

the competition, until that team is eliminated from the competition entirely.

- (c) A violation of Rule 22(b) will be considered as occurring “outside the bar” and will be handled in accordance with the procedure outlined in Rule 35.

Rule 23. Videotaping/Photography

- (a) Any team has the option to refuse participation in videotaping, tape-recording, still photography, or media coverage.
- (b) Media coverage will be allowed by the two teams in the championship round at the State Finals.
- (c) Media representatives authorized by the trial coordinator will wear identification badges.

C. JUDGING

Rule 24. Decisions

All decisions of the judging panel are FINAL.

Rule 25. Composition of Panel

- (a) The judging panel will consist of at least three individuals. The composition of the judging panel and the role of the presiding judge will be at the discretion of the trial coordinator, with the same format used throughout the competition, as follows:
 - 1. One presiding judge and two attorney scoring evaluators (all three of whom complete score sheets); or
 - 2. One presiding judge and three attorney scoring evaluators (scoring evaluators only complete score sheets).
- (b) The semi-final and/or championship round may have a larger panel at the discretion of the trial coordinator.
- (c) All presiding judges and scoring evaluators receive the judge’s edition of the mock trial manual, which includes orientation materials and a bench brief and a briefing in a judges’ orientation.
- (d) Judging panel members should turn off and/or not use their cell phones, pagers, PDAs, etc. during a trial round.
- (e) In the event of an emergency (ex. sudden illness, etc.), if a judging panel member must leave the courtroom, the presiding judge will call for a brief recess, assess whether the judging panel member will be able to return in a reasonably short period of time and then resume the proceedings upon the panel member’s return to the courtroom. During the entirety of any type of recess, Rule 21(f) applies to the teams in the courtroom.
- (f) If the panel member is unable to return to the courtroom, the trial coordinator must be informed and the panel composition adjusted to best meet the requirements of the rules and the round should resume.

Rule 26. Scoresheets/Ballots

- (a) The term “ballot” will refer to the decision made by a scoring judge as to which team made the best presentation in the round. The term “scoresheet” is

used in reference to the form on which speaker and team points are recorded. Scoresheets are to be completed individually by the scoring judges. Scoring judges are not bound by the rulings of the presiding judge. The team that earns the highest points on an individual judge’s scoresheet is the winner of that ballot. The team that receives the majority of the three ballots wins the round. The ballot votes determine the win/loss record of the team for power-matching and ranking purposes. While the judging panel may deliberate on any special awards, (i.e., Outstanding Attorney/Witness) the judging panel may not deliberate on individual scores.

- (b) When exceptional presentations are made, the judging panel has the option of recognizing one Outstanding Attorney and/or one Outstanding Witness per competition round. This award is determined by a majority vote of the judging panel and will be announced at the closing assembly following preliminary rounds.
- (c) Judging panel members may not discuss the individual speaker or team points from their individual ballot with team members, team coaches or any other individual directly related to a team in the competition. In addition to the oral debriefing, judging panel members will be provided with an optional judging panel worksheet (8.5”x14”) on which they may record any individual observations they wish to share with a team or team member; team members, team coaches and other individuals directly related to a team in competition may not challenge a judging panel member with respect to his/her scores.
- (d) Any questions regarding the accuracy of mathematical computations **on a completed scoresheet**, blanks on a completed scoresheet **and/or the accuracy of a team’s final record at any given level of the competition** must be brought to the attention of the trial coordinator on site by the primary teacher or attorney coach within 30 minutes of the announcement of the teams moving on to the semi-final or final round or the announcement of the winner of that level of the competition.

Rule 27. Completion of Scoresheets

- (a) Scoresheets are to be completed in four steps:
 - 1. *Speaker Points*—The scoring evaluator will record a number of speaker points (1-10) for each section of the trial.
 - 2. *Sub-Total*—At the end of the trial, the scoring evaluator will total the sum of each team’s individual speaker points and place this sum in the Sub-Total box.
 - 3. *Team Points*—The scoring evaluator will give a number of points (1-10) to each team in the Team Points box. **NO TIE IS ALLOWED IN THE TEAM POINT BOX.**
 - 4. *Final Point Total*—The scoring evaluator will add the sub-total and team points boxes to achieve a final point total for each team. **NO TIE IS ALLOWED IN THE FINAL POINT**

