP
Registered to: Patricia Michaels
Authorization Code: 78594631
Log in: 0736
Log out: 0755 (Manual)



HOME

PROFILE

MESSAGES

SETTINGS

SEARCH



Logged in as:

NBAngel

> FRIENDS (148)

CONVERSATIONS

- Capt'n
- Huskers422 AWAY
- GmaString
- JTB4U AWAY
- MadJax AWAY
- KGM1
- SHSLAX34

GmaStling says: Hey honey! How are you?

Message sent at 2:21pm – 02.22.14

NBAngel is AWAY

NBAngel has returned at 5:31pm

NBAngel says: Hey Gma – doing okay. Trying to keep busy – study, study, study.

Message sent at 5:33pm – 02.22.14

SEND

Capt'n says: Ur such a nark. Every1 hates u. U know wut u deserve?



Message sent at 3:52pm – 02.22.14

NBAngel is AWAY

NBAngel has returned at 5:31pm

SEND

KGM1 says: Ur a loser with no life. Go back where u came from.

Message sent at 4:57pm – 02.22.14

NBAngel is AWAY

NBAngel has returned at 5:31pm

SEND

SHSLAX34 says: You're nothing but a dirty snitch. If I were you Angel, I would keep an eye on my wings - you pimple faced loser.

Message sent at 2:33pm – 02.22.14

NBAngel is AWAY

NBAngel has returned at 5:31pm

SEND

APPLICABLE STATUTES

Florida Statute § 784.049: Cyberbullying¹

(a) As used in this section:

(1) “Communication” means the electronic communication of information of a person's choosing between or among points specified by the person without change in the form or content of the information as sent and received; and

(2) “Electronic means” means any textual, visual, written, or oral communication of any kind made through the use of a computer online service, Internet service, telephone, or any other means of electronic communication, including without limitation to a local bulletin board service, an Internet chat room, electronic mail, a social networking site, or an online messaging service.

(b) A person commits the offense of cyberbullying if:

(1) He or she transmits, sends, or posts a communication by electronic means with the purpose to frighten, coerce, intimidate, threaten, abuse, harass, or alarm another person; and

(2) The transmission was in furtherance of severe, repeated, or hostile behavior toward the other person.

(c) The offense of cyberbullying may be prosecuted in the county where the defendant was located when he or she transmitted, sent, or posted a communication by electronic means, in the county where the communication by electronic means was received by the person, or in the county where the person targeted by the electronic communications resides.

(d) Cyberbullying is a Class B misdemeanor.

¹ This is a fictional Florida statute.

Florida Statute § 1006.149: Antibullying policies²

(a) The Legislature finds that every public school student in this state has the right to receive his or her public education in a public school educational environment that is reasonably free from substantial intimidation, harassment, or harm or threat of harm by another student.

(b) As used in this section:

- (1) “Attribute” means an actual or perceived personal characteristic including without limitation race, color, religion, ancestry, national origin, socioeconomic status, academic status, disability, gender, gender identity, physical appearance, health condition, or sexual orientation;
- (2) “Bullying” means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that may address an attribute of the other student, public school employee, or person with whom the other student or public school employee is associated and that causes or creates actual or reasonably foreseeable:
 - (A) Physical harm to a public school employee or student or damage to the public school employee's or student's property;
 - (B) Substantial interference with a student's education or with a public school employee's role in education;
 - (C) A hostile educational environment for one (1) or more students or public school employees due to the severity, persistence, or pervasiveness of the act; or
 - (D) Substantial disruption of the orderly operation of the school or educational environment;
- (3) “Electronic act” means without limitation a communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless phone or other wireless communications device, computer, or pager;
- (4) “Harassment” means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment; and
- (5) “Substantial disruption” means without limitation that any one (1) or more of the following occur as a result of the bullying:
 - (A) Necessary cessation of instruction or educational activities;
 - (B) Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;

² This is a fictional Florida statute.

(C) Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or

(D) Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment.

(c) Bullying of a public school student or a public school employee is prohibited.

(d) A school principal or his or her designee who receives a credible report or complaint of bullying shall promptly investigate the complaint or report and make a record of the investigation and any action taken as a result of the investigation.

(e)(1) The board of directors of every school district shall adopt policies to prevent bullying.

(2) The policies shall:

(A)(i) Clearly define conduct that constitutes bullying.

(ii) The definition shall include without limitation the definition contained in subsection (a) of this section;

(B) Prohibit bullying:

(i) While in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, at school-sanctioned events; or

(ii)(a) By an electronic act that results in the substantial disruption of the orderly operation of the school or educational environment.

