

# *The Florida Middle School Mock Trial Virtual Competition Packet*

Developed by Stephen Renick, Esq. with The Florida Bar  
Law Related Education Committee along with  
the Center for Law Education/CivicMindED, Inc.



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**MIDDLE SCHOOL MOCK TRIAL COMPETITION  
2018-2019**

Dear Educator,

Thank you for your interest in the Middle School Mock Trial Competition co-sponsored by the Center for Law Education/CivicMindED, Inc. and the Florida Association for Women Lawyers (FAWL). This mock trial program is tailored to meet the needs of middle school students and to take place within two or more class periods with the final product being a sixty-minute recorded trial simulation. 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 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. **Projects must be submitted by midnight on March 15, 2019.**

Awards will be provided to the top three teams. Further details are included below.

The program objectives are as follows:

- Increase student understanding of and interest in the legal system;
- Generate interest in law-related careers; and
- Improve civic and literacy skills including critical thinking, public speaking, and legal reasoning.

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.

SS.7.C.3.10 Identify sources and types (civil, **criminal**, constitutional, military) of law.

SS.7.C.3.11 Diagram the levels, functions, and powers of courts at the state and federal levels.

# Instructions

1. Read the **Virtual Middle School Mock Trial Rules of Competition** (enclosed) 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. We recommend using the Steps of a Trial lesson provided on the Middle School Mock Trial page of the [www.flrea.org](http://www.flrea.org) website as well as other lessons from the free Civics Curriculum, outlined below. A supplementary vocabulary guide will also be provided. Thoroughly review the stipulations and jury instructions. For additional classroom materials, contact the Florida Law Related Education Association, Inc. at [staff@flrea.org](mailto:staff@flrea.org).
  - a. Suggested lessons:
    - i. Seeking the Source: Sources and Types of Law (Section 6 or Getting to the Point Benchmark SS.7.C.3.10)
    - ii. Sorting Out the Courts: Levels, Functions, and Powers of Courts (Section 6 or Getting to the Point Benchmark SS.7.C.3.11)
3. Contact the Center for Law Education to request an attorney volunteer if needed at [staff@flrea.org](mailto:staff@flrea.org). 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, a local lawyer, or a county or circuit judge may serve as the presiding judge during your simulated trial.
4. After practicing the simulation, videotape the trial, and submit the link through the **online form available on the Middle School Mock Trial page of the flrea.org website**. 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. **Videos are limited to a maximum of 60 minutes per Rule XV of the Virtual Middle School Rules of Competition. Teams will be limited to 2 minutes for student introductions in addition to the 60 minutes for trial presentation.**
  - a. \*YouTube videos automatically upload as public videos. To learn how make your video private, view the following tutorial: <https://support.google.com/youtube/answer/157177?hl=en> Instructions for sharing a private video are also provided at the link above.
5. **The online registration link is available on the Middle School Mock Trial page of our website at [www.flrea.org](http://www.flrea.org). You will need to complete the form online, including the YouTube link, by midnight on March 15, 2019.**
6. Winners will be announced at the beginning of April.
7. The top 2 teams will be invited to participate in an in-person competition to be hosted at a location to be announced at a later date based on the geographic location of the participating teams.

## Checklist for Completing the Online Form

- Registration Form to be completed online
- Student Release forms (e-mail to [staff@flrea.org](mailto:staff@flrea.org))
- Link to the YouTube video to post in the online registration form
- Photo of Participants (e-mail to [staff@flrea.org](mailto:staff@flrea.org))
- Evaluation Form (complete online in registration link)

## Parental Consent Form for Student Videos/Photographs

Student's Name (PLEASE PRINT): \_\_\_\_\_

School Name (PLEASE PRINT): \_\_\_\_\_

Parent/Guardian's Name (PLEASE PRINT): \_\_\_\_\_

Your child has chosen or been chosen to participate in the Florida Middle School Mock Trial Virtual Competition. This competition requires that students be filmed in their classroom competing against one another and their faculty sponsor must upload the video to Youtube.com. Additionally, students will be featured in appropriate newsletter publications and social media platforms.

Please take a moment to let us know your preferences regarding our use of videos and/or photographs taken of your children while participating in this competition:

YES. I grant permission to my child's faculty sponsor, \_\_\_\_\_, and The Florida Law Related Education Association, Inc. to use and publish photos and videos of my child on Youtube.com and other social media platforms for competition related purposes only. I understand that YouTube's privacy settings vary and the general public may be able to access the video of my child competing.

-OR-

NO. Please do NOT take or use any videos or photographs of my child. I understand that if I have checked this box my child cannot participate in the Florida Middle School Mock Trial Virtual Competition.

Parent/Guardian's Signature:

\_\_\_\_\_

Date: \_\_\_\_\_

## 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. Plaintiff/prosecution may reserve time for a rebuttal.
- VI. No jury instructions need to be read at the conclusion of the trial.
- VII. A total time of **60 minutes** will be allotted for the trial presentation. See Rule XV in the Virtual Middle School Rules of Competition.

**2018-2019 Middle School Mock Trial Case:**

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***Prosecution Witnesses:***

Dakota Ross ..... 12  
Morgan Channing ..... 15  
Detective Reese Willingham ..... 18

***Defense Witnesses:***

Casey Ross ..... 22  
Bailey Cohen ..... 25  
Tyler Banks ..... 28

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## CASE SUMMARY

Dakota Ross was a resident of Palmville, Florida. S/he was a single father/mother with one child, named Casey Ross. Casey and Tyler Banks were best friends and Tyler would spend countless hours at the Ross's house. The victim/father/mother, Dakota Ross, would often leave her purse/wallet around the house where the friends had access to the purse/wallet. On occasion, prior to June 17, 2017, the victim would give Casey his/her ATM card to purchase goods at the store or get money out of the bank. On occasion, the defendant accompanied Casey Ross to the ATM and was with Casey when s/he withdrew money. On June 17, 2017, Dakota Ross suffered a serious injury that required him/her to be hospitalized. He/She spent 2 weeks in the hospital and another 3 weeks in a rehabilitation facility. During that time his/her purse/wallet with his/her ATM card was left at his/her home. While s/he was in rehabilitation, Tyler Banks was at the Ross's house every day and had access to the purse/wallet and ATM card. On August 1, 2017, after returning from the hospital, Dakota Ross attempted to use his/her ATM card for some groceries and the card was rejected. Knowing s/he should have had more than sufficient money to cover this purchase, Dakota went to the bank and spoke with the bank manager, Morgan Channing. Upon investigation, Dakota was informed that between June 18, 2017 and July 18, 2017, \$3,200.00 had been withdrawn from various ATM's with his/her card around Palmville, Florida. The bank was only able to obtain one image out of all the transactions from the ATM's. The victim then contacted the Palmville Police Department where Detective Reese Willingham performed an investigation on this matter. After interviewing all the witnesses, and after performing an investigation, Detective Willingham charged Tyler Banks for Unlawful Possession of a Stolen Credit or Debit Card pursuant to F.S. 817.60 as well as Theft and Grand Theft pursuant to F.S. 812.014.

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

STATE OF FLORIDA,

Prosecution,

v.

Case No. 17-12349-H

TYLER BANKS,

Defendant.

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**INFORMATION**

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

Vincent Laguardia Gambini, State Attorney for the  
Twenty-First Judicial Circuit of the State of Florida, charges that in  
Palm County, Florida, the above-named Defendant committed the  
following crimes.