- TOTAL BOX. The team with the highest number of points in the Final Point Total box receives the ballot from that scoring judge.
- (b) Each scoring evaluator may wish to consider specific point deductions for rules violations, which the scoring evaluator has observed during the trial, whether or not the formal dispute process has been invoked. Deductions *may be considered* for violations and charged against the score of an individual speaker (in the Speaker Points categories) or against the entire team (in the Team Points category). Examples of rule violations include but are not limited to: Unfair Extrapolations (Rule 4); Exceeding Time Limits (Rule 14); Use of Unapproved Supplemental Material (Rule 20); Improper Courtroom Decorum (Rule 40 and Ethics Code §1); Student Work Product (Rule 41 and Ethics Code §3); and Excessive or Frivolous Objections (Ethics Code §1).
- (c) Should only two scoring evaluators be available for a round, the trial coordinator shall average the scores of the scoring evaluators present at the specific round to achieve the required third score. The third scoring evaluator's score shall equal one-half the sum of the other two scoring evaluators' total scores for Plaintiff/Prosecution and Defendant/Defense.
- (d) Fractions will be rounded to the nearest higher whole number.
- (e) In the rare instance that the third scoresheet has a tie in the Final Point Total boxes, the philosophy outlined in Rule 28(a)(4) applies; only the point spread between the two actual scoresheets from the round will be compared. In this case, whichever team has the greatest point spread is the team that should receive the ballot of the third scoresheet. However, the Final Point Total of the third should remain as a tie and be factored into the point summaries used in power matching.
- (f) In cases where a scoresheet is submitted with a blank in a speaker point or team point box, the scoring coordinator will make every effort to contact that evaluator to have the evaluator complete the scoresheet. In the event that the evaluator cannot be reached either by phone or in person to correct the scoresheet, the scoring coordinator will fill in the blank by averaging the speaker points awarded by that evaluator for that squad. The scoring coordinator will add this averaged total to the blank box, initial the addition, note on the scoresheet that it is an averaged point award, correct the final point total box and notify the mock trial office.
4. *Point Spread against Opponents*—The point spread is the difference between the total points earned by the team whose tie is being broken less the total points of that team's opponent in each previous round. The greatest sum of these point spreads will break the tie in favor of the team with the largest cumulative point spread if the teams are in the winning bracket. If the tie occurs between two teams in the losing bracket, then the tie will be broken in favor of the team receiving the smallest cumulative point spread.
- (b) The results of the performance of each team's Plaintiff/Prosecution and Defendant/Defense sides in different courtrooms will not be added together for averaging purposes, to determine which teams advance, for breaking a tie, or for any other purpose.
- (c) The championship round (and semi-final round, when utilized) stands alone, with each team beginning with a clean slate. If the two teams in the championship round tie in the following three categories in this order—win/loss of courtroom, number of ballots, and number of points—the trial coordinator will use this procedure to resolve the tie:
1. Figure the point spread for each ballot won by a team and
 2. Add the point spreads for each team.
- The team with the largest cumulative point spread wins the championship. Only in the extremely rare event that this point-spread total also results in a tie, Rule 28 would be invoked in its entirety, thus evaluating the teams' performances throughout this level of competition (i.e., the State Finals would look only at performance at the State Finals level). The trial coordinator would examine the individual team records, taking each of the following steps in this order until the tie is broken:
1. Compare the win/loss records;
 2. Compare the ballot records from preliminary rounds;
 3. Compare the total number of points earned in preliminary rounds;
 4. Compare the point spread from the preliminary rounds. At each step, the tie is broken in favor of the team with the highest number (i.e., more wins, ballots, points, or larger point spread than the opponent).
- (d) Announcement of the results of regional champion rounds are subject to verification by the state mock trial office before those results become official.
- (e) *Wildcard Teams at State Finals*: "Wildcard" teams will be chosen randomly, one from the southern and one from the northern mock trial regions. The mock trial office will pool all regional finalist teams from these two areas and draw the two "wildcard" teams. These two "wildcard" teams will advance to the state finals competition. No matches at the state competition (random or power-matches) will be

Rule 28. Team Advancement

- (a) Teams will be ranked based on the following criteria (the "Ranking Rule") in the order listed:
1. *Win/Loss Record*—equals the number of rounds won or lost by a team.
 2. *Total Number of Ballots*—equals the number of scoring judges' votes a team earned in preceding rounds.
 3. *Total Number of Points Accumulated in Each Round*
- (e) *Wildcard Teams at State Finals*: "Wildcard" teams will be chosen randomly, one from the southern and one from the northern mock trial regions. The mock trial office will pool all regional finalist teams from these two areas and draw the two "wildcard" teams. These two "wildcard" teams will advance to the state finals competition. No matches at the state competition (random or power-matches) will be

affected by regional conflicts. *(More details and specific procedures for implementation regarding the "Wildcard Teams" may be found in the Coaches' Manual.)*

Rule 29. Power Matching/Seeding

(Additional explanations regarding the power-match scoring system may be found in the Coaches Manual.)