(b) This section shall apply to an electronic act whether or not the electronic act originated on school property or with school equipment, if the electronic act is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school and has a high likelihood of succeeding in that purpose;

(j) This section is not intended to:

(1) Restrict a public school district from adopting and implementing policies against bullying or school violence or policies to promote civility and student dignity that are more inclusive than the antibullying policies required under this section; or

(2) Unconstitutionally restrict protected rights of freedom of speech, freedom of religious exercise, or freedom of assembly.

JURY INSTRUCTIONS

CYBERBULLYING

To prove the crime of Cyberbullying, the State must prove the following two elements beyond a reasonable doubt.

1. JESSE WOODSON transmitted, sent, or posted a communication by electronic means with the purpose to frighten, coerce, intimidate, threaten, abuse, harass, or alarm ANGEL STERLING,

and

2. JESSE WOODSON'S transmissions were in furtherance of severe, repeated, or hostile behavior toward ANGEL STERLING.

"Communication" means the electronic communication of information of a person's choosing between or among points specified by the person without change in the form or content of the information as sent and received.

"Electronic means" means any textual, visual, written, or oral communication of any kind made through the use of a computer online service, Internet service, telephone, or any other means of electronic communication, including without limitation to a local bulletin board service, an Internet chat room, electronic mail, a social networking site, or an online messaging service.

PLEA OF NOT GUILTY; REASONABLE DOUBT; AND BURDEN OF PROOF

The defendant has entered a plea of not guilty. This means you must presume or believe the defendant is innocent. The presumption stays with the defendant as to each material allegation in the Information through each stage of the trial unless it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt.

To overcome the defendant's presumption of innocence the State has the burden of proving the crime with which the defendant is charged was committed and the defendant is the person who committed the crime.

The defendant is not required to present evidence or prove anything.

Whenever the words "reasonable doubt" are used you must consider the following:

A reasonable doubt is not a mere possible doubt, a speculative, imaginary or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. On the other hand,

if, after carefully considering, comparing and weighing all the evidence, there is not an abiding conviction of guilt, or, if, having a conviction, it is one which is not stable but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt and you must find the defendant not guilty because the doubt is reasonable.

It is to the evidence introduced in this trial, and to it alone, that you are to look for that proof.

A reasonable doubt as to the guilt of the defendant may arise from the evidence, conflict in the evidence or the lack of evidence.

If you have a reasonable doubt, you should find the defendant not guilty. If you have no reasonable doubt, you should find the defendant guilty.

WEIGHING THE EVIDENCE

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence, and which evidence should not be relied upon in considering your verdict. You may find some of the evidence not reliable, or less reliable than other evidence.

You should consider how the witnesses acted, as well as what they said. Some things you should consider are:

1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?
2. Did the witness seem to have an accurate memory?
3. Was the witness honest and straightforward in answering the attorneys' questions?
4. Did the witness have some interest in how the case should be decided?
5. Does the witness' testimony agree with the other testimony and other evidence in the case?
6. Has the witness been offered or received any money, preferred treatment, or other benefit in order to get the witness to testify?
7. Had any pressure or threat been used against the witness that affected the truth of the witness' testimony?
8. Did the witness at some other time make a statement that is inconsistent with the testimony he gave in court?

You may rely upon your own conclusion about the witness. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

EXPERT WITNESSES

Expert witnesses are like other witnesses, with one exception - the law permits an expert witness to give his or her opinion.

However, an expert's opinion is only reliable when given on a subject about which you believe him or her to be an expert.

Like other witnesses, you may believe or disbelieve all or any part of an expert's testimony.

Virtual Middle School Mock Trial

Rules of Competition

This program is a video competition where students from the **same school** will present both sides of the case in one trial (i.e. prosecution and defense are from the same school). After practicing the simulation, teams will record their trial and submit it by the designated due date for evaluation. The top three teams will be recognized from the submissions.

Rule I: Team Composition/Presentation

- A. The competition is open to students currently enrolled in grades 6-8 in Florida schools. All students on a team, prosecution/plaintiff and defense/defendant, **must be enrolled in the same school** or members of a club at the same school. Each team must have a teacher sponsor.
- B. **Only one video per school will be accepted.**
- C. The video shall consist of at least twelve students **from the same school** to be used in any manner deemed appropriate by the teacher and coach, as long as the distribution of duties does not conflict with other competition rules. Roles include attorneys, witnesses, members of the jury, and other roles as determined by the teacher such as a bailiff.
- D. Each school must present both sides of the case in one trial. (Prosecution/Plaintiff and Defense/Defendant).
- E. Students of either gender may portray the role of any witness. The competition will strive to make roles gender neutral. However, some cases will warrant a specific gender role. In such cases, students of either gender may portray the role but the gender of the witness may not change from the case as presented.
- F. Team Roster/"Roll" Call
 - a. Teams should introduce themselves, their school and teacher/coaches at the beginning of the filming as well as their corresponding roles before beginning the trial begins.