**COUNT 1**

Between June 18, 2017 and July 31, 2017, the Defendant  
committed Unlawful Possession of a Stolen Credit or Debit Card in  
violation of Florida Statutes s. 817.60 by knowingly possessing,  
receiving, or retaining custody of a credit or debit card that has been  
taken from the possession, custody, or control of another without the  
cardholder's consent and with the intent to impede the recovery of  
the credit or debit card by the cardholder commits unlawful

possession of a stolen credit or debit card the cardholder in this case being Dakota Ross.

COUNT II

Between June 18, 2017 and July 31, 2017, the Defendant committed Grand Theft by knowingly obtaining or using, or endeavoring to obtain or to use, the property of another with intent to, either temporarily or permanently deprive the other person of a right to the property or a benefit from the property or appropriate the property to his or her own use or to the use of any person not entitled to the use of the property with the value of the property more than \$300, but less than \$5,000.

Dated this 14<sup>th</sup> day of September, 2017.

*Mitchell McDeere*

Mitchell McDeere, Assistant  
State Attorney  
STATE OF FLORIDA  
PALM COUNTY  
VINCENT LAGUARDIA  
GAMBINI, STATE  
ATTORNEY TWENTY-FIRST  
JUDICIAL CIRCUIT

## 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 Bank Statements from Palmville Bank are authentic and accurate.
8. The narrative from Detective Willingham's police report is a true and accurate recitation of the narrative from the actual police report prepared on August 20, 2017. This document was prepared in the course and scope of the Palmville Police Department ordinary practices. The parties have stipulated to the admissibility of this police report.
9. The absence of photographs may not be questioned.
10. All physical evidence and witnesses not provided for in the case are unavailable and their availability may not be questioned.
11. Beyond what's stated in the witness statements, there was no other forensic evidence found in this case.
12. All witness statements were taken in October 2017.
13. Detective Reese Willingham is an expert in fraud investigations.

**WITNESS LIST**

**Prosecution:**

1. Dakota Ross
2. Morgan Channing
3. Detective Reese Willingham

**Defense:**

1. Casey Ross
2. Bailey Cohen
3. Tyler Banks

\*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. Police Report from Palmville Police Department.
- b. ATM Photograph
- c. Bank Statement of Dakota Ross for June 2017 and July 2017
- d. Map of Palmville, Florida with selected locations
- e. Copy of Receipt from Palmville Music Store dated August 4, 2017

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

STATE OF FLORIDA,

Prosecution,

v.

Case No. 17-12349-H

TYLER BANKS,

Defendant.

\_\_\_\_\_ /

**SWORN STATEMENT OF DAKOTA ROSS**

1 My name is Dakota Ross, and I am 40 years old. I live at 2751 Winwood Drive in Palmville, Florida. I am  
2 currently employed as a dental assistant. I am a single parent, as my husband/wife passed away 4 years  
3 ago. I have a 17-year-old, Casey, who is my pride and joy. It has been difficult on Casey since my spouse  
4 passed away, and in the last two years I have had problems with him/her in terms of minor things, such as  
5 taking money from my purse/wallet, the normal teenage things. I blame myself as I want to give him/her  
6 as much as I can, but I want Casey to earn his/her money and not just be given whatever s/he wants.

7 I have been fortunate that I have not had to worry to about my financial situation. My parents left  
8 me a substantial amount of money when they passed away, and I received life insurance money from the  
9 death of my spouse. Casey knows this, and I have put money away for him/her to receive upon reaching  
10 the age of 25. However, s/he has seemed to have developed a sense of entitlement and believes that s/he  
11 should be able to get whatever s/he wants, which is why I think s/he has stolen money from my purse/wallet  
12 in the past. When I have mentioned the missing money to Casey in the past, s/he has denied taking it. I  
13 have overlooked it since it was never more than twenty to forty dollars that was missing. I would have  
14 given Casey the money if s/he had asked for it, so I never made a big deal of it.

15 I have known Tyler Banks, since Casey met him/her in elementary school, when they became  
16 inseparable. I guess that is why Casey is testifying on behalf of his/her best friend. I have never really  
17 trusted Tyler. Last year, when I bought a new Mercedes Benz, the Tyler said “Wow, must be nice to have  
18 money...maybe you could give me some of that money you have.” S/he always seemed to be obsessed  
19 about the fact that Casey did not have his/her own car, and how I would buy myself a new car every year.  
20 I just always felt that Casey should work to earn money for his/her own first car. Still, Casey always seemed  
21 to have money, and would buy Tyler lunch or dinner whenever they went out.

22 In May of 2017 the Tyler’s eye was on a \$3,000.00 custom guitar and Casey asked me to loan Tyler  
23 the money to buy the guitar. Tyler was there when Casey asked me. I flat out said, “No!” I mean, seriously?  
24 I would not buy my own child something like that, why would I buy it for someone else’s child? When I  
25 said no, I heard Tyler say, “Fine, I will find another way to get the guitar.” There was an angry tone to  
26 his/her voice, but I did not think anything of it at the time.

27 To avoid Casey taking cash from me, I tried to avoid keeping cash around the house. If I needed  
28 anything, I would use my debit card for most of my purchases. There were times I would give my debit  
29 card and PIN to Casey to purchase things at the store for me. Tyler would often go with Casey to the store  
30 so Tyler likely knew my PIN and where I kept the card. The only other person who would know my PIN  
31 number would be my former housekeeper Rosaline Adler. Rosaline had been my housekeeper for 8 years  
32 and would use my debit card every week to purchase groceries. During her eight years working for me, I  
33 never noticed any money missing from my accounts.

34 I had an accident at home on June 17, 2017. I was walking down the staircase in our home, slipped,  
35 and fell down the staircase. It was embarrassing. I suffered serious injuries, including two fractured  
36 vertebrae. Luckily, Rosaline was at the house when this happened and called 911. I was transported to  
37 Palmville Hospital where I stayed for 2 weeks before being transferred to a rehabilitation facility for 3  
38 additional weeks. During that time, I had Rosaline and some friends check in on Casey - Casey is  
39 trustworthy and fairly self-sufficient. My purse/wallet with my debit card was left at the house during my  
40 time in the hospital and rehabilitation center.

41 I returned home on August 1, 2017. I was able to get around, although I was still in pain. Rosaline  
42 stopped working for me on August 2, 2017 to return to England indefinitely to take care of a sick family  
43 member. On August 3, 2017, I went to the grocery store and I tried to use my debit card, but the transaction  
44 was rejected. I thought there was plenty of money in my checking account, so I went to my bank and spoke  
45 with the bank manager, Morgan Channing. We reviewed my bank statements and found there had been  
46 numerous withdrawals between June 18, 2017 and July 31, 2017 at ATM's all over Palmville. The total  
47 amount that was withdrawn was \$3,200.00. To say I was shocked would be an understatement. Since the  
48 ATM was utilized, whomever withdrew the money would had needed access to my card.

49 I then proceeded to file a police report with Detective Reese Willingham with the Palmville Police  
50 Department. It is my understanding the Detective interviewed Casey, Tyler Banks and the bank manager,  
51 Morgan Channing. The detective showed me a picture from the ATM camera. The person in the photo  
52 was wearing a hoodie just like the Tyler always wears. It was a little joke between Casey and I that the  
53 Tyler wore hoodies so much, s/he must sleep in one! Although I could not see the Tyler's face, I was sure  
54 it was him/her. I then recalled all the remarks the Tyler made about the money I spent, and the fact s/he  
55 asked me for \$3,000.00 for a guitar. It became obvious to me that the Tyler took the money. Later, I found  
56 out that the Tyler actually did buy that \$3,000.00 guitar – Casey mentioned it in passing. It is just too much  
57 of a coincidence that Tyler bought a guitar that cost nearly the same amount of money as was missing from  
58 my account. S/he would have had access to my debit card while I was injured and hospitalized which  
59 makes it clear to me that s/he took the money from my account!