- (a) A random method of selection will determine opponents in the first round. A power-match system will determine opponents for all other rounds. A discussion of the power match system is included in the Coaches' Manual and is thereby incorporated into the Rules of the Competition. *(A copy of the Coaches' Manual is posted on the GHSMTTC website.)*
- (b) Power matching will provide that:
1. Pairings for the first round will be at random. **In the first round, the P and D squads from any given school team will be matched randomly with the P and D squads from two other school teams. School team matches (or "team to team" matches—where the P and D of two schools are matched only against each other) are prohibited in the first round.**
 2. All teams are guaranteed to present each side of the case twice.
 3. Brackets will be determined by win/loss record. Plaintiff/Prosecution and Defendant/Defense squads of each team will be matched according to their separate performances in the first round. Sorting within brackets will be determined in the following order: (1) win/loss record; (2) ballots; (3) speaker points; then (4) point spread. The squad with the highest number of ballots in the bracket will be matched with the opposing squad with the lowest number of ballots in the bracket; the next highest with the next lowest, and so on until all teams are matched.
 4. If there are an odd number of squads in a bracket, the squad in the bottom of that bracket will be matched with the top squad from the next lower bracket.
 5. Teams will not meet the same opponent twice in the preliminary rounds.
 6. To determine the two teams rising to the championship round, win/loss, ballot, and point scores will be totaled for each team's Plaintiff/Prosecution and Defendant/Defense squads. The two teams with the best combined ranking in these categories in this order (i.e., win/loss, ballot, and point scores) will rise to the championship round.
 7. **In regions operating under emergency circumstances with only four teams competing, the scoring coordinator will rank those teams after the randomly matched first round in order using the Ranking Rule as outlined in Rule 28(a). When setting matches for the second round, the scoring coordinator will observe the power matching procedure outlined in Rule 29 as closely as possible while adhering first and foremost to the following restrictions in setting the round two matches for four teams:**

- i. **No team will be matched against itself.**
- ii. **No squad will be matched against the same squad it encountered in the first round's random draw.**
- iii. **Team to team matches will be avoided.**

- (c) At the regional level, the two teams emerging with the strongest record from the two preliminary rounds (producing scores from four courtrooms) will advance to the final round. The first-place team will be determined by the win/loss record, ballots, and total points earned (in this order) from the championship round only. Ties will be broken following the procedure outlined in Rule 28.
- (d) At the regional level, where 10 or fewer teams are competing, the two teams emerging with the strongest record from the two preliminary rounds (producing scores from four courtrooms) will advance to the final round. The first-place team will be determined by the win/loss record, ballots, and total points earned (in this order) from the championship round only. Ties will be broken following the procedure outlined in Rule 28.
- (e) If a region has 11+ teams competing, that regional competition will include a semi-final round after the two preliminary rounds. The top four teams determined by the two preliminary rounds will compete in the semi-final round. The most powerful team will be matched with the least powerful team, and the two middle teams will be matched together, regardless of whether the squads have competed against each other in the preliminary rounds. The two most powerful teams emerging from the semi-final round will rise to the championship round. The regional champion team will be determined by the win/loss record, ballots, and total points earned (in this order) from the championship round only. Ties will be broken following the procedure outlined in Rule 28.
- (f) The State Finals competition will include a semi-final round after the two preliminary rounds. The top four teams determined by the two preliminary rounds will compete in the semi-final round. The most powerful team will be matched with the least powerful team, and the two middle teams will be matched together, regardless of whether the squads have competed against each other in the preliminary rounds. The two most powerful teams emerging from the semi-final round will rise to the championship round. The state champion team will be determined by the win/loss record, ballots, and total points earned (in this order) from the championship round only. Ties will be broken following the procedure outlined in Rule 28.

Rule 30. [reserved]

Rule 31. Effect of a Win by Default

For the purpose of advancement and seeding, when a team wins by default, the winning team for that round will be given a win and the number of ballots and points equal to the average of all winning teams' ballots and points of that same round. A win by default can only occur under the circumstances outlined in Rule 11.

D. DISPUTE SETTLEMENT

Rule 32. Reporting a Rules Violation/Inside the Bar

- (a) Disputes, which involve team members competing in a competition round and occur within the bar, must be filed immediately following the conclusion of that trial round. Disputes must be brought to the attention of the presiding judge at the conclusion of the trial.
- (b) If any team believes that a substantial rules violation has occurred, one of its team member attorneys must indicate that the team intends to file a dispute. The scoring panel will be excused from the courtroom, and the presiding judge will provide the team member attorney with a dispute form, on which the team member will record in writing the nature of the dispute. The team member may communicate with counsel and/or team member witnesses before lodging the notice of dispute or in preparing the form.
- (c) At no time in this process may team coaches communicate or consult with the team member attorneys. Only team member attorneys may invoke the dispute procedure.
- (d) The dispute procedure described in this rule may not be used to challenge an action by the presiding judge which a team believes to materially depart from the rules of the mock trial competition. If a team believes that such a material departure has occurred, one of its team member attorneys must move, during the trial round, for compliance with the rules of the mock trial competition in accordance with Rule 17. (See Rule 33a for resolution procedure)
- (e) Rules violations and/or disputes, which involve teams, individual team members or coaches during the course of the round or during the competition day, which are not brought to the attention of the presiding judge during a round (under Rule 32a) or to the trial coordinator's attention during the competition day by a teacher or attorney coach (under Rule 35), but which are discovered in the normal course of organizing and running the business of the competition on competition day and which are discovered by the trial coordinator or one of his/her coordinating team members, should be dealt with on-site (see Rule 33b & c for resolution procedure).