Rule II: The Case

- A. The case may contain any or all of the following stipulations: documents, narratives, exhibits, witness statements, etc.
- B. The stipulations (and fact statements, if any) may not be disputed at the trial. Witness statements may not be altered.
- C. All witnesses must be called.

Rule III: Trial Presentation

- A. The trial proceedings will be governed by the Florida Mock Trial Simplified Rules of Evidence. Other more complex rules may not be raised at the trial. Questions or interpretations of these rules are within the discretion of the State Mock Trial Advisory Committee, whose decision is final.
- B. Each witness is bound by the facts contained in his/her own witness statement, the Statement of Facts, if present, and/or any necessary documentation relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection outside the scope

of the problem. If, on 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 or affidavit and does not materially affect the witness' testimony. Adding facts that are inconsistent with the witness statement or with the Stipulated Facts and which would be relevant with respect to any issue in the case is not permitted. Examples include, but are not limited to

- a. Creating a physical or mental disability,
 - b. Giving a witness a criminal or bad record when none is suggested by the statements, (c) Creating facts which give a witness standing as an expert and;
 - c. Materially changing the witness' profession, character, memory, mental or physical ability from the witness' statement by testifying to "recent changes."
 - d. If certain witnesses are stipulated to as experts, their expert qualifications may not be challenged or impeached by the opposing side. However, their testimony concerning the facts of the case may be challenged.
- C. On direct examination, the witness is limited to the facts given. If a witness testifies in contradiction to the facts given in the witness statement, that testimony may be impeached on cross-examination by the opposition through the correct use of the affidavit. The procedure is outlined in the Rules of Evidence.
- D. On cross-examination, no restrictions will be made on the witness or the cross examination, except that the answer must be responsive and the witness can be impeached. If the attorney who is cross-examining the witness asks a question, the answer to which is not contained in the stipulations or affidavit then the witness may respond to that question with any answer as long as the answer **does not contradict or materially change** the affidavit. If the answer by the witness is contrary to the stipulations or the affidavit, the cross examination attorney may impeach the witness.
- E. Use of **voir dire** examination of a witness is not permitted.

Rule IV: Student Attorneys

- A. Team members are to evenly divide their duties. During the video, each of the three attorneys for each side (Prosecution/Plaintiff and Defense/Defendant) will conduct one direct and one cross; in addition, one will present the opening statements and another will present closing arguments. In other words, the attorney duties for each team will be divided as follows:
- a. Opening Statements
 - b. Direct/Re-direct Examination of Witness #1
 - c. Direct/Re-direct Examination of Witness #2
 - d. Direct/Re-direct Examination of Witness #3
 - e. Cross/Re-cross Examination of Witness #1
 - f. Cross/Re-cross Examination of Witness #2
 - g. Cross/Re-cross Examination of Witness #3
 - h. Closing Arguments
 - i. Prosecution's/Plaintiff's optional closing rebuttal
- B. Opening statements must be given by both sides at the beginning of the trial.
- C. The attorney who will examine a particular witness on direct examination is the only person who may make the objections to the opposing attorney's questions of that witness on cross examination, and the attorney who will cross-examine a witness will be the only one permitted to make objections during the direct examination of that witness.

- D. Each side must call the three witnesses listed in the case materials. Witnesses must be called only by their own side and examined by opposing counsel. Witnesses may not be recalled.
- E. Attorneys may use notes in presenting their cases.
- F. Witnesses are not permitted to use notes while testifying during the trial.
- G. To permit judges to hear and see better, attorneys will stand during opening and closing statements, direct and cross-examinations, all objections, and **whenever addressing the presiding judge**. Students may move from the podium only with the permission of the presiding judge.

Rule V: Swearing of Witnesses

The presiding judge will indicate that all witnesses are assumed to be sworn.

Rule VI: Case Materials

Students may read other cases, materials, and articles in preparation for the mock trial. However, students may cite only the case materials given, and they may introduce into evidence only those documents given in the official packet. In addition, students may not use, even for demonstrative purposes, any materials that are not provided in the official packet.

Rule IX: Conduct/Attire

All participants are expected to demonstrate proper courtroom decorum and display collegial sportsmanlike conduct.

Rule XII: Jury Trial

For purposes of the competition, students will assume this is a jury trial. The presiding judge is the trial judge. Students should address the jury and the presiding judge.