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TYLER BANKS,

Defendant.

\_\_\_\_\_ /

**SWORN STATEMENT OF MORGAN CHANNING**

1 My name is Morgan Channing and I am 32 years old. My business address is 1375 Riverside  
2 Drive, Palmville, Florida. I have been the Branch Manager of Palmville National Bank for the last  
3 5 years and employed by the bank for almost 10 years. I am a graduate of Palmetto University  
4 with a degree in Finance.

5 As a bank manager, my responsibilities involve total oversight of all banking operations,  
6 including customer service, consumer and commercial lending, and ensuring compliance with all  
7 federal and state banking regulations. It is also my responsibility to oversee fraud investigations.  
8 Lately, this responsibility has become more significant as bank and credit card fraud has been  
9 increasing over the last 5 years. That is how I became involved with Dakota Ross and the funds  
10 that were apparently taken from his/her account.

11 I was familiar with Dakota Ross prior to August 2, 2017, meaning I would see him/her  
12 come into the bank. His/Her bank accounts never had an overdraft or late payment problems on

13 any loans. S/he came in to see me on August 2, 2017 extremely upset about a debit card transaction  
14 being denied.

15 Mr./Ms. Ross indicated that s/he was at the store and a debit card transaction was denied  
16 by the bank. Up until that point, s/he has never had a debit card transaction declined. When  
17 reviewing the account with him/her on August 2, 2017, I noticed there were several unusual  
18 withdrawals made during the time Dakota Ross indicated s/he was in the hospital/rehabilitation.  
19 In total, there were 8 withdrawals for the maximum amount of \$400.00 made between June 18,  
20 2017 and July 31, 2017. I also noticed that although there were prior withdrawals from the ATM  
21 on the account, no withdrawals were for the maximum of \$400.00. There was a prior withdrawal  
22 for \$100.00, but that was the most that was ever withdrawn from the ATM prior to June 18, 2017.  
23 I confirmed with Dakota Ross that the \$100.00 withdrawal from the ATM was an authorized  
24 withdrawal that s/he made on that date. Out of the 8 total ATM withdrawals made between June  
25 18, 2018 and July 31, 2018, six of them were from ATM #4, one from ATM #3, and one from the  
26 Main Branch on June 28, 2017. The withdrawal from the Main Branch was important, as it is the  
27 only location with an active camera at the ATM. I told Mr./Ms. Ross I would do some additional  
28 investigation to obtain a picture from the ATM camera at the main branch. These camera images  
29 are normally kept in the course and scope of our bank's practices, and as the branch manager I am  
30 technically the custodian of these records. On August 11, 2017, I obtained the image from the  
31 corporate accounting department, and requested Mr./Ms. Ross to come into the bank to determine  
32 if s/he recognized the person in the picture.

33 On August 12, 2017, Dakota Ross came into the branch to review the picture I obtained  
34 from the ATM camera. The picture did not show an entire face, only a person in a hoodie type

35 jacket with his/her eyes showing. I could not recognize any facial features from the picture;  
36 however, when I showed the picture to Mr./Ms. Ross, s/he suddenly exclaimed, "That looks like  
37 Tyler Banks!" When I asked him/her what s/he meant by that, Mr./Ms. Ross indicated that the type  
38 of hoodie the person was wearing was the same type of hoodie that his/her daughter/son's friend,  
39 Tyler Banks, wears all the time. I then inquired as to anyone else who may have had access to her  
40 debit card while s/he was not at home. S/he mentioned that his/her daughter/son would have had  
41 access to the debit card, as well as her housekeeper. I asked Mr./Ms. Ross whether Tyler Banks  
42 would've had access to his/her debit card, and s/he informed me that s/he was not aware as to  
43 whether Tyler Banks would've had access to the card or knowledge of the PIN. I suggested that if  
44 s/he had not already done so, to file a police report on this matter. A few days later, I was  
45 questioned by Detective Reese Willingham of the Palmville Police Department and provided  
46 him/her all the information I had obtained during my own investigation.

47           It is unfortunate that this type of unauthorized card use happens all the time. We have not  
48 reimbursed any money to Dakota Ross to date and cannot do so until this alleged fraud issue has  
49 been resolved.

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**SWORN STATEMENT OF DETECTIVE REESE WILLINGHAM**

1 My name is Detective Reese Willingham, and I work for the Palmville Police Department.  
2 I graduated college with a degree in criminal justice from Palmdale University in 1996 and have  
3 been employed by the Palmville Police Department for the last 20 years, spending the last 10 as a  
4 detective. For the last four years, my primary responsibility has been the fraud detection unit where  
5 I investigate credit and debit card fraud as well as other types of bank related fraud. I have testified  
6 in 30 trials, 10 of which involve bank fraud/bank theft cases. I have also been a speaker at  
7 numerous seminars addressing bank fraud. I have found that most bank fraud/thefts, especially  
8 using a debit or debit card, are done by family members or a person known by the family.

9 I became involved in this case after receiving a call from Dakota Ross on August 5, 2017  
10 regarding an apparent theft from his/her bank account by unauthorized use of a debit card. I  
11 arranged to interview Dakota Ross on August 6th, 2017. At that time, I learned about the injuries

12 that s/he sustained and the period of time s/he was away from his/her home, approximately six  
13 weeks. During that time, s/he left his/her purse with his/her identification and debit card at his/her  
14 house. S/he informed me that s/he discovered that \$3,200.00 was missing from his/her account  
15 after trying to use his/her card on August 2, 2017. S/he provided me his/her checking account  
16 statements for June and July 2017, and a picture from an ATM camera that corresponded with the  
17 date and time of a withdrawal from the main branch ATM.

18 Mr./Ms. Ross informed me that his/her housekeeper, Rosaline Adler and his/her child,  
19 Casey, would have had access to the debit card and PIN number. At that point, s/he never  
20 mentioned that the defendant would have known the PIN number to his/her debit card. I did find  
21 Dakota believable and coherent, although s/he did admit s/he was on painkillers.

22 I began my investigation by interviewing Morgan Channing, the bank manager at  
23 Palmville National Bank. He/she confirmed with me that Dakota Ross came into the bank to  
24 inquire about some missing funds from his/her ATM account, where it was discovered that  
25 approximately \$3,200 was missing from his/her checking account. Morgan Channing explained  
26 the bank's procedure in detecting fraudulent bank transfers and withdrawals. It was apparent that  
27 Palmville National Bank had very little in the way of prevention of the type of bank fraud that  
28 Dakota Ross allegedly experienced. It is common practice with banks nowadays to have a camera  
29 at every ATM, to help identify those who fraudulently utilize the debit cards of others. Morgan  
30 Channing indicated that out of the 5 ATM machines located around Palmville, only the ATM at  
31 the main branch had a camera. Mr./Ms. Channing blamed the minimal use of cameras on lack of  
32 funding. I requested a copy of the picture from the one transaction that took place at the main  
33 branch. The face in the picture was not identifiable, but the person in the photograph was wearing

34 a hooded jacket. Mr./Ms. Channing could not identify the person in the photograph. In reviewing  
35 the ATM withdrawals in question, it appears there were 8 total withdrawals in the maximum daily  
36 withdrawal of \$400.00 each. Only one was made at the main branch and the other 7 were at other  
37 ATM's around Palmville.