Rule 33. Dispute Resolution Procedure

- (a) The presiding judge will review the written dispute and determine whether the dispute should be heard or denied. If the dispute is denied, the judge will record the reasons for this, announce her/his decision to the Court, retire to complete his/her scoresheet (if applicable), and turn the dispute form in with the scoresheets. If the judge feels the grounds for the dispute merit a hearing, the form will be shown to

opposing counsel for their written response. After the team has recorded its response and transmitted it to the judge, the judge will ask each team to designate a spokesperson. After the spokespersons have had time (not to exceed three minutes) to prepare their arguments, the judge will conduct a hearing on the dispute, providing each team's spokesperson three minutes for a presentation. The spokespersons may be questioned by the judge. At no time in this process may team coaches communicate or consult with the team member attorneys. After the hearing, the presiding judge will adjourn the court and retire to consider her/his ruling on the dispute. That decision will be recorded in writing on the dispute form, with no further announcement.

- (b) Rules violations and/or disputes brought by trial coordinators and/or a member of the coordinating team must be dealt with on site and in consultation with the appropriate Director of Competitions, the Rules Subcommittee Chair, the State Coordinator, the Chair of the Committee, either Vice Chair of the Committee and/or the Special Consultant to the Committee. The trial coordinator should request a verbal explanation of the violation and/or dispute from the offending team, individual or coach before contacting the appropriate and/or available HSMT leader. In consultation, the trial coordinator and the HSMT leader(s) contact will decide the outcome of the situation. All decisions in this process made by the trial coordinator in consultation with HSMT leadership will be considered final.
- (c) If a trial coordinator, in consultation with HSMT leadership, determines that a rules violation did occur as described in Rules 32(b) and 33(b), the trial coordinator and HSMT leader(s) may choose to impose one or more of the consequences outlined in Rule 10(e) 1-5.

Rule 34. Effect of Violation on Score

If the presiding judge determines that a substantial rules violation has occurred, the judge will inform the scoring judges of the dispute and provide a summary of each team's argument. The scoring judges will consider the dispute before reaching their final decisions. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring judges.

Rule 35. Reporting of Rules Violation/Dispute Outside the Bar on Competition Day

- (a) Time is of the essence in all matters during any level of the competition. **Coaches and team members are expected to communicate before and after competition rounds on a variety of competition-related topics, in addition to student performance. Moreover, coaches should communicate with each other during the course of the competition day so that they are aware, within a reasonable amount of time, of events that occur during the competition that relate to their competition team, including any potential**

outside the bar rules violation/dispute that may have occurred.

- (b) A Rules Violation/dispute, which involves people other than team members and/or occurs outside the bar only during a trial round on competition day, may be brought by the primary teacher or attorney coaches exclusively. Such disputes must be brought to the attention of the trial coordinator as soon as possible, but in no event more than 30 minutes after the end of the round in which the alleged violation occurred. The complaining party must complete a dispute form in order for the dispute to be heard. The form will be taken to the tournament's communication's center, whereupon a dispute resolution panel will:
 - 1. Notify all pertinent parties;
 - 2. Allow time for a response, if appropriate;
 - 3. Conduct a hearing; and
 - 4. Rule on the charge.
- (c) The trial coordinator and/or his/her designated dispute resolution panel must handle all disputes of this type on site and on the day of the competition. The dispute resolution panel may notify the judging panel of the affected courtroom of the ruling on the charge.
- (d) The dispute resolution panel will be composed of designees, including available HSMTC leaders, appointed by the trial coordinator, who may also sit on the panel.
- (e) The decision of the dispute resolution panel in these matters will be considered final and no appeals will be heard.
- (f) If a trial coordinator, in consultation with HSMTC leadership, determines that an "outside the bar" rules violation did occur, the trial coordinator and/or HSMTC leader(s) may choose to impose one or more of the consequences outlined in Rule 10(e)(1-5).
- (g) Teams shall not bring outside the bar disputes/issues that arise on competition day directly to the state mock trial office for consideration at any time.
- (h) If a coach discovers a potential outside the bar violation after the 30-minute time frame for disputes has elapsed, **but on the same day that the alleged violation occurred, and wishes to have the matter reviewed, that coach is required to bring the issue to the attention of the trial coordinator before leaving the competition site. The trial coordinator will then convene the dispute resolution panel to review the matter as described in sections (b) through (e) of this rule. If a coach leaves the competition site knowing that a potential outside the bar rules violation/dispute has occurred, but without formally bringing it to the attention of the trial coordinator, the team forfeits the right to file the complaint or have the matter reviewed in any way.**
- (i) **Only under the most extenuating of circumstances, which must be described in writing, may a coach bring a complaint of an outside the bar rules violation/dispute to the** Rules chair on the Monday after that level of the competition has concluded. **If the Rules Chair determines that the issue could not be brought to the attention of the trial coordinator at the competition site, s/he will review the issue** and may choose to request a response from the alleged offender in order to gain a clearer understanding of the situation. The Rules Chair may resolve the dispute at the time it is submitted; if the Rules Chair determines that a violation