Rule XV: Time Limits

- A. A total of sixty minutes will be allotted for the entire trial.
- B. Opening and closing statements should be no longer than 5 minutes per side.
 - a. The Prosecution/Plaintiff gives the opening statement first. The Prosecution/Plaintiff gives the closing argument first; the Prosecution/Plaintiff may reserve one minute or less of the closing time for a rebuttal. Prosecution/Plaintiff must notify the judge before beginning closing argument if the rebuttal time is requested. The Prosecution's/Plaintiff's rebuttal is limited to the scope of the defense's closing argument. Attorneys are not required to use the entire time allotted.

Rule XVI: Judging

- A. The presiding judge will oversee the trial and rule on objections and evidentiary matters. The presiding judge may be the attorney coach or another local attorney or judge. Make sure they are aware of the rules prior to taping.
 - a. Presiding judges can be selected from a range of community volunteers. The following is a list of suggestions: sitting judges, attorneys, teachers, mock trial coaches/teachers, or high school mock trial participants. Teachers should use their discretion when selecting a presiding judge. Teams are not being evaluated based on their presiding judge.

- B. At no time during the filming of the trial may team sponsors or coaches communicate or consult with the students.

Rule XXIV: Eligibility

- A. Both sides of the case must presented by students enrolled in the same school.
- B. Each school may only send in one video/electronic recording.

SIMPLIFIED RULES OF EVIDENCE AND PROCEDURE

Simplified Rules of Evidence are provided for informational purposes and may be used at the discretion of the teacher and/or coach. They are provided as an outline for the trial process but should not complicate the instructional process.

In American courts, elaborate rules are used to regulate the kind of proof (i.e., spoken testimony by witnesses or physical evidence) that can be used in trials. These rules are designed to ensure that both parties receive a fair hearing. Under the rules, any testimony or physical objects deemed irrelevant, incompetent, untrustworthy, or unduly prejudicial may be kept out of the trial.

If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. Usually, the attorney stands and says, "I object, your honor," and then gives the reason for the objection. Sometimes the attorney whose questions or actions are being objected to will then explain why he or she thinks the rule was not violated. The judge then decides whether the rule has been violated and whether the testimony or physical items must be excluded from the trial.

Official rules of evidence are quite complicated. They also differ depending on the kind of court where the trial occurs. For purposes of this mock trial competition, the rules of evidence you will use have been made less complicated than those used in actual courts. The ideas behind these simplified rules are similar to actual rules of evidence.

A. Witness Examination/Questioning

1. Direct Examination

Attorneys call and question their own witnesses using direct as opposed to leading questions.
Example:

Elyse Roberts is called by her attorney to explain the events leading up to her filing suit against Potomac County.

"Ms. Roberts, where do you work? How long have you worked there? Please describe your working relationship with Mr. Kevin Murphy during the first month of employment. Why did you meet with your supervisor, Fran Troy? Did you seek advice from a therapist during this time?"

Questions such as the above do not suggest the answer. Instead, they introduce a witness to a particular area of importance, leaving the witness free to relate the facts. Obviously, the witness will have been prepared to answer such questions in a particular way. But the question by its terms does not "lead" to the answer.

a. Leading Questions

A **leading question** is one that suggests the answer. It does not simply call the witness' attention to a subject. Rather, it indicates or tells the witness what the answer should be about that subject. **Leading questions** are **not** permitted on direct examination, but

questions on cross-examination should be leading.
Examples:

“Mrs. Roberts, despite repeated invitations, you chose not to participate in office social functions, correct?”

“Isn't it true, that due to all the stress from work you decided to go to a therapist?”

These questions are obviously in contrast to the direct examination questions in the preceding section. **Leading questions** suggest the answer to the witness. This is **not** proper for direct examination when a party is questioning its own witness.

b. Narration

While the purpose of direct examination is to get the witness to tell a story, the questions must ask for **specific information**. The questions must not be so broad that the witness is allowed to wander or "narrate" a whole story. At times, the witness' answer to a direct question may go beyond the facts asked for by the question asked. Narrative questions are objectionable.

Example Narrative Question:

“Ms. Roberts, please tell the court about the events that contributed to your decision to sue the county.”

Narrative Answer:

“It all began the night I found out that it was the county that was dumping on my land. At first I thought it was my neighbors, but they denied having any part in the dumping. I decided to watch my vacant lot and see if I could catch the person responsible. I drove down to my lot the night of the 13th and parked in a place where I could see the lot but no one could see me...”

c. Scope of Witness Examination

Direct examination may cover all facts relevant to the case of which the witness has first-hand knowledge.

d. Character

For the purpose of this mock trial, evidence about the character of a party may not be introduced unless the person's character is an issue in the case.

i. Methods of Proving Character (Section 90.405)

1. Reputation: When evidence of the character of a person or of a trait of his/her character is admissible, proof may be made by testimony about his/her reputation.
2. Specific Instances of Conduct: When character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may be made of specific instances of his/her conduct.

e. Refreshing Recollection

When a witness uses a writing or other item to refresh his/her memory while testifying, an adverse party is entitled to have such writing or other item produced at the hearing to inspect it, to cross-examine the witness thereon, and to introduce it, or in the case of writing, to introduce those portions which relate to the testimony of the witness, in evidence.