38 I then interviewed the victim's son/daughter, Casey Ross. The victim did not believe Casey  
39 would take money from the account, but it was important to interview Casey in order to conduct a  
40 thorough investigation. Initially, I did not find Casey to be extremely forthcoming in answering  
41 my questions. Casey admitted to using the debit card from time to time to run errands for the  
42 victim prior to the accident in June. Casey also stated that the defendant would occasionally go  
43 with to the ATM and that s/he was fairly certain that Tyler knew the PIN code for the card and had  
44 knowledge of where the card was kept. Casey stated that s/he never used the card while the victim  
45 was in rehabilitation. I then inquired about the housekeeper, Rosaline, and any access she would've  
46 had to the debit card. Casey did not have specific knowledge as to when Rosaline would use the  
47 debit card, but s/he knew that Rosaline did have the PIN number and access to the debit card.  
48 Casey talked about his/her father/mother without a great deal of affection, calling the victim "a  
49 tight wad" with money. Casey mentioned that the victim refused to buy him/her a car and insisted  
50 that Casey make his/her own money if s/he ever wanted to buy anything. Casey also mentioned an  
51 incident when the victim refused to loan the defendant \$3,000 for a new guitar. Casey said that  
52 Tyler told him/her, "Don't worry, I will find a way to get the money." Casey indicated s/he thought  
53 nothing of the statement and certainly did not think that Tyler Banks would do anything to take  
54 money from his father/mother. Casey informed me that Tyler ultimately did buy the \$3,000 guitar,  
55 although he/she does not know how Tyler was able to pay for that guitar.

56           The defendant did not initially want to speak with me regarding this case, but ultimately  
57 did agree to provide me a voluntary statement. The defendant confirmed that s/he was the best  
58 friend of Casey Ross. He/she knows Dakota Ross, although the defendant admitted that he/she did  
59 not particularly like Mr./Ms. Ross. The defendant explained that Dakota Ross liked to “flaunt”  
60 his/her money, and would buy expensive things for his/herself, but was never willing to help others  
61 with money, including Casey. I noted that Tyler was wearing a “hoodie” similar to the one in the  
62 photograph from the ATM camera at the bank. I asked the defendant if s/he often wore a hooded  
63 type of jacket, s/he said “Yeah, it’s kind of my trademark.” When I asked about access to the debit  
64 card and knowledge of the PIN number, the defendant did indicate s/he had knowledge of where  
65 the card was but was “unsure” of the PIN. I asked the defendant if s/he purchased a limited-edition  
66 guitar. Tyler indicated that s/he was able to earn money doing work for neighbors throughout the  
67 summer and ultimately was able to purchase the guitar. When I asked him/her the specific jobs  
68 that s/he was doing, the defendant said, "You know, cutting yards, doing odd jobs, doing whatever  
69 work that was available." The defendant could not name any specific neighbor he/she did work  
70 for, just that s/he was doing work for different people all around town.

71           The final part of my investigation was to go the music store where Tyler Banks purchased  
72 the guitar. The manager specifically remembered the transaction because of the large amount of  
73 cash and that the bills all looked “brand new” and described the defendant as having made the  
74 purchase. The manager provided me a copy of the receipt.

75           After reviewing the evidence, I determined there was probable cause and arrested Tyler  
76 Banks charging him/her with unlawful possession of stolen credit card or debit card, pursuant to  
77 Florida Statutes s. 817.60, as well as grand theft pursuant to Florida Statutes s. 812.104.

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

STATE OF FLORIDA,

Prosecution,

v.

Case No. 17-12349-H

TYLER BANKS,

Defendant.

---

**SWORN STATEMENT OF CASEY ROSS**

1           My name is Casey Ross and I am 17 years old. I currently reside with my mother/father,  
2 Dakota Ross at 2751 Winwood Drive in Palmville Florida. I am a senior at Palmville High School  
3 and, quite honestly, I can't wait to get out of this small town. Life has not been very happy for me  
4 since my other parent died. When he/she passed away, my whole life changed. I became depressed  
5 and lonely. My best friend, Tyler Banks, was there to help me through this - we have been  
6 inseparable since third grade. My nickname for Tyler is "hoods," since s/he is always wearing a  
7 hoodie. Tyler spends almost every day at my house, as s/he does not get along very well with  
8 his/her parents. We are very similar in that way as I don't particularly get along with my  
9 father/mother, Dakota Ross. All my father/mother Dakota wants to do is spend money, hang out  
10 with his/her rich friends, and buy his/herself a new Mercedes every year. All s/he cares about is  
11 his/her precious money.

12           Around June 1<sup>st</sup>, 2017, I went to my parent to ask for a \$3000 loan so that Tyler could buy  
13 a limited-edition electric guitar. Tyler was part of a great band that was on the verge of hitting it  
14 big time and getting a major recording contract. All Tyler needed was that special sound and this  
15 guitar was the ticket. But, of course, my cheap dad/mom would not even consider loaning Tyler  
16 any money. However, s/he made sure s/he had a new Mercedes Benz the very next week. All  
17 he/she cares about is his/herself.

18           On June 17<sup>th</sup>, 2017, my parent had an accident at home and fell down the stairs. S/he was  
19 always pretty clumsy. S/he had to go to the hospital for a couple weeks and then to a rehabilitation  
20 facility for another few weeks. During the time my father/mother was in the hospital and  
21 rehabilitation, our housekeeper, Rosaline, was doing the shopping and taking care of the house. I  
22 don't know what she was using to purchase the items, but she did have access to my father/mother's  
23 debit card and knew the PIN number. I also knew the PIN number to my father/mother's debit card  
24 and would use it once in a while when my dad/mom would allow me to use it. Most of the time  
25 when I used it, it was to buy things for my father/mother. Tyler would go with me to the store  
26 regularly. I remember once commenting to Tyler about how unimaginative my parents were with  
27 their PIN number for the debit card by using the month and date of my birth. I'm sure my best  
28 friend knew that I was born on August 15<sup>th</sup> and would therefore know the PIN number, but I'm  
29 sure Tyler would never do something like take money from my mother/father.

30           I spoke with Detective Reese Willingham and s/he asked me all of these questions, like I  
31 was a suspect or something. Don't get me wrong, I would have loved to have taken money from  
32 my father/mother, but even if I did, what could I spend the money on without him/her finding out?  
33 What I can say is that I know our housekeeper, Rosaline, had the most access to the debit card and

34 certainly knew the PIN. It's also weird that she just suddenly had to leave when my mother/father  
35 came home from rehabilitation. I can't understand why they're blaming my best friend Tyler when  
36 somebody else had more access to the debit card. Detective Willingham asked me about whether  
37 Tyler would have known where my mother/father's debit card and PIN number. The truth is, I am  
38 sure that Tyler knew where the debit card was kept, and s/he did see me use it all the time.  
39 Detective Willingham did show me a picture from some ATM camera and asked me if I recognized  
40 the person in the picture. It was the same type of hoodie jacket s/he wore all of the time, but since  
41 the lighting is so bad and the face was so covered, I can't say for sure if it was Tyler or not. It  
42 could have been anyone. Yes, it's true that Tyler did end up getting that guitar, but Tyler told me  
43 s/he had to work all summer to get the money to buy the guitar. I never personally saw him/her  
44 working any of the jobs that s/he's talking about, but it's not like we spent every single second  
45 together. Tyler came over my house almost every day over the summer for a few hours and spent  
46 even more time over my house after my mother/father was injured, but s/he never told me about  
47 any work for neighbors s/he was doing. I'm sure that was because Tyler was embarrassed when  
48 my mother/father refused to give him/her any money.