did occur, s/he, in consultation with other HSMTC leaders and with the advice of the State Coordinator, may impose one or more of the consequences outlined in Rules 10(e)(1-5) on the offending team, coach, or individual team member.

- (j) The Rules Chair, in his/her sole discretion, may also elect not to resolve the dispute but to include the issue in the rules review at the next meeting of the Subcommittee on the Rules. Regardless of whether the dispute is resolved, it will have no bearing on the outcome of any competition round(s) during the competition level at which the dispute arose.

II. RULES OF PROCEDURE

A. BEFORE THE TRIAL

Rule 36. Trial Squad Roster Form

Copies of the Trial Squad Roster Form must be completed and duplicated by each team prior to arrival at the competition site. Teams must be identified by the code assigned at registration. No information identifying team origin should appear on the form. Before beginning a trial, the teams must exchange copies of the Trial Squad Roster Form. Witness lists should identify the gender of each witness so that references to such parties will be made in the proper gender. Copies of the Trial Squad Roster Form should also be made available to the judging panel and presiding judge before each round. The Trial Squad Roster Form master is in the Team Manual.

Rule 37. Stipulations

Stipulations shall be considered part of the record and already admitted into evidence.

Rule 38. The Record

The stipulations, the indictment, and the Charge to the Jury will not be read into the record.

B. BEGINNING THE TRIAL

Rule 39. Jury Trial

The case will be tried to a jury; arguments are to be made to judge and jury. Teams may address the scoring judges as the jury.

Rule 40. Standing During Trial

Attorneys who are able will stand while giving opening and closing statements, during direct and cross examinations, and for all objections.

(See Rule 27 for the treatment of rule infractions.)

Rule 41. Student Work Product

All opening statements and closing arguments, all direct and cross examinations, and all objections shall be substantially the work product of team members and not be scripted by coaches.

(See Rule 27 for the treatment of rule infractions.)

C. PRESENTING EVIDENCE

Rule 42. Argumentative/Ambiguous Questions and Non-Responsive Answer

- (a) *Argumentative*—An attorney shall not ask a question which asks the witness to agree to a conclusion drawn by the questions without eliciting testimony as to new facts; provided, however, that the Court may in its discretion allow limited use of argumentative questions on cross examination.
- (b) *Ambiguous Questions*—An attorney shall not ask questions that are capable of being understood in two or more possible ways.
- (c) *Non-Responsive Answer*—A witness' answer is objectionable if it fails to respond to the question asked.

Rule 43. Assuming Facts Not in Evidence

An attorney shall not ask a question that assumes unproved facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by the evidence.

Rule 44. Lack of Proper Predicate/Foundation

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

Rule 45. Procedure for Introduction of Exhibits

At the regional and state level of the Georgia High School Mock Trial Competition, the following procedure for introducing evidence is accepted practice. All teams should be prepared to follow these steps and all presiding judges should allow students to utilize this procedure for the introduction of evidence during competition rounds.

1. All evidence will be pre-marked as exhibits.
2. **Timekeepers will not stop time during the introduction of evidence.**
3. Show the exhibit to opposing counsel.
4. Ask for permission to approach the witness. Give the exhibit to the witness.
5. "I now hand you what has been marked as Exhibit No. ___ for identification."
6. Ask the witness to identify the exhibit. "Would you identify it please?"
7. Witness answers with identification only.
8. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No. ___ into evidence at this time. The authenticity of this exhibit has been stipulated."
9. 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.)
10. Opposing Counsel: "No, your Honor," or "Yes, your Honor." If the response is "yes," the objection will be stated on the record. Court: "Is there any response to the objection?"
11. Court: "Exhibit No. ___ is/is not admitted."
12. If the exhibit is admitted into evidence, the attorney may now solicit testimony on its contents.

Rule 46. Use of Notes

Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial. Attorneys may consult with each other at counsel table verbally or through the use of notes.

Rule 47. Redirect/Recross

Redirect and Recross examinations are permitted, provided they conform to the restrictions in Rule 611(d) in the Rules of Evidence.