2. Cross Examination (questioning the opposing side's witnesses)

Cross-examination **should** involve leading questions. In fact, it is customary to present a witness with a proposition and ask the witness to either agree or disagree. Thus, good cross-examination calls only for a yes or no answer.

Examples:

“Mr. Roberts, in direct examination you testified that litigation was very stressful for you, correct? In fact you were so stressed that you did work at home or called in sick. Isn't this true?”

“As an assistant district attorney, you knew that trying only three cases while settling 75 cases was not a job performance your supervisor would rate highly, didn't you?”

“Thus given the stress you felt, your poor attendance at work and poor job performance, it was not unusual for your supervisor to transfer you to another Bureau, was it?”

Leading questions are permissible on cross-examination. Questions tending to evoke a narrative answer should be avoided.

a. Scope of Witness Examination

Cross-examination is not limited. Attorneys may ask questions of a particular witness that relate to matters brought out by the opposing side on direct examination of that witness, matters relating to the credibility of the witness, and additional matters otherwise admissible, that were not covered on direct examination.

b. Impeachment

On cross-examination, the attorney may want to show the court that the witness should not be believed. A witness' credibility may be impeached by showing evidence of the witness' character and conduct, prior convictions, and prior inconsistent statements. If the witness testifies differently from the information in their sworn affidavit, it may then be necessary to "impeach" the witness. That is, the attorney will want to show that the witness previously said something that contradicts the testimony on the stand.

i. Impeachment Procedure

Impeachment may be done by comparing what a witness says on the witness stand at trial to what is contained in the witness' affidavit. By pointing out the differences between what a witness now says and what the witness' affidavit says, the attorney shows that the witness has contradicted himself or herself.

ii. Who May Impeach?

Any party, including the party calling the witness, may attack the credibility of a witness by:

1. Introducing statements of the witness which are inconsistent with his/her present testimony;
2. Showing that the witness is biased;
3. Attaching the character of the witness in accordance with the state mock trial competition rules of evidence and procedure;
4. Showing a defect of capacity, ability, or opportunity in the witness to observe, remember, or recount the matters about which he/she testified; and
5. Proof by other witnesses that material facts are not as testified to by the witness being impeached.

iii. Section 90.610 Conviction of Certain Crimes as Impeachment

A party may attack the credibility of any witness, including an accused, by evidence that the witness has been convicted of a crime if the crime was punishable by death or imprisonment in excess of 1 year under the law under which he was convicted, or if the crime involved dishonesty or a false statement regardless of the punishment, with the following exceptions:

1. Evidence of any such conviction is inadmissible in a civil trial if it is so remote in time as to have no bearing on the present character of the witness.
2. Evidence of juvenile adjudications is inadmissible under this subsection.

iv. Section 90.614 Prior Statements of Witness

1. When witness is examined concerning his prior written statement or concerning an oral statement that has been reduced to writing, the court, on motion of the adverse party, shall order the statement to be shown to the witness or its contents disclosed to him.
2. Extrinsic evidence of a prior inconsistent statement by a witness is inadmissible unless the witness is first afforded an opportunity to explain or deny the prior statement and the opposing party is afforded an opportunity to interrogate him on it, or the interests of justice otherwise require. If a witness denies making or does not distinctly admit that he has made the prior inconsistent statement, extrinsic evidence of such statement is admissible. This subsection is not applicable to admissions of a party-opponent.
3. Re-direct and re-cross examination/questioning. If the credibility or reputation for truthfulness of the witness has been attacked on cross-examination, the attorney whose witness has been damaged may wish to ask several more questions. These questions should be limited to the damage the attorney thinks has been done and should be phrased so as to try to "save" the witness' truth-telling image in the eyes of the court. Re-direct examination is limited to issues raised by the attorney on cross-examination. Re-cross examinations follows re-direct examination but is limited to the issues raised on re-direct only and should avoid repetition. The presiding judge may exercise reasonable control over questioning so as to make questioning effective to ascertain truth, avoid needless waste of time, and protect witnesses from harassment.