49 I know I'm testifying against my own family in this case, but that is because I cannot believe  
50 that my best friend would take any money from my family. Sure, s/he may have had access to the  
51 debit card and could have done it, but I just don't see Tyler doing what s/he is accused of.

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT IN AND  
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Case No. 17-12349-H

TYLER BANKS,

Defendant.

\_\_\_\_\_ /

**SWORN STATEMENT OF BAILEY COHEN**

1           My name is Bailey Cohen and I live at 30 Virginia Road in Palmville, Florida. I have lived  
2 at this residence for 30 years and have been a resident of Palmville all my life. I live with my  
3 spouse and my two dogs and two cats. I have three grown children. I have been retired for 5 years  
4 from the local bread factory.

5           Over the years, I have sustained injuries to my back and knees, so when I need things done  
6 around the yard, I usually contact one of the neighborhood kids to help me out. I have known Tyler  
7 Banks all his/her life. Tyler's family moved into the neighborhood approximately 20 years ago. I  
8 like Tyler's parents, although I don't talk to them very much. They seem like nice people. Tyler  
9 started doing odd jobs for me around the house about four years ago. Over the years we have  
10 formed a sort of friendship. Tyler is one of the nicer teenagers in the neighborhood, and even  
11 when he/she wasn't working for me, Tyler would always come over and talk when s/he saw me  
12 out in my yard. We would talk about all types of things: his/her friends, what's going on in school,

13 and, of course, about his/her music. Tyler seemed interested in all types of music, and always  
14 talked about playing his/her guitar. I would hear Tyler in his/her band practice in his/her garage  
15 all the time. It sounded like a bunch of noise to me; it's certainly not my type of music. Give me  
16 Elvis Presley or Hank Williams Jr. anytime!

17         As I mentioned, Tyler has done work for me over the last few years. Tyler would clean out  
18 the gutters of the house, cut the grass, pull the weeds, all types of odd jobs around the house that I  
19 can no longer do on a regular basis. Since I am on a fixed income, Tyler wouldn't work for me all  
20 the time, only whenever my injuries were bothering me. I remember in May 2017, right after Tyler  
21 did some work for me, s/he asked about doing bigger jobs around my house for me over the  
22 summer. I remember Tyler saying something about buying a limited-edition car or something like  
23 that. My hearing is not the best from all the years working around the heavy machinery in the  
24 factory. What I did understand was that s/he was trying to earn and save some money. Since there  
25 is always plenty to do around the house, I told Tyler that I would think of some things for him/her  
26 to do and give him/her a call. Tyler is such a good kid, and I wanted to help him/her earn some  
27 money.

28         I contacted Tyler in early June 2017 and told him/her I was able to come up with some  
29 work for him/her to do around my house. I needed some tree limbs cut, some flowers planted, and  
30 my porch washed. At first, Tyler seemed very excited about doing this work and making the  
31 money. Tyler came by twice in the beginning of June 2017, and then once at the end of July 2017.  
32 I found this a little strange because Tyler did not get to all the work that I needed him/her to do  
33 over the summer, so I had some other people do the rest. It just seems like after the middle of June  
34 2017, Tyler became very distracted and was not around as much. I did see Tyler working at a

35 couple of other neighbor's yards over the summer, here and there. Maybe they had more work or  
36 were paying Tyler more money than I could. Tyler came back around at the end of July and helped  
37 out with a few other things. Tyler apologized for being busy, saying s/he was busy with work,  
38 band practice, and hanging out with Casey.

39           When I saw Tyler in July 2017, s/he was talking about how his best friend Casey Ross's  
40 mother/father, Dakota Ross, had injured him/herself at home. Tyler had mentioned Dakota Ross  
41 before, saying that Dakota seemed so self-centered and never gave any money to his/her  
42 son/daughter, Casey. I think Tyler was just upset for Casey – that kid has been through a lot with  
43 their parent dying and all. I don't know Dakota Ross personally, but I know who he/she is. I would  
44 often see Dakota Ross driving around the neighborhood in his/her new fancy foreign car like they  
45 owned the place.

46           I was really stunned to hear that Tyler was being arrested and accused of stealing money.  
47 Tyler was always a hard worker and found ways to make his/her own money. Tyler just didn't  
48 seem like the type that would be so desperate as to steal money from anybody. I was approached  
49 by Detective Willingham before Tyler was arrested and s/he asked me questions about Tyler. I  
50 told the detective how Tyler would work for me from time to time. I did tell Detective Willingham  
51 that Tyler worked for me in the summer of 2017. When Detective Willingham spoke to me, s/he  
52 seemed to be so focused on Tyler as a thief that he/she didn't seem very interested in asking me  
53 the type of work that Tyler did for me in the summer of 2017, or even how much I'd paid Tyler in  
54 the summer of 2017. I'm sure they have the wrong person. ATM theft just doesn't seem like  
55 something the Tyler I know would be a part of.

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

STATE OF FLORIDA,

Prosecution,

v.

Case No. 17-12349-H

TYLER BANKS,

Defendant.

\_\_\_\_\_ /

**SWORN STATEMENT OF TYLER BANKS**

1           My name is Tyler Banks. I live at 26 Virginia Road in Palmville, Florida. I'm 18 years old  
2 and currently a senior at Palmville High School. I had plans of going to college this fall, but with  
3 the current criminal charges against me, I have not received any college acceptance letters as of  
4 now. This whole situation has been a nightmare, and it is not even my fault. It's all because of  
5 Dakota Ross. S/he has this warped idea that I would take money from him/her, even though I never  
6 personally asked him/her for any money.

7           I started playing music when I was 11 years old, and it's been my passion ever since. I have  
8 played guitar in a few bands, including my current band, Friday Night Lights. I spend most of my  
9 time practicing and hanging out with the band, as well as with my best friend, Casey Ross. Casey's  
10 been my best friend for 10 years, and we are like brothers/sisters. Casey and I did everything  
11 together – including grocery runs and errands for Casey's parent. Casey's father/mother would  
12 give the debit card to Casey. Sure, I would see Casey use the debit card, and there was a time

13 Casey gave me the card to buy some groceries for myself – my parents aren't around a lot. Casey  
14 gave me the PIN number once, but it's not like I would remember some random number. I think it  
15 was Mr./Mrs. Ross' birthday – March 1st? I mean, who remembers numbers anymore? We have  
16 phones and other things to remember those type of things for us.

17 I am an aficionado of guitars. I have several acoustic guitars and an old electric guitar that  
18 I like to use. I remember seeing a beautiful Fender Stratocaster limited edition electric guitar at  
19 the local music store in May of 2017. I went inside and held the guitar and I knew I just had to find  
20 a way to buy it. I made plans to try to earn the three thousand dollars in the summer of 2017. I  
21 went around the neighborhood and talked to my neighbors to see if anyone had work for me  
22 including my old pal Bailey Cohen. Starting in June 2017, I cut yards, pulled weeds, whatever I  
23 needed to do to earn the three thousand dollars. I told Casey how much I wanted that guitar and  
24 how I was going to have to work all summer. We normally spent summer breaks hanging out and  
25 doing things together. Casey seemed pretty bummed out about the whole thing. I did say, "Hey,  
26 your dad/mom has all this money. Maybe s/he will give me three thousand dollars for the guitar I  
27 wanted." I was just joking, since I know that Casey's father/mother only spends money on  
28 him/herself. I was standing there when Casey asked - I probably should have spoken up  
29 immediately to make it clear that I did not want Dakota Ross's money for anything - but s/he gave  
30 the loan a quick "no." No surprise there; s/he's too cheap to even buy Casey a used car. I said it  
31 was fine, that I would find another way to get the money. I already had a bunch of jobs lined up.