D. SPECIAL MOCK TRIAL OBJECTIONS

Rule 48. Special Mock Trial Objections

- (a) *"Objections" during Openings/Closings:* No objections may be raised during opening statements or during closing arguments. If a team believes an objection would have been proper during the opposing team's opening statement or closing argument, one of its attorneys may, following the opening statement or closing argument, stand to be recognized by the judge and may say, "If I had been permitted to object during [opening statement or closing argument], I would have objected to the opposing team's statement that _____." The presiding judge will not rule on this "objection." Presiding and scoring judges will weigh the "objection" individually. No rebuttal by opposing team will be heard.
- (b) *Scope of Closing Arguments:* Closing Arguments must be based on the actual evidence and testimony presented during the trial, including rebuttal.
- (c) *Excessive and/or Intentionally Evasive and/or Non-Responsive Answers from Witnesses:* If a team believes that an opposing team's witness has engaged in excessive or intentional evasiveness and/or excessive or intentional non-responsive answers on cross, solely to use up an opponent's allotted cross examination time, and the attorney handling the cross examination of that witness has exhausted all methods of attempting to control that witness, that attorney may, at the end of that cross examination make an "objection" to "excessive/intentional evasiveness/non-responsiveness" on the part of that witness. If an attorney makes this mock trial "objection", he or she may stand at the end of his/her cross examination and ask to be recognized by the presiding judge saying, "Your honor, I object to the excessive/intentional evasiveness/non-responsiveness displayed by Witness X. I believe his/her sole purpose for using this tactic was to use up my allotted time during cross examination."
- (d) The presiding judge **shall allow no response to the objection** from the opposing team. The presiding judge **shall not rule on this objection**; however, the presiding judge may indicate to scoring evaluators that they may consider the "objection" at their discretion when completing their scoresheet (*see Rule 27 for point deductions for rules infractions*).

- (e) Evaluators may deduct points from any witness or witnesses and any team whose conduct properly draws such an objection or reasonably could have properly drawn such an objection even if no objection is made. Evaluators may also award additional points to attorneys or teams that effectively control witnesses/teams that use such delaying tactics during the cross examination, regardless of an “objection” under this rule being made.

E. CRITIQUE

Rule 49. The Critique

- (a) The judging panel is allowed 10 minutes for debriefing. The timekeepers will monitor the critique following the trial. Presiding judges are to limit critique sessions to the 10 minutes total time allotted.
- (b) Judges shall not make a ruling on the legal merits of the trial. Judges may not inform the students of scoresheet results or the awarding of outstanding attorney or witness certificates.

III. GEORGIA HIGH SCHOOL MOCK TRIAL COMPETITION RULES OF EVIDENCE

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

For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence, and its numbering system. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure. Text in *italics* or underlined represent simplified or modified language.

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

The Mock Trial Rules of Competition, the Rules of Procedure, and these simplified Rules of Evidence govern the Georgia Mock Trial Competition.

Article I. General Provisions

Rule 101. Scope

These rules govern proceedings in the *Georgia Mock Trial Competition*.

Rule 102. Purpose and Construction

These rules *are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.*

Rule 105. Limited Admissibility

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

Rule 106. Remainder of or Related Writings or Recorded Statements

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

Article II. Judicial Notice

Rule 201. Judicial Notice of Adjudicative Facts

- (a) **Scope of rule.** This rule governs only judicial notice of adjudicative facts.
- (b) **Kinds of facts.** A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
- (c) **When discretionary.** A court may take judicial notice, whether requested or not.
- (d) **When mandatory.** A court shall take judicial notice if requested by a party and supplied with the necessary information.
- (e) **Opportunity to be heard.** A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.
- (f) **Time of taking notice.** Judicial notice may be taken at any stage of the proceeding.
- (g) **Instructing jury.** In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

Article III. Presumptions in Civil Actions and Proceedings (*Not applicable in criminal cases*)

Rule 301. Presumptions in General in Civil Actions and Proceedings

In all civil actions and proceedings . . . a presumption imposes on the party against whom it is directed the

burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of non-persuasion, which remains throughout the trial upon the party on whom it was originally cast.

Article IV. Relevancy and its Limits

Rule 401. Definition of “Relevant Evidence”

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

Rule 402. Relevant Evidence Generally Admissible: Irrelevant Evidence Inadmissible

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

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

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, **confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.**

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

- (a) **Character evidence.** Evidence of a person’s character or **a trait of character** is not admissible **for the purpose of proving action in conformity therewith on a particular occasion, except:**
 1. **Character of accused.** **In a criminal case,** evidence of a pertinent **trait of character** offered by an accused, or by the prosecution to rebut same; **or if evidence of a trait of character of the alleged victim of the crime is offered by an accused and admitted under Rule 404 (a)(2), evidence of the same trait of character of the accused offered by the prosecution.**
 2. **Character of victim.** **In a criminal case,** evidence of a pertinent **trait of character** of the **alleged** victim of the crime offered by an accused, or by the prosecution to rebut **the** same, or evidence of a character trait of peacefulness of the **alleged** victim offered by the prosecution in a homicide case to rebut evidence that the **alleged** victim was the aggressor;
 3. **Character of witness.** Evidence of the character of a witness as provided in Rules 607, 608 and 609.
- (b) **Other crimes, wrongs, or acts.** Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person in order to show an action **in conformity therewith.** It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, **provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, or during**

trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.