B. Objections

An attorney can object any time the opposing attorneys have violated the rules of evidence. The attorney wishing to object should **stand up and do so at the time of the violation**. When an objection is made, the judge may ask the reason for it. Then the judge may turn to the attorney whose question or action is being objected to, and that attorney usually will have a chance to explain why the judge should not accept the objection. The judge will then decide whether a question or answer must be discarded because it has violated a rule of evidence or whether to allow the question or answer to be considered as evidence. The legal term "objection sustained" means that the judge agrees with the objection and excludes the testimony or item objected to. The legal term "objection overruled" means that the judge disagrees with the objection and allows the testimony or item to be considered as evidence.

1. Standard Objections on Direct and Cross Examination

1. **Irrelevant Evidence:** *"I object, your honor. This testimony is irrelevant to the facts of this case."*
2. **Leading Questions:** *"Objection. Counsel is leading the witness."* Remember, this is **only**

objectionable when done on direct examination (Ref. Section A1.a).

3. **Narrative Questions and Answers:** may be objectionable (Ref. Section A1.b).
4. **Improper Character Testimony:** *“Objection. The witness’ character or reputation has not been put in issue or “Objection. Only the witness’ reputation/character for truthfulness is at issue here.”*
5. **Hearsay:** *“Objection. Counsel’s question/the witness’ answer is based on hearsay.” If the witness makes a hearsay statement, the attorney should also say, “and I ask that the statement be stricken from the record.”*
6. **Opinion:** *“Objection. Counsel is asking the witness to give an opinion.”*
7. **Lack of Personal Knowledge:** *“Objection. The witness has no personal knowledge that would enable him/her to answer this question.”*
8. **Lack of Proper Predicate:** Exhibits will not be admitted into evidence until they have been identified and shown to be authentic (unless identification and/or authenticity have been stipulated). Even after proper predicate has been laid, the exhibits may still be objectionable due to relevance, hearsay, etc.
9. **Ambiguous Questions:** An attorney shall not ask questions that are capable of being understood in two or more possible ways.
10. **Non-responsive Answer:** A witness’ answer is objectionable if it fails to respond to the question asked.
11. **Argumentative Question:** An attorney shall not ask a question which asks the witness to agree to a conclusion drawn by the questioner without eliciting testimony as to new facts. However, the Court may, in its discretion, allow limited use of argumentative questions on cross-examination.

12. Unfair Extrapolation/Beyond the Scope of the Statement of Facts

Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting an 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.

Note: Fair extrapolations may be allowed, provided reasonable inference may be made from the witness’s statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection Outside the Scope of the Problem. 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 or affidavit and does not materially affect the witness’ testimony.

13. Asked and Answered: *“Objection. Your honor, the question has already been asked and answered.”*

14. Objections Not Recognized in This Jurisdiction: An objection which is not contained in these materials shall not be considered by the Court. However, if counsel responding to the objection does not point out to the judge the application of this rule, the Court may exercise its discretion in considering such objection.

Note: Attorneys should stand during objections, examinations, and statements. No objections should be made during opening/closing statements but afterwards the attorneys may indicate what the objection would have been. The opposing counsel should raise his/her hand to be recognized by the judge and may say, “If I had been permitted to object during closing arguments, I would have objected to the opposing team’s statement that ____.” The presiding judge will not rule on this objection individually and no rebuttal from the opposing team will be heard.

15. Opinions of Witnesses

1. Expert Opinion

1. Section 90.702 Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact in understanding the evidence or in determining a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify about it in the form of an opinion; however, the opinion is admissible only if it can be applied to evidence at trial.

2. Section 90.703 Opinions on Ultimate Issue

Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it included an ultimate issue to be decided by the trier of fact.

3. Section 90.704 Basis of Opinion Testimony by Experts

The facts or data upon which an expert bases an opinion or inference may be those perceived by, or made known to, him at or before the trial. If the facts or data are of a type reasonably relied upon by experts in the subject to support the opinion expressed, the facts or data need not be admissible in evidence.

4. Expert Opinion (additional information)

An expert shall not express an opinion as to the guilt or innocence of the accused.

2. Lay Opinion

1. Section 90.701 Opinion Testimony of Lay Witnesses

If a witness is not testifying as an expert, his testimony about what he perceived may be in the form of inference and opinion when:

1. The witness cannot readily, and with equal accuracy and adequacy, communicate what he has perceived to the trier of fact without testifying in terms of inferences or opinions and his use of inferences or opinions will not mislead the trier of fact to the prejudice of the objecting party; and
2. The opinions and inferences do not require a special knowledge, skill, experience, or training.

2. Lay Opinion (additional information)

All witnesses may offer opinions based on the common experience of laypersons in the community and of which the witnesses **have first-hand knowledge**. A lay opinion may also be obtained. For example, Sandy Yu, as the personnel director, would know of other complaints of sexual harassment in the office and any formal reprimands, even though he is not an expert in sexual harassment. They may be asked questions within that range of experience. No witness, not even an expert, may give an opinion about how the case should be decided.