32 I spent the summer of 2017 doing odd jobs around the neighborhood, making 20 dollars  
33 here, 30 dollars there. I had to stop for a few days around June 17, 2017, when Dakota Ross had  
34 his/her accident. I needed to be there as a friend for Casey. Casey seemed to enjoy the freedom

35 while his/her father/mother was in the hospital or whatever. Their housekeeper, Rosaline, was  
36 watching Casey. Casey and I were going out every night, and Casey was paying for me when we  
37 would eat. Casey even bought me some new clothes, including matching hoodies. I did not ask  
38 where Casey was getting all this money to spend. I just figured the tight wad left some cash for  
39 Casey. I never saw Casey use his/her father/mother's debit card between June 17, 2017 and August  
40 1, 2017. I saw Rosaline was around more than usual while Casey's father/mother was in the  
41 hospital/rehabilitation, so I guess she would have had access to the debit card.

42 Even though I was working every day over the summer, I would be over at Casey's house  
43 every day, just make sure that s/he was okay. I was finally able to earn enough money by the  
44 beginning of August 2017 to purchase my guitar. I wanted that guitar so bad, there was nothing  
45 that was going stop me from getting it. It brought a whole new sound to our band.

46 I worked hard over the summer for that guitar, and there would be no reason for me to take  
47 any money from anybody. I voluntarily spoke with Detective Willingham regarding this case, and  
48 s/he interviewed me for a long time. I did tell him/her that I probably would have had access to the  
49 debit card, if I would have looked for it, but it wouldn't matter anyway – I was unsure of the PIN  
50 number. The detective asked about my hoodie because of some ATM picture. Come on - how  
51 many people own a black hoodie? That could have been anyone. Detective Willingham also asked  
52 me for the names of the specific neighbors I worked for over the summer, but you know how these  
53 odd jobs go. I worked for so many random people and I rarely caught their names. I know what I  
54 did, and I know how hard I worked for the guitar. Casey is my best friend. I wouldn't steal from  
55 his/her family, even if I didn't like Dakota Ross.

# **Exhibits**

## Exhibit A – Police Report from Palmville Police Station



### POLICE REPORT



# PALMVILLE POLICE DEPARTMENT

**PPD CASE NUMBER:**  
2017-12986

**TYPE OF INCIDENT:** Unlawful Possession of Debit Card/Grand Theft

**INSTRUCTIONS:** Refer to PPD SOP on 'Recording of Incidents in the Police Blotter when filling out this form. This POLICE REPORT may be reproduced, photocopied, and/or downloaded from the PPD website, www.PPD.pnp.gov.

<b>DATE AND TIME REPORTED:</b> 08/06/2017 10:30 AM	<b>DATE OF INCIDENT:</b> JUNE 18, 2018 thru JULY 31, 2018	<b>PLACE OF INCIDENT:</b> PALMVILLE, FLORIDA
--	--	---

#### ITEM "A" - REPORTING PERSON

<b>FAMILY NAME</b> ROSS		<b>FIRST NAME</b> DAKOTA		<b>MIDDLE NAME</b> N/A		<b>NICKNAME</b> N/A	
<b>CITIZENSHIP</b> USA	<b>CIVIL STATUS</b> WIDOWED	<b>DATE OF BIRTH</b> 05/25/1977	<b>AGE</b> 40	<b>PLACE OF BIRTH</b> Palmville, Florida	<b>HOME PHONE</b> 258-222-9223	<b>MOBILE PHONE</b> 258-224-8734	
<b>CURRENT ADDRESS (HOUSE NUMBER/STREET)</b> 2751 WINWOOD DRIVE		<b>VILLAGE/SITIO</b> N/A	<b>ZIPCODE</b> 44444	<b>TOWN/CITY</b> PALMVILLE	<b>STATE</b> FLORIDA		
<b>HIGHEST EDUCATIONAL ATTAINMENT</b> 4-YEAR COLLEGE DEGREE		<b>OCCUPATION</b> N/A		<b>ID CARD PRESENTED</b> YES/DL#R-008-2243-1977			

#### ITEM "B" - SUSPECT'S DATA

<b>FAMILY NAME</b> BANKS		<b>FIRST NAME</b> TYLER		<b>MIDDLE NAME</b> N/A		<b>NICKNAME</b> HOODS	
<b>CITIZENSHIP</b> USA	<b>CIVIL STATUS</b> SINGLE	<b>DATE OF BIRTH (MM/DD/YY)</b> 01/15/2000	<b>AGE</b> 18	<b>PLACE OF BIRTH</b> PALMVILLE, FLORIDA	<b>HOME PHONE</b> N/A	<b>MOBILE PHONE</b> 258-244-5612	
<b>CURRENT ADDRESS (HOUSE NUMBER/STREET)</b> 26 VIRGINIA ROAD		<b>VILLAGE/SITIO</b> N/A	<b>ZIPCODE</b> 44444	<b>TOWN/CITY</b> PALMVILLE	<b>STATE</b> FLORIDA		
<b>HIGHEST EDUCATIONAL ATTAINMENT</b> HIGH SCHOOL		<b>OCCUPATION</b> STUDENT		<b>WORK ADDRESS</b> N/A	<b>RELATION TO VICTIM</b> FAMILY FRIEND		
<b>IF AFP/PNP PERSONNEL: RANK</b> N/A	<b>UNIT ASSIGNMENT</b> N/A	<b>GROUP AFFILIATION</b> N/A		<b>WITH PREVIOUS CRIMINAL RECORD?</b> [ ] Yes [X] No <i>(If Yes, Pls. Specify)</i>	<b>STATUS OF PREVIOUS CASE</b> N/A		

#### ITEM "C" - VICTIM'S DATA

<b>FAMILY NAME</b> ROSS		<b>FIRST NAME</b> DAKOTA		<b>MIDDLE NAME</b> N/A		<b>NICKNAME</b> N/A	
<b>CITIZENSHIP</b> USA	<b>CIVIL STATUS</b> WIDOWED	<b>DATE OF BIRTH (MM/DD/YY)</b> 05/25/1977	<b>AGE</b> 40	<b>PLACE OF BIRTH</b> PALMVILLE, FLORIDA	<b>HOME PHONE</b> 258-222-9223	<b>MOBILE PHONE</b> 258-224-8734	
<b>CURRENT ADDRESS (HOUSE NUMBER/STREET)</b> 2751 WINWOOD DRIVE		<b>VILLAGE/SITIO</b> N/A	<b>ZIPCODE</b> 44444	<b>TOWN/CITY</b> PALMVILLE	<b>STATE</b> FLORIDA		
<b>HIGHEST EDUCATIONAL ATTAINMENT</b> 4-YEAR COLLEGE DEGREE		<b>OCCUPATION</b> N/A		<b>WORK ADDRESS</b> N/A			

**Exhibit B – ATM Photograph**



**Exhibit C – June 2017 Bank Statement**



**Palmville National Bank Statement**

**Dakota Ross**  
  
**2751 Winwood Drive**  
  
**Palmville, FL 44444**

**For June 1, 2017 to June 30, 2017**

**Account Number**  
00-123456  
**Branch Transit Number**  
098765

**Account Summary**

Opening Balance	\$5,234.09
Withdrawals	\$4,082.71
Deposits	\$2,600.00
<b>Closing Balance on June 30, 2017</b>	<b>\$3,751.38</b>

**Contact Information**

**1-800-222-0123**  
 Contact us by phone for questions, on this statement, change of personal information, and general inquiries, 24 hours a day, 7 days a week.