Rule 405. Methods of Proving Character

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

Rule 406. Habit; Routine Practice

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

Rule 407. Subsequent Remedial Measures

When, after injury or harm allegedly caused by an event, measures are taken that, if taken previously, would have made the **injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove negligence, **culpable conduct, a defect in a product, a defect in a product’s design, or a need for a warning or instruction.**** This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

Rule 408. Compromise and Offers to Compromise

- (a) **Prohibited Uses.** Evidence of **the following is not admissible on behalf of any party when offered to prove liability for, invalidity of, or amount of a claim that was disputed as to validity or amount, or to impeach through a prior inconsistent statement or contradiction:**
 1. **furnishing or offering or promising to furnish—or accepting or offering or promising to accept—a valuable consideration in compromising or attempting to compromise the claim; and**
 2. **conduct or statements made in compromise negotiations regarding the claim, except when offered in a criminal case and the negotiations related to a claim by a public office or agency in the exercise of regulatory, investigative or enforcement authority.**
- (b) **Permitted uses.** This rule does not require exclusion if the evidence is offered for purposes not prohibited in subdivision (a). Examples of permissible purposes include proving a witness’s bias or prejudice; negating a contention of undue

delay; and proving an effort to obstruct a criminal investigation or prosecution.

Rule 409. Payment of Medical and Similar Expenses
(civil case rule)

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

Rule 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements

Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:

1. a plea of guilty which was later withdrawn;
2. a plea of *nolo contendere*;
3. any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the forgoing pleas; or
4. any statement made in the course of plea discussions made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty which is later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

Rule 411. Liability Insurance *(civil case only)*

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

Article V. Privileges

Rule 501. General Rule

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

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

Article VI. Witnesses

Rule 601. General Rule of Competency

Every person is competent to be a witness ...

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless *the witness has personal knowledge of the matter*. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses.

Rule 603. Oath or Affirmation

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation, administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so. [*The mock trial oath is provided in the Rules of the Competition at Rule 12.*]

Rule 604. Interpreters

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

Rule 607. Who may Impeach

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

Rule 608. Evidence of Character and Conduct of Witness

- (a) **Opinion and reputation evidence of character.** The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations:
 1. the evidence may refer only to character for truthfulness or untruthfulness, and
 2. evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence, or otherwise.
- (b) **Specific instances of conduct.** Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' **character for truthfulness**, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be **inquired into** on cross-examination of the witness
 1. concerning the witness' character for truthfulness or untruthfulness, or
 2. concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination **when examined** with respect to matters **that relate only to character for truthfulness**.

Rule 609. Impeachment by Evidence of Conviction of Crime
(This rule applies only to witnesses with prior convictions.)

- (a) **General Rule.** For the purpose of attacking the **character for truthfulness** of a witness,
1. evidence that a witness other than the accused has been convicted of a crime shall be admitted **subject to Rule 403** if the crime was punishable by death or imprisonment in excess of one year, **under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused; and**
 2. **evidence that any witness has been convicted of a crime shall be admitted regardless of the punishment, if it readily can be determined that establishing the elements of the crime required proof or admission of an act of dishonesty or false statement by the witness.**
- (b) **Time Limit.** Evidence of a conviction under this Rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the Court determines **in the interest of justice** that the value of the conviction **supported by specific facts and circumstances** substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.
- (c) **Effect of pardon, annulment, or certificate of rehabilitation.** Evidence of a conviction is not admissible if
1. the conviction has been the subject of a pardon, **annulment, certificate of rehabilitation,** or other equivalent procedure based on a finding of the rehabilitation of the person convicted **and that person has not been convicted** of a subsequent crime **that was** punishable by death or imprisonment in excess of one year, or
 2. the conviction has been the subject of a pardon, **annulment, or** other equivalent procedure based on a finding of innocence.
- (d) **Juvenile adjudications.** Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.
- (e) **Pendency of appeal.** The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

Rule 610. Religious Beliefs or Opinions

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

Rule 611. Mode and Order of Interrogation and Presentation

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

Rule 612. Writing Used to Refresh Memory

If a witness uses a writing to refresh memory for the purpose of testifying, either—

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

Rule 613. Prior Statements of Witnesses

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

Article VII. Opinions and Expert Testimony

Rule 701. Opinion Testimony by Lay Witness

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are

- (a) rationally based on the perception of the witness and
- (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and
- (c) **not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.**

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify **thereto** in the form of an opinion or otherwise, **if**

1. **testimony is based upon sufficient facts or data,**
2. **the testimony is the product of reliable principles and methods, and**
3. **the witness has applied the principles and methods reliably to the facts of the case.**