The cross-examination of opinions proceeds much like the cross-examination of any witness. Questions, as indicated above, may be based upon the prior statement of the witness. Inconsistencies may be shown. In addition, the witness may be asked whether he or she has been employed by any party, to show bias or interest. Or a witness giving an opinion may be asked the limits of certainty in that opinion, as follows:

“Dr. Isaacs, please read this portion of your sworn statement to the court.”

“I have studied the records of this case, and have conducted two one-hour interviews with Elyse Roberts on March 29 and 31st. In those interviews, she described to me her family history, her work environment, the actions of her co-workers and supervisor and her resulting feelings.”

“This is your statement, is it not, Dr. Isaacs? Ms. Roberts selected you because of your expertise in sexual harassment in the workplace, correct? During your two-hour interview you were only concerned with evaluating Ms. Roberts’ working environment and not other psychological factors that may have caused her problems. Thus you really can’t say that Ms. Roberts’ difficulty on the job was only caused by the actions of Mr. Murphy, can you?”

The point of these questions is not to discredit the witness. Rather, the objective is

simply to treat the witness as a responsible professional who will acknowledge the limits of her or his expertise and testimony. If the witness refuses to acknowledge those limits, the witness then is discredited.

It is always important in cross-examination to avoid arguing with the witness. It is particularly important with an expert. Thus, the cross-examination should be carefully constructed to call only for facts or to draw upon statements the witness has already made.

3. **Lack of Personal Knowledge**

A witness may not testify to any matter of which the witness has no personal knowledge. The legal term for testimony of which the witness has no personal knowledge is "incompetent."

16. **Relevance of Testimony and Physical Objects**

Generally, only relevant testimony may be presented. Relevant evidence is physical evidence and testimony that makes a fact that is important to the case more or less probable than the fact would be without the evidence. However, if the relevant evidence is unfairly prejudicial, may confuse the issues, or is a waste of time, it may be excluded by the court. Such relevant but excludable evidence may be testimony, physical evidence, or demonstrations that have no direct bearing on the issues of the case or do not make the issues clearer.

1. **Introduction of Documents, Exhibits, Items, and Other Physical Objects Into Evidence**

There is a special procedure for introducing physical evidence during a trial. The physical evidence must be relevant to the case, and the attorney must be prepared to its use on that basis. Below are the basic steps to use when introducing a physical object or document for **identification and/or use as evidence**.

1. Show exhibit and have it marked by the judge. Say "Your Honor, I ask that this ____ be marked for identification as Plaintiff's/Defendant's Exhibit No. ____"
2. Show the exhibit to opposing counsel for possible objection. Ask the witness to identify the exhibit. "I now hand you what is marked as Exhibit No. 1. Do you recognize this document?"
3. At this point the attorney may proceed to ask the witness a series of questions about the exhibit.
4. If the attorney wishes to place the document into evidence, say, "Your Honor, I offer this ____ marked as Plaintiff's/Defendant's Exhibit No. 1 into evidence and ask the Court to so admit it."

Court: *“Is there any objection?”*

Opposing Counsel: *“No, your Honor.”* or *“Yes, your Honor.”* (then state objection).

Court: *“Plaintiff’s/Defendant’s Exhibit No. 1 is (is not) admitted.”*

NOTE: A witness may be asked questions about his/her statement without its introduction into evidence; but to read from it or submit it to the judge, it must first be admitted into evidence. Exhibits can be pre-marked.

17. Hearsay and Exceptions to this Ruling

1. What is Hearsay?

Hearsay evidence is normally excluded from a trial because it is deemed untrustworthy. “Hearsay” is a statement other than one made by the witness testifying at the trial, offered in evidence to prove that the matter asserted in the statement is true. An example of hearsay is a witness testifying that he heard another person saying something about the facts in the case. The reason that hearsay is untrustworthy is because the opposing side has no way of testing the credibility of the out-of-court statement or the person who supposedly made the statement. Thus, for example, the following questions would be objectionable as “hearsay” if you are trying to prove that the color of the door was red:

“Mr. Edwards what color did Bob say the door was?”

This is **hearsay**. Mr. Edwards is using Bob’s statement for him to prove the color of the door. Instead, Bob or someone who saw the door needs to be called to testify as to the color of the door.

2. Reasons for Prohibiting Hearsay

Our legal system is designed to promote the discovery of truth in a fair way. One way it seeks to accomplish this goal is by ensuring that the evidence presented in court is “reliable”; that is, we can be fairly certain the evidence is true. Hearsay evidence is said to be “unreliable” for four reasons:

1. The hearsay statement might be distorted or misinterpreted by the witness relating it in court.
2. The hearsay statement is not made in court and is not made under oath
3. The hearsay statement is not made in court, and the person who made it cannot be observed by the judge or jury (this is important because the judge or jury should be allowed to observe a witness’ behavior and evaluate his/her credibility).
4. The hearsay statement is not made in court and the person who made it cannot be

challenged by cross-examination.