**You are eligible for a \$100 bonus**

Scan this QR code with your Smartphone To find out more about a High Interest Savings Account – with the first \$100 Deposit on us!



**TTY for the hearing impaired:**  
1-800-123-0007  
**Outside North America:**  
+1-123-4567

**Your branch**  
 Palmville West Branch  
 1375 Riverside Drive  
 Palmville, FL  
 44444

*You may need to get a QR Code® reader from your SmartPhone App Store*

**Your Transaction Details**

Date	Details	Withdrawals	Deposits	Balance
June 1	Opening Balance			5,234.09
June 1	ABC Property Mgmt		250.00	5,484.09
June 10	ATM #3	100.00		5,384.09
June 12	Direct Debit	32.66		5,351.43
June 12	Annuity Transfer-2 <sup>nd</sup> Quarter		2,100.00	7,451.43
June 13	Bill payment	135.07		7,241.50
June 14	Direct debit-Grocery	74.86		7,321.47
June 14	ABC Property Mgmt		250.00	7,491.50
June 15	Bill payment	525.72		6,965.78
June 17	Bill payment	327.63		6,638.15
June 17	Bill payment	729.96		5,908.19
June 18	Bill Payment	223.69		5,684.50

June 18	ATM #3	400.00	5,284.50
June 21	Direct Debit-Grocery	86.97	5,197.53
June 21	ATM #4	400.00	4,797.53
June 26	Direct Debit-Grocery	75.46	4,722.07
June 28	ATM-Main Branch PNB	400.00	4,322.07
June 30	Bill Payment	170.69	4,151.38
June 30	ATM #4	400.00	3,751.38
	<b>Closing Balance</b>		<b>3,751.38</b>

---

**Thank You for Choosing Palmville National Bank for Your Banking Needs!**

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July 18	Direct Debit-Grocery	164.90	1,084.58
July 21	ATM #4	400.00	684.58
July 26	Direct Debit-Grocery	148.26	536.32
July 28	ATM #4	400.00	136.32
July 31	Bill Payment	122.23	14.09
	<b>Closing Balance</b>		<b>14.09</b>

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**Thank You for Choosing Palmville National Bank for Your Banking Needs!**

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**Are you ready to go paperless? Get your statements online!**

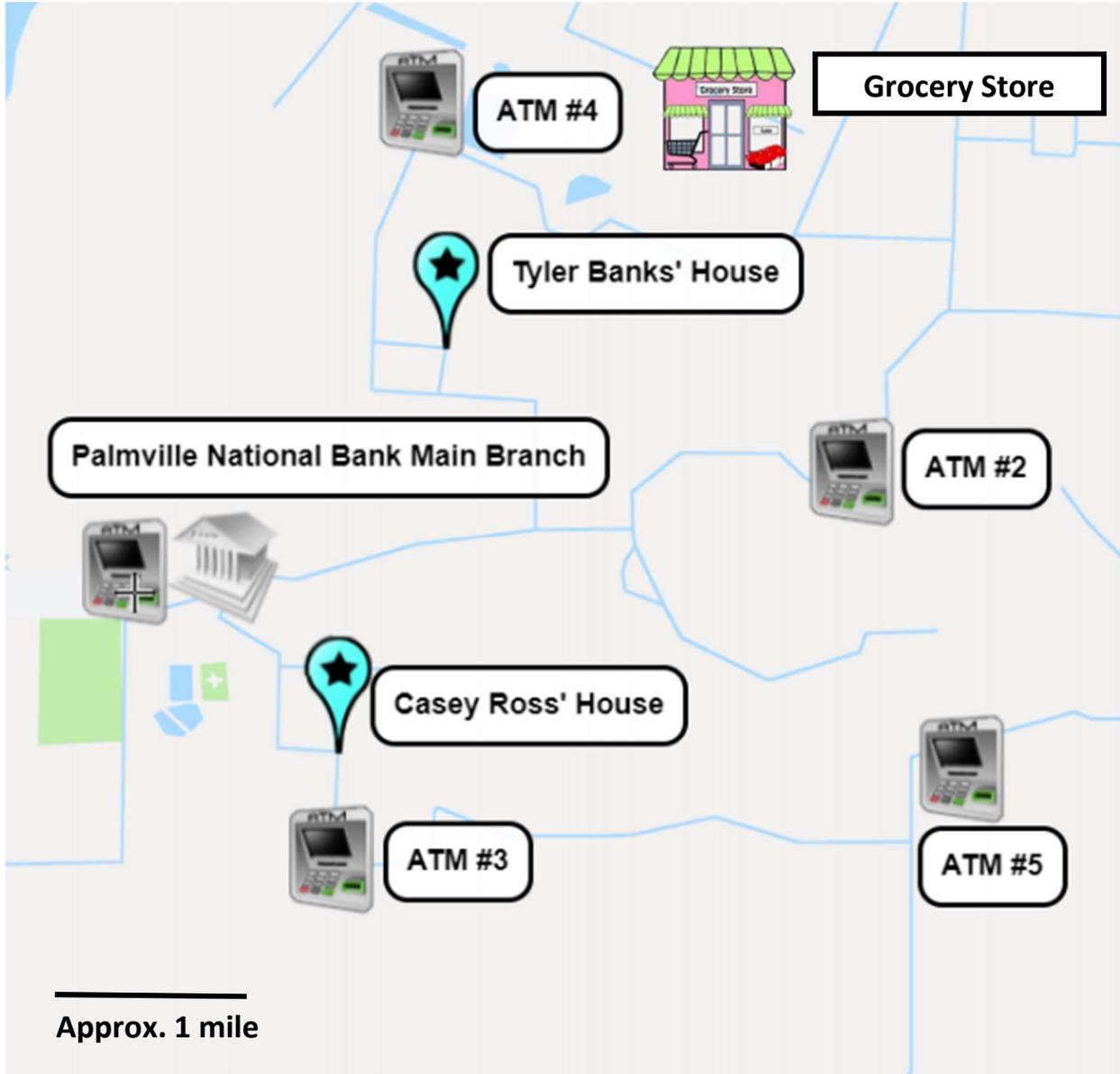
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*You may need to get a QR Code reader from your SmartPhone App Store*

**Exhibit D – Map of Palmville, Florida with Selected Locations**



**Exhibit E – Copy of Receipt from Palmville Music Store dated August 4, 2017**

**Palmville Music**

1045 Pine Street  
 Palmville, FL 33330  
[Joe Miller, 258-333-2209](mailto:Joe.Miller@musicofpalmville.com) [www.MusicofPalmville.com](http://www.MusicofPalmville.com)

**DATE:** August 4, 2017  
**INVOICE #:** 23009

**INVOICE**

**Bill To:** Tyler Banks

**Ship To:** picked up at store

P.O. #	Ship Date	Ship Via	Terms	Due Date
Product ID	Description	Quantity	Price	Line Total
2569782	Limited Edition Fender Stratocaster	1	3,000.00	3,000.00
SUBTOTAL				\$3,000.00
TAX 6.00%				-
SHIPPING & HANDLING				\$180.00
TOTAL				-
PAID				\$3,180.00
TOTAL DUE				\$3,180.00

**Notes:**  
 PAID IN FULL-CASH

THANK YOU FOR YOUR BUSINESS!