Rule 703. Bases of Opinion Testimony by Experts

The facts or data **in the particular case** upon which an expert bases an opinion **or inference** may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the **particular** field in forming opinions or inferences, **upon the subject** the facts or data need not be admissible in evidence **in order for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference unless the court determines that their probative value in assisting the jury to evaluate the expert's opinion substantially outweighs their prejudicial effect.**

Rule 704. Opinion on Ultimate Issue

- (a) **Except as provided in subdivision (b), testimony in the form of opinion or inference** otherwise admissible is not objectionable because it embraces an **ultimate** issue to be decided by the trier of fact.
- (b) **No expert witness testifying with respect to the mental state or condition of a defendant in a criminal case may state an opinion or inference as to whether the defendant did or did not have the mental state or condition constituting an element of the crime charged or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.**

Rule 705. Disclosure of Facts or Data Underlying Expert Opinion

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

Article VIII. Hearsay

Rule 801. Definitions

The following definitions apply under this article:

- (a) **Statement.** A "statement" is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.
- (b) **Declarant.** A "declarant" is a person who makes a statement.
- (c) **Hearsay.** "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.
- (d) **Statements which are not hearsay.** A statement is not hearsay if:
 1. **Prior statement by witness.** The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is (A) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or
 2. **Admission by a party-opponent.** The statement is offered against a party and is
 - a. the party's own statement in either an individual or a representative capacity or
 - b. a statement of which the party has manifested an adoption or belief in its truth, or
 - c. a statement by a person authorized by the party to make a statement concerning the subject, or
 - d. a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or
 - e. a statement by a co-conspirator of a party during the course in furtherance of the conspiracy.

The contents of the statement shall be considered but are not alone sufficient to establish the declarant's authority under subdivision (C), the agency or employment relationship and scope thereof under subdivision (D), or the existence of the conspiracy and the participation therein of the declarant and the party against whom the statement is offered under subdivision (E).

Rule 802. Hearsay Rule

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

Rule 803. Hearsay Exceptions, Availability of Declarant Immaterial

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

1. **Present sense impression.** A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.
2. **Excited utterance.** A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
3. **Then existing mental, emotional, or physical conditions.** A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.
4. **Statements for purposes of medical diagnosis or treatment.** Statements made for the purpose of medical diagnosis or treatment **and describing medical history or past or present symptoms, pain or sensations, or the inception of general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.**
5. **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 or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. **If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.**
6. **Records of regularly conducted activity.** *These records include any memo, record, report, or other compilation of data in any form, which meets the following requirements:*
 - a. *It must be kept in the ordinary course of business or as part of the ordinary conduct of an organization or enterprise;*
 - b. *It must be part of the ordinary business of that organization, business, or enterprise, to compile the data or information;*
 - c. *The information must be made for the purpose of recording the occurrence of an event, act, condition, opinion, or diagnosis that takes place in the ordinary course of the business or enterprise;*
 - d. *The entry in the record or the compiling of the data must be made at or near the time when the event took place;*
 - e. *The recording of the event must be made by someone who has personal knowledge of it.*

In order for a document or other form of data to be admissible under this rule, a foundation must be laid as to all of the foregoing requirements by the

custodian of the records or other witness found by the Court to be qualified.

18. **Learned treatises.** To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.
21. **Reputation as to character.** Reputation of a person's character among associates or in the community.
22. **Judgment of previous conviction.** Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

Rule 804. Hearsay Exceptions; Declarant Unavailable

- a) **Definition of unavailability.** Unavailability of a witness" includes situations in which the declarant—(1) is exempted by a ruling of the court of the ground of privilege from testifying concerning the subject matter of the declarant's statement; or (2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or (3) testifies to a lack of memory of the subject matter of the declarant's statement; or (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or (5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivisions (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means.
- b) A declarant is not unavailable as a witness if exemption, refusal, claim or lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.
- c) **Hearsay exceptions.** The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:
 1. **Former testimony.** —Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered,

or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

2. **Statement under belief of impending death.** —In a prosecution of a homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be the impending death.
3. **Statement against interest.** A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.
4. **Statement of personal or family history.**
 - a. A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter states; or
 - b. a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.
5. **Other exceptions.** A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that
 - a. the statement is offered as evidence of a material fact;
 - b. the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and
 - c. the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party is a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant. *For the purposes of the mock trial competition, required notice will be deemed to have been given. The failure to give notice as required by these rules will not be recognized as an appropriate objection.*

Rule 805. Hearsay within Hearsay

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

Rule 806. Attacking and Supporting Credibility

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

ARTICLE X. Contents of Writing, Recordings, and Photographs

Rule 1002. Requirement of Original

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

ARTICLE XI. Miscellaneous Rules

Rule 1103. Title

These rules may be known and cited as the *Georgia High School Mock Trial Competition Rules of Evidence*.