3. **When Can Hearsay Evidence Be Admitted?**

Although hearsay is generally not admissible, there are certain out-of-court statements that are treated as not being hearsay, and there are out-of-court statements that are allowed into evidence as exceptions to the rule prohibiting hearsay.

Statements that are not hearsay are prior statements made by the **witness himself** and admissions made by a **party opponent**.

1. **Exceptions**

Hearsay is not admissible, except as provided by these rules. For purposes of this mock trial, the following exceptions to the hearsay rule will be allowed; even though the declarant is available as a witness.

1. **Spontaneous Statement**

A statement describing or explaining an event or condition made while the declarant perceived the event or condition, or immediately thereafter, except when such statement is made under circumstances that indicate its lack of trustworthiness.

2. **Excited Utterance**

A statement or excited utterance relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

3. **Medical Statements**

Statements made for the purpose of medical diagnosis or treatment by a person seeking the diagnosis, or made by an individual who has knowledge of the facts and is legally responsible for the person who is unable to communicate the facts, which statements describe medical history, past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof, insofar as reasonably pertinent to diagnosis or treatment.

4. **Recorded Recollection**

A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made by the witness when the matter was fresh in his memory and to reflect that knowledge correctly. A party may read into evidence a memorandum or record when it is admitted, but no such memorandum or record is admissible as an exhibit unless offered by an adverse party.

5. **Records of a Regularly Conducted Activity**

1. A memorandum, report, record, or data compilation, in any form, of acts,

events, conditions, opinion, or diagnosis, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity and if it was the regular practice of that business activity to make such memorandum, report, record, or data compilation, all as shown by testimony of the custodian or other qualified witness, unless the sources of information or other circumstances show lack of trustworthiness. The term “business” as used in this paragraph includes a business, institution, association, profession, occupation, and calling for every kind, whether or not conducted for profit.

2. No evidence in the form of an opinion or diagnosis is admissible under paragraph (a) unless such opinion or diagnosis would otherwise be admissible if the person whose opinion is recorded were to testify to the opinion directly.

6. **Learned Treatises**

To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in public treatises, periodicals or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness, or by other expert testimony, or by judicial notice.

7. **Then Existing Mental, Emotional, or Physical Condition**

1. A statement of the declarant’s then existing state of mind, emotion, or physical sensation, including a statement of intent, plan, motive, design, mental feeling, pain, or bodily health, when such evidence is offered to:
 - Prove the declarant’s state of mind, emotion, or physical sensation at that time or at any other time when such state is an issue in the action.
 - Prove or explain acts of subsequent conduct of the declarant.
2. However, this subsection does not make admissible:
 - An after-the-fact statement of memory or belief to prove the fact remembered or believed, unless such a statement relates to the execution, revocation, identification, or terms of the declarant's will.
 - A statement made under circumstances that indicate its lack of trustworthiness

C. **Trial Motions**

No trial motions are allowed except for special jury instructions as permitted in these case materials.

Examples:

Directed verdict, dismissal, acquittal, motion in limine, motion to sequester witnesses.

Exception:

Motion for Recess may only be used in emergency situations.

Florida Virtual Middle School Mock Trial Competition
EXPLANATION OF RATINGS USED ON THE SCORE SHEET/BALLOT

Participants will be rated in the categories on the ballot on a scale of 1-10 points (10 being the highest), according to their roles in the trial. Each video will consist of a plaintiff/prosecution side and defendant/defense side from the same school.

POINT(S)	PERFORMANCE	CRITERIA FOR EVALUATING STUDENT PERFORMANCE
1-2	Not Effective	Exhibits lack of preparation/understanding of the case materials. Communication unclear, disorganized, and ineffective. Unsure of self, does not think well on feet, depends heavily on notes.
3-4	Fair	Exhibits minimal preparation/understanding of the case materials. Communication minimally clear and organized, but lacking in fluency and persuasiveness. Minimally self-assured, but lacks confidence under pressure.
5-6	Good	Exhibits adequate preparation/understanding of the case materials. Communications are clear and understandable, but could be stronger in fluency and persuasiveness. Generally self-assured, reads from notes very little.
7-8	Excellent	Exhibits mastery of the case materials. Communication is clear, organized, fluent and persuasive. Thinks well on feet, poised under pressure, does not read from notes.
9-10	Outstanding	Superior in qualities listed for 7-8 points' performance.