## Applicable Law

### **817.60 Theft; obtaining credit card through fraudulent means.—**

(8) UNLAWFUL POSSESSION OF A STOLEN CREDIT OR DEBIT CARD.—A person who knowingly possesses, receives, or retains custody of a credit or debit card that has been taken from the possession, custody, or control of another without the cardholder's consent and with the intent to impede the recovery of the credit or debit card by the cardholder commits unlawful possession of a stolen credit or debit card and is subject to the penalties set forth in s. [817.67\(2\)](#)..

### **812.014 Theft.—**

- (1) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:
- (a) Deprive the other person of a right to the property or a benefit from the property.
  - (b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.
- (2)(a)1. If the property stolen is valued at \$100,000 or more or is a semitrailer that was deployed by a law enforcement officer; or
2. If the property stolen is cargo valued at \$50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or
3. If the offender commits any grand theft and:
- (c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#), if the property stolen is:
    - 1. Valued at \$300 or more, but less than \$5,000.

# Jury Instructions

## THEFT

§ 812.014, Fla. Stat.

**To prove the crime of Theft, the State must prove the following two elements beyond a reasonable doubt:**

1. (Defendant) **knowingly and unlawfully [obtained or used] [endeavored to obtain or to use] the (property alleged) of (victim).**
2. [He] [She] **did so with intent to, either temporarily or permanently,**
  - a. **[deprive (victim) of [his] [her] right to the property or any benefit from it.]**
  - b. **[appropriate the property of (victim) to [his] [her] own use or to the use of any person not entitled to it.]**

If the amount of theft is greater than \$300.00, and less than \$5,000.00, the defendant shall be guilty of grand theft.

## UNLAWFUL POSSESSION OF A STOLEN CREDIT/DEBIT CARD

§ 817.60(8), Fla. Stat.

**To prove the crime of Unlawful Possession of a Stolen [Credit] [Debit] Card, the State must prove the following four elements beyond a reasonable doubt:**

1. (Defendant) **knowingly [possessed] [received] [retained custody of] a [credit] [debit] card.**
2. **The [credit] [debit] card had been taken from the [possession] [custody] [control] of another without the cardholder's consent.**
3. **The (defendant) knew the [credit] [debit] card had been taken from the [possession] [custody] [control] of another without the cardholder's consent.**
4. **At the time (defendant) [possessed] [received] [retained] the [credit] [debit] card, [he] [she] had the intent to impede the recovery of the [credit] [debit] card by the cardholder.**

*Definitions.*  
§ 817.58(4), Fla. Stat.

**“Credit card” means any instrument or device, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, electronic benefits transfer (EBT) card, or debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value on credit or for use in an automated banking device to obtain any of the services offered through the device.**

*Possession.*

**To “possess” means to have personal charge of or exercise the right of ownership, management, or control over an object.**

**Possession may be actual or constructive.**

**Actual possession means**

- a. the object is in the hand of or on the person, or**
- b. the object is in a container in the hand of or on the person, or**
- c. the object is so close as to be within ready reach and is under the control of the person.**

**Constructive possession means the object is in a place over which (defendant) has control, or in which (defendant) has concealed it.**

### **REASONABLE DOUBT**

**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.**

# 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/plaintiff 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, and 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: Opening Statements
- a) Direct/Re-direct Examination of Witness #1
  - b) Direct/Re-direct Examination of Witness #2
  - c) Direct/Re-direct Examination of Witness #3
  - d) Cross/Re-cross Examination of Witness #1
  - e) Cross/Re-cross Examination of Witness #2
  - f) Cross/Re-cross Examination of Witness #3
  - g) Closing Arguments
  - h) 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 trial presentation. An additional 2 minutes will be allotted for team introductions.**
- 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 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.
- C. Students will be assessed based on the score sheet and rubric contained in the case materials. Student attorneys and witnesses will be individually assessed. Teams will also receive scores for ethical conduct and team performance. Ethical conduct includes consideration of professionalism, the following of rules, and courtroom demeanor.

**Rule XXIV: Eligibility**

- A. Both sides of the case must be presented by students enrolled in the same school.
- B. Each school may only submit one video.

## **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 13<sup>th</sup> 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/Speculation:** *“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**

- i. 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.
- ii. 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.

## 2. 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 no 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."

### 3. **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**.

- a. All evidence will be pre-marked as exhibits.
- b. Ask for permission to approach the witness. “Your Honor, may I approach the witness with what has been marked for identification purposes as Exhibit No. \_\_\_?”
- c. Show the exhibit to opposing counsel.
- d. Ask the witness to identify the exhibit. “I now hand you what has been marked for identification as Exhibit No. \_\_\_\_\_. Would you identify it please?” Witness should answer to identify only.
- e. Ask the witness a series of questions that are offered for proof of the admissibility of the exhibit. These questions lay the foundation or predicate for admissibility, including questions of the relevance and materiality of the exhibit.
- f. Offer the exhibit into evidence. “Your Honor, we offer Exhibit No. \_\_\_ into evidence.”
- g. Court: “Is there an objection?” (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
- h. Opposing Counsel: “No, Your Honor,” OR “Yes, Your Honor.” If the response is “yes”, the objection will be stated for the record. Court: “Is there any response to the objection?”
- i. Court: “Exhibit No. \_\_\_ (is/is not) admitted.” If admitted, questions on content may be asked.

**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.**

#### 4. 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:
  1. 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.
  2. Prove or explain acts of subsequent conduct of the declarant.
2. However, this subsection does not make admissible:
  1. 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.
  2. 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.

**D. Attorney Demeanor**

**\*\*See Code of Ethical Conduct**

**Note: Please refer to Official Case Materials for any specific additions relative to this trial.**

# Florida Virtual Middle School Mock Trial Competition

## SCORE SHEET/BALLOT

P = Prosecution: \_\_\_\_\_ D = Defendant: \_\_\_\_\_

Date: \_\_\_\_\_

Using a scale of **1 to 10**, rate the **P** and **D** in the categories below.  
Do **NOT** use fractional points. Please use a ballpoint pen.

Not Effective	Fair	Good	Excellent	Outstanding
1	2	3	4	5
6	7	8	9	10

Score Sheet/ Ballot	P		D
Opening Statement	( )		( )
Plaintiff's First Witness	( )		
	( )	Cross Examination	( )
Plaintiff's Second Witness	( )		
	( )	Cross Examination	( )
Plaintiff's Third Witness	( )		
	( )	Cross Examination	( )
Defense's First Witness		Direct Examination	( )
	( )	Witness Presentation	( )
Defense's Second Witness		Direct Examination	( )
	( )	Witness Presentation	( )
Defense's Third Witness		Direct Examination	( )
	( )	Witness Presentation	( )
Closing Argument	( )		( )
Ethical Conduct	( )		( )
Team Performance	( )		( )
<b>Column Totals: DO NOT TIE TEAMS</b>	( )		( )

**Note: Any errors in ADDITION will be corrected by score room staff. Please review your individual scores and return to trial coordinator.**

\_\_\_\_\_  
Judge's Signature

**